



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #
1/14/10



MEMORANDUM

DATE: December 21, 2009

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *rk*
Catherine Conlon, Subdivision Supervisor *cc*
Development Review Division

FROM: Erin Grayson, Senior Planner (301-495-4598) *EG*
Development Review Division

REVIEW TYPE: Pre-Preliminary Plan of Subdivision

APPLYING FOR: 1 lot for 1 one-family detached dwelling unit and an unplatted farm remainder

PROJECT NAME: Rolling Ridge-Phase 2

CASE #: 720090140

REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: RDT

LOCATION: On the north side of Brink Road approximately 1000 feet northwest of the intersection of Laytonsville Road (MD 108) and Brink Road

MASTER PLAN: Agriculture & Rural Open Space

APPLICANT: Jones Farm LC

ENGINEER: Charles P. Johnson & Associates

FILING DATE: June 10, 2009

HEARING DATE: January 14, 2010

RECOMMENDATION: Approval subject to the following conditions:

- 1) Approval under this pre-preliminary plan is limited to 1 lot for 1 one-family detached residential dwelling unit.
- 2) The Applicant must submit a final forest conservation plan to M-NCPPC Staff for review and approval prior to recordation of the lot.
- 3) At the time of record plat application, the Applicant must provide verification to MNCPPC Staff of the availability of a TDR for the proposed lot.
- 4) The Applicant must record a covenant on the remainder parcel to document that density and TDRs have been utilized for the lot and reference it on the record plat.
- 5) At the time of record plat application, the Applicant must provide verification to MNCPPC Staff of approval by the Montgomery County Department of Permitting Services (MCDPS), Well and Septic Section of the proposed well and septic field locations.
- 6) The record plat must reference the off-site common ingress/egress and utility easements over all shared driveways that provide access to the proposed lot.
- 7) The record plat must contain the following note: "Agriculture is the preferred use in the Rural Density Transfer Zone. All agricultural operations shall be permitted at any time, including the operation of farm machinery, and no agricultural use shall be subject to restriction because it interferes with other uses permitted in the Zone."
- 8) The lot size shown on the certified pre-preliminary plan and record plat must be reduced to the greatest extent possible to be approximately 3 acres in size.
- 9) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.
- 10) Other necessary easements must be shown on the record plat.

SITE DESCRIPTION (Attachment A – vicinity map)

The site of this application, "Property" or "Subject Property", contains 25.1 acres zoned RDT on the north side of Brink Road, approximately 1000 feet northwest of the intersection of Laytonsville Road (MD 108) and Brink Road. The Property was at one time included in a subdivision application with adjacent land (Jones Farm, #120020320) but was ultimately excluded from that plan approval and was left as an un-recorded remainder. Density from the Subject Property was not utilized for this previous subdivision. The site is currently undeveloped and consists of forest stands and agricultural open space. The Property is located in the Great Seneca Watershed (Use I-P). Wetlands are present on the Property and portions of floodplain and stream valley buffer run through the site.

A parcel owned by the Town of Laytonsville for the proposed Laytonsville by-pass road that would connect Laytonsville Road to Brink Road is located along the southern property line of the site. The Maryland State Highway Administration (MDSHA) does not have a capital improvement project to construct the road at this time, nor has the land been dedicated to MDSHA at this time.

