

Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 23-059
Preliminary Plan Amendment No. 12013015A
Broadmeadow Farm
Date of Hearing: May 18, 2023

JUN 01 2023

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on July 18, 2014, the Planning Board, by Resolution MCPB No. 14-38, approved Preliminary Plan No. 120130150, creating three (3) lots on 10.13 acres of land in the RE-2 zone, located at 9460 River Road ("Subject Property"), in the Rural West Policy Area and 2002 *Potomac Subregion Master Plan* ("Master Plan") area; and

WHEREAS, on February 27, 2023, William L. & Katherine A. Slover ("Applicant") filed an application for approval of an amendment to the previously approved preliminary plan to modify the Adequate Public Facilities finding to allow for the existing house located on Lot 1 to remain on the existing private water well and septic system after houses have been constructed and connected to public infrastructure on Lots 2 and 3 on the Subject Property; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan Amendment No. 12013015A, Broadmeadow Farm ("Preliminary Plan," "Amendment," or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated May 5, 2023, providing its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on May 18, 2023, the Planning Board held a public hearing on the Application and voted to approve the Application subject to certain conditions, on the motion of Commissioner Hedrick, seconded by Commissioner Bartley, with a vote of 5-0; Chair Zyontz, Vice Chair Piñero, Commissioners Bartley, Hedrick, and Pedoeem voting in favor.

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Approved as to
Legal Sufficiency: /s/ Allison Myers
M-NCPPC Legal Department

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan Amendment No. 12013015A to modify the Adequate Public Facilities finding to allow for the existing house located on Lot 1 to remain on the existing private water well and septic system after houses have been constructed and connected to public infrastructure on Lots 2 and 3 by modifying Condition No. 8 and adding Conditions No. 13 through 16:¹

Modified Conditions

8. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Well and Septic Section in an email dated June 28, 2013 and letter dated March 28, 2023, and the Montgomery County Department of Environmental Protection ("MCDEP") – Water & Wastewater Policy Group letter dated ~~May 6, 2014~~ May 24, 2021, and hereby incorporates them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Well and Septic Section and/or MCDEP Water & Wastewater Policy Group, respectively, provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

New Conditions

Record Plats

13. The Applicant must submit a revised Record Plat and rerecord the plat in the Montgomery County Land Records in order to remove the following conflicting notes:
 - a) Existing "Well and Septic Note" on Record Plat No. 25405 must be deleted.
 - b) Note No. 13 on Record Plat No. 25405 shall be modified to reflect current County agency approvals.

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

Certified Preliminary Plan

14. Before submittal of the Certified Preliminary Plan, the Applicant must make the following changes:
 - a) Show resolutions and approval letters on the certified set.

BE IT FURTHER RESOLVED that all other preliminary plan conditions of approval for this project remain valid, unchanged, and in full force and effect.

BE IT FURTHER RESOLVED that having considered the recommendations of its Staff as presented at the hearing and/or as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan, and all findings not specifically addressed remain in effect.

2. Public facilities will be adequate to support and service the area of the subdivision.

Other Public Facilities and Services

The Property is located in Tier II according to the Septic Tiers Map for Montgomery County. Tier II depicts future growth areas planned for sewer. Within Tier II, the Planning Board may approve a subdivision for any number of residential lots served by one or more septic systems.

The three lots were previously approved by the Planning Board in 2013 based on the recommendation from Montgomery County Department of Permitting Services (MCDPS) and Montgomery County Department of Environmental Protection (MCDEP) for development with public water and sanitary sewer. The existing house, now located on Lot 1, has a private well and septic system. Typically, water and sewer policy dictates uniform treatment of all lots within a subdivision. Under the original Preliminary Plan No. 120130150, the Planning Board, in conjunction with MCDEP, public water and sanitary sewer was not required for Lot 1 until the development of Lots 2 and 3 occurred. An agreement was made with the Applicant that the existing house on Lot 1 may remain on the current well and septic systems, until such time as the approved WSSC water and sewer connections were constructed when the new homes were constructed. The owner was required to post a bond in conjunction with the record plat to ensure that the dwelling on Lot 1

would connect to public sewer and a note with these requirements was placed on the record plat filed in the land records.

The Applicant contends that a connection to public sewer and water would require significant ground disturbance, removal of established trees, and removal of portions of the existing driveways. Furthermore, the cost of these improvements is prohibitive considering that the current septic system and well are functioning properly, being maintained, and adequately support the existing home. From a regulatory perspective, the Applicant would have to amend the approved Forest Conservation Plan to expand the Limits of Disturbance, meet the requirements of the current Forest Conservation law, and possibly obtain a Tree Variance if any specimen trees were affected.

The MCDPS has reviewed and issued an approval, letter dated March 28, 2023, confirming that a septic reserve area had been established on Lot 1 as required. MCDEP also issued an approval letter, dated May 4, 2021, which granted an exception to allow for the continued use of the existing private septic system and water wells on the Subject Property. None of these approval letters or governmental action would preclude the connection to public water and sewer in the future if desired or necessary. It simply allows for the existing private sewer and water infrastructure, which are adequate to serve the Subject Property, to remain active on Lot 1.

MCDEP is the lead agency in determining whether or not this Application meets sewer and water policy. The Planning Board is confirming the determination made by MCDEP in conjunction with MCDPS – Well and Septic Division. Based on these determinations, the Planning Board finds that allowing Lot 1 to remain on a private well and septic system would provide facilities adequate to support the subdivision.

Other utilities, public facilities and services, such as schools, electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the 2020-2024 Growth and Infrastructure Policy currently in effect.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUN 01 2023 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on the motion of Commissioner Hedrick, seconded by Commissioner Pedoeem, with a vote of 4-0, Chair Zyontz, and Commissioners Bartley, Hedrick, and Pedoeem voting in favor Commissioner Piñero necessarily absent, at its regular meeting held on Thursday, May 25, 2023, in Wheaton, Maryland and via video conference.



Jeffrey Zyontz, Chair
Montgomery County Planning Board