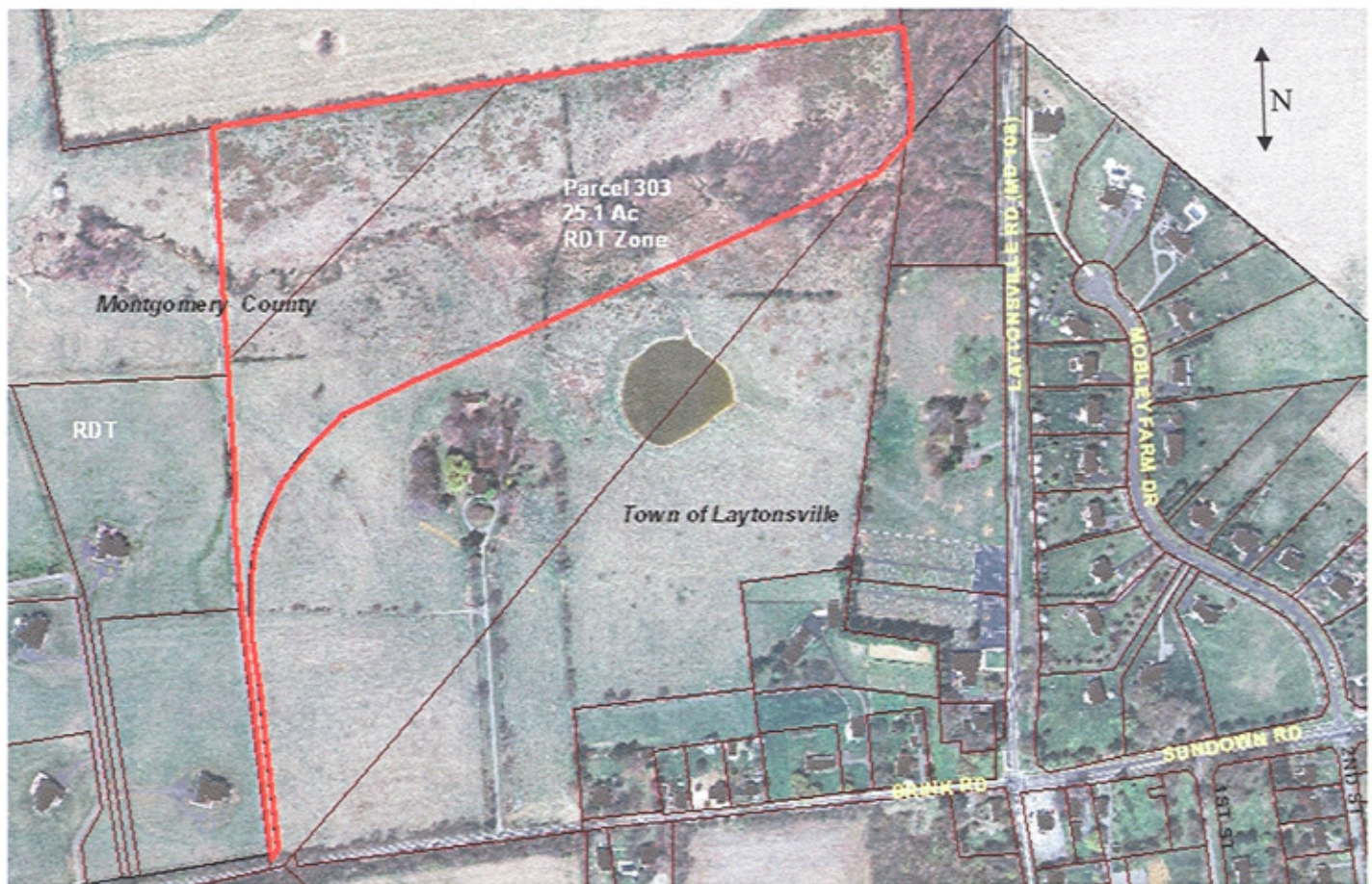


Figure 1: Aerial Image

PROJECT DESCRIPTION (Attachment B – proposed plan)

The Applicant proposes to record 1 lot, 3.84 acres in size, for future construction of a one-family detached dwelling unit on the northeast portion of the Property. The remaining portion of the Property is not proposed to be recorded and will remain as rural open space in conservation easement, or as farm fields. The dwelling unit will be served by an on-lot private well and a standard septic system. Access is proposed via a private driveway that would be an extension of the current driveway for an existing lot within the town of Laytonsville, Lot 9, which is located directly on the other side of the parcel for the proposed by-pass road. The driveway would be modified to connect directly to the by-pass road when the road is constructed in the future.

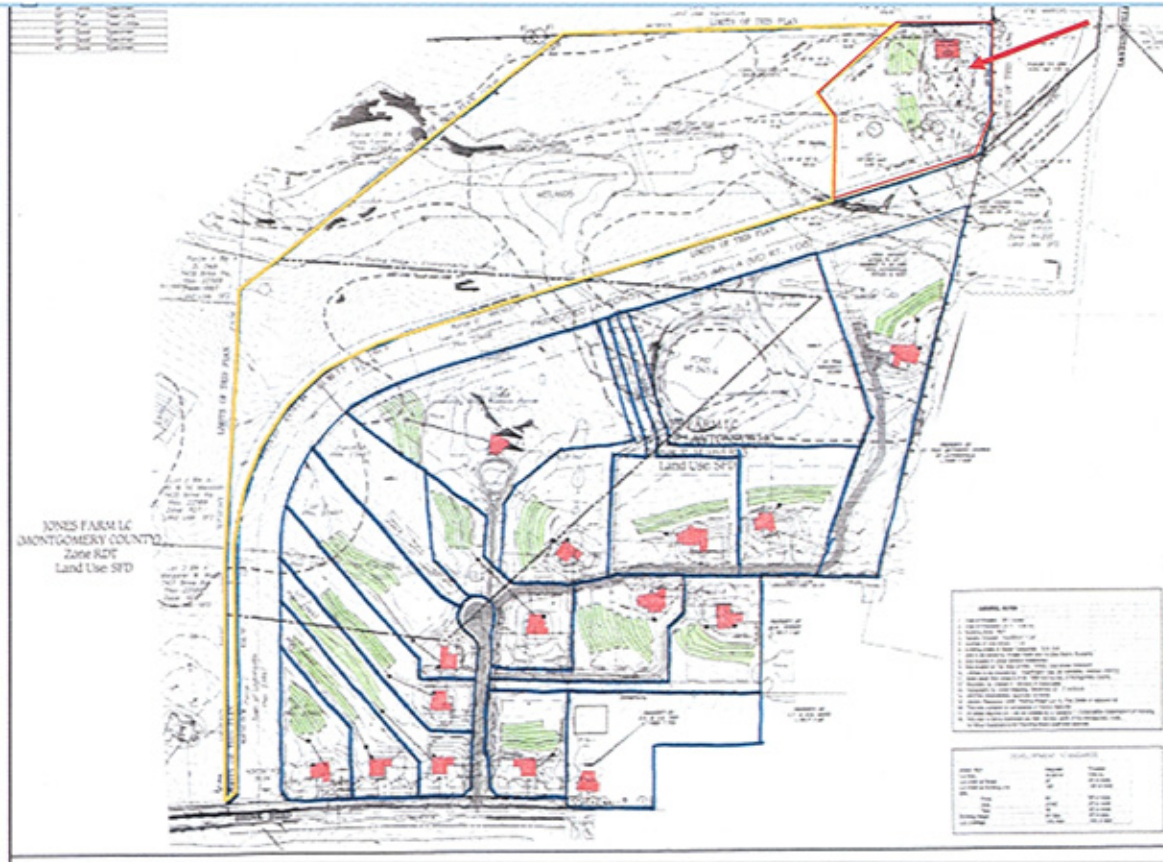


Figure 2: Preliminary Plan

ANALYSIS AND FINDINGS

Section 50-35A(a)(8) requirements

The proposed lot is to be platted pursuant to Section 50-35A(a)(8) of the Subdivision Regulations. This section establishes the ability to plat up to five (5) lots in the RDT zone through the minor subdivision process after Planning Staff *or* Planning Board approval of a pre-preliminary plan. Applications for minor subdivision under Section 50-35A(a)(8) must meet the following criteria:

- a. Written approval for a proposed septic area must be received from the Montgomery County Department of Permitting Services, Well and Septic Section prior to recordation of the plat;
- b. Any required street dedications along the frontage of the proposed lot(s) must be shown on the record plat;
- c. An easement must be recorded for the balance of the property noting that density and TDR's have been utilized for the new lot. Reference to this easement must be reflected in the record plat for the lot;

- d. Lots created in the RDT zone through the minor subdivision procedure must not exceed an average lot size of five (5) acres in size unless approved by the Planning Board in the review of a pre-preliminary plan of subdivision; and
- e. Forest conservation requirements must be satisfied prior to recording of the plat.

With respect to subparagraph (a), MCDPS has reviewed the well and septic locations and deemed them acceptable but is awaiting a review fee prior to issuing an approval letter. With respect to (b), no dedication for county or state roads is required since the Property currently abuts a parcel that has been deemed adequate to accommodate a future road. For provision (c), the recommended conditions require the Applicant to provide Staff with information verifying a TDR is available at the time of record plat and to record a covenant on the remaining land. The Applicant has submitted a forest conservation plan that is under review to satisfy provision (e). The proposed lot size is 3.84 acres and, therefore, does not exceed five (5) acres in accordance with subparagraph (d) above, however, this application is being presented for Planning Board review because it involves a finding regarding atypical lot frontage.

Lot frontage

Section 50-29(a)(2) of Chapter 50, the Subdivision Regulations requires all lots to abut on a street or road which has been dedicated to public use or which has acquired the status of a public road. The Zoning Ordinance defines a street as *a public or dedicated way 30 feet or more in width or a public proposed right-of-way, widening or extension of an existing street or public way shown on any plan approved by the commission.*

Staff believes that the record plat for the previous subdivision south of the Subject Property that was approved by the Town of Laytonville and recorded in the Montgomery County Land Records as Plat #23498 shows Parcel D “Laytonville Bypass” which meets this definition. The parcel is 120 feet in width and contains a note “to be conveyed to the Town of Laytonville for roadway and other public purposes”. This parcel was subsequently conveyed. The proposed lot, therefore, has frontage on a street or road which has been dedicated to public use and Planning Board approval of a lot without public street frontage is not necessary.

Nevertheless, Staff looked closely at lot locations and available access to the site. A lot located in the western portion of the site with access from Brink Road was deemed infeasible because percolation tests failed in this area of the Property and a lot in this location would necessitate a driveway crossing the environmental setting of the Rolling Ridge Historic Parcel. Access from Laytonville Road to the lot in its current location was first explored by the Applicant. However, access from Laytonville Road necessitates agreement from AT&T to use their right-of-way as well as from the adjacent property owner (Stabler Property #120050830). The Applicant approached AT&T who was amenable to an ingress/egress easement but the adjacent property owner did not want to negotiate such an easement prior to Planning Board approval of this application because a cross easement would necessitate an amendment to the forest conservation plan for the Stabler Property. As a result, the Applicant has proposed access to the site via a private driveway in an ingress/egress easement through recorded lots to the south. This shared driveway is free and clear of any obstructions, will be 20 feet in width up to the point where it is no longer shared and is suitable for the installation of underground utilities and for emergency

vehicle access given that a proper emergency vehicle turnaround area was provided on the lot directly south of the Subject Property. Staff and applicable agencies concur that access is adequate to serve the lot for emergency vehicles and installation of the necessary utilities.

Roads and Transportation Facilities

The proposed lot and associated uses do not generate 30 or more vehicle trips during the morning or evening peak-hours. Therefore, the application is not subject to Local Area Transportation Review. As aforementioned, a parcel owned by the Town of Laytonsville for the future construction of a by-pass road is located along the southern property line. A sidewalk is not required to be constructed. Proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed improvements.

Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the proposed dwelling unit. The Property will be served by a private standard septic system and private well. The school cluster in which the Subject Property lies is not currently in moratorium. Other public facilities and services, such as police stations, firehouses and health services, are operating within the standards set by the Growth Policy Resolution currently in effect. Electrical and telecommunications services are also available to serve the Property.

Relationship to the Agricultural and Open Space Master Plan

The Agriculture and Rural Open Space (AROS) Master Plan does not specifically identify the Subject Property for discussion but does give general guidance and recommendations regarding preservation of farmland and rural open space. The master plan recommends that this area maintain lower densities for the protection of agriculture, environmental features, and residential use of a rural character. In recent Planning Board approvals of residential lots in the RDT zone, lot sizes have been approximately 3 acres in size or less in order to maintain as much land in agricultural production as possible. This pre-preliminary plan proposes a 3.84-acre lot which Staff believes should be reduced in size to be as close to 3.0 acres as possible. This is stated in condition #8 on page 2 of this report. Staff did consider the merits of a 25-acre lot rather than a farm remainder but, in this instance, a farm remainder is most appropriate because it will present an opportunity to abutting property owners to acquire the remainder and expand agricultural uses in the area. This pre-preliminary plan complies with the master plan goals in that it contributes to the area's low density character, protects environmental features and preserves farmland to the greatest extent possible.

Environment

This plan is in compliance with the Montgomery County Environmental Guidelines for protection of environmentally sensitive areas. The Applicant submitted a forest conservation plan that is currently under review by Environmental Planning Staff and must be approved prior to record plat submission. The Applicant is proposing to meet afforestation requirements off-site on the unplatted remainder of this site.

Compliance with the Subdivision Regulations and Zoning Ordinance

This application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision. The lot was reviewed for compliance with the RDT zone as specified in the Zoning Ordinance. The lot as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is included in attached Table 1.

Citizen Correspondence and Issues

The Applicant notified adjacent and confronting property owners as well as community groups and civic associations of the application submission to MNCPPC, as required. The adjacent property owner to the north of the Subject Property, Mr. Linthicum, contacted Staff to express concerns about the proposed subdivision. His concerns included compliance with RDT zoning standards, appropriate access to the site and solid fencing at the shared property line. The proposed pre-preliminary plan does comply with RDT zoning standards and will comply with the required density of 1 dwelling unit per 25 acres in the RDT zone. Access to the site was fully explored by the Applicant and Staff and deemed the only viable option as it is currently shown on the pre-preliminary plan. Finally, condition #7 on page 2 of this report will clearly demonstrate to any future purchaser of the proposed lot that agricultural uses are preferred in the RDT zone and attempts to restrict agricultural operations by other uses will not be validated. Staff believes a fence along common property lines should be at the discretion of individual owners.

CONCLUSION

The proposed lot meets all requirements established in the Subdivision Regulations and the Zoning Ordinance and complies with the recommendations of the Functional Master Plan for Preservation of Agriculture and Rural Open Space. Access and public facilities will be adequate to serve the proposed lot, and the application has been reviewed by the applicable county agencies, all of whom have recommended approval of the plan. Therefore, approval of the application with the conditions specified above is recommended.

Attachments

Attachment A – Citizen Correspondence

Table 1: Preliminary Plan Data Table and Checklist

Plan Name: Rolling Ridge-Phase 2				
Plan Number: 720090140				
Zoning: RDT				
# of Lots: 1				
# of Outlots: 0				
Dev. Type:				
PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval by the Preliminary Plan	Verified	Date
Minimum Lot Area	40,000 sq. ft.	3.84 ac is min. proposed	EG	12/21/09
Lot Width	125 ft.	420 ft. is min. proposed	EG	12/21/09
Lot Frontage	25 ft.	400 ft. is min. proposed	EG	12/21/09
Setbacks				
Front	50 ft. Min.	Must meet minimum ¹	EG	12/21/09
Side	20 ft. Min./40 ft. total	Must meet minimum ¹	EG	12/21/09
Rear	35 ft. Min.	Must meet minimum ¹	EG	12/21/09
Height	50 ft. Max.	May not exceed maximum ¹	EG	12/21/09
Max Resid'l d.u. or Comm'l s.f. per Zoning	1 dwelling unit	1 dwelling unit	EG	12/21/09
MPDUs	No		EG	12/21/09
TDRs	Yes		EG	12/21/09
Site Plan Req'd?	No		EG	12/21/09
FINDINGS				
<i>SUBDIVISION</i>				
Lot frontage on Public Street		Yes	EG	12/21/09
Road dedication and frontage improvements		N/a	EG	12/21/09
Environmental Guidelines		Prior to plat	EG	12/21/09
Forest Conservation		Prior to plat	EG	12/21/09
Master Plan Compliance		Yes	Staff memo	12/16/09
Other (i.e., parks, historic preservation)				
<i>ADEQUATE PUBLIC FACILITIES</i>				
Stormwater Management		Prior to plat	EG	12/21/09
Water and Sewer (wssc)		N/a	EG	12/21/09
10-yr Water and Sewer Plan Compliance		N/a	EG	12/21/09
Well and Septic		Prior to plat	EG	12/21/09
Local Area Traffic Review		N/a	Staff memo	7/13/09
Policy Area Mobility Review		N/a	Staff memo	7/13/09
Transportation Management Agreement		No	Staff memo	7/13/09
School Cluster in Moratorium?		No	EG	12/21/09
School Facilities Payment		No	EG	12/21/09
Fire and Rescue		Yes	Agency comments	7/13/09
Other (i.e., schools)				

¹ As determined by MCDPS at the time of building permit.

Grayson, Erin

From: senecaayrfarms@aol.com
Sent: Thursday, June 25, 2009 9:17 AM
To: Grayson, Erin
Subject: Rolling Ridge-Phase 2

Ms. Grayson,

I am sending you the following comments on the Rolling Ridge subdivision plan as we discussed yesterday on the phone.

Linthicum East Properties owns the adjoining property to the North of Rolling Ridge. We have the following comments;

- 1) Existing Parcels A & C and Lots 2 & 3 have RDT zoning not RE-2 as listed on the plan.
- 2) We question whether the proposed lot meets RDT Zoning Standards. 1 DU per 25 acres. As we talked yesterday you stated that they possibly had acres remaining in the whole project to get another lot. However, their proposed lot size is too small because they are not clustering this DU with existing DU's or other DU's.
- 3) Either proposed site does not have any access to a public road. Proposed access is to a proposed By-pass.
- 4) You mentioned that they may get access through the Stabler property to Rte. 108. Please note that the piece of the Stabler property they need access thru is the Outlot for Fulk's North which is zoned SFD which I believe is a forest conservation area for that subdivision.
- 5) Both proposed sites may have environmental issues due to the need to make crossings over the perennial stream and several dry channels that are usually not dry. The areas surrounding these are sometimes marshy and wet. Access to the sites for construction could be questionable.
- 6) If this plan is approved we would like to request that they have to place solid fencing at the property line. This is also a requirement of the existing Stabler plan.

Thank you for considering our concerns about the proposed project.

Any questions you may call the office at 301-391-6091 or Tom's cell at 240-398-0122.

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