



MCPB No. 10-42  
Pre-Preliminary Plan No. 720090100  
MDR Friends Aplenty  
Date of Hearing: April 1, 2010

MAY - 4 2010

## MONTGOMERY COUNTY PLANNING BOARD

### RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review Pre-Preliminary plan applications; and

WHEREAS, on February 4, 2009, MDR Friends Aplenty, LLC ("Applicant"), filed an application for approval of a Pre-Preliminary plan of subdivision of property that would create one one-family detached residential lot 19.19 acres in size located on Bucklodge Road at the intersection with Darnestown Road ("Property" or "Subject Property"), in the Agriculture and Rural Open Space Preservation Functional Master Plan area ("Master Plan"); and

WHEREAS, Applicant's Pre-Preliminary plan application was designated Pre-Preliminary Plan No. 720090100, MDR Friends Aplenty ("Pre-Preliminary Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated March 22, 2010, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staffs of other governmental agencies, on April 1, 2010, the Planning Board held a public hearing on the Application (the "Hearing"); and

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Approved as to  
Legal Sufficiency:

  
M-NCPPC Legal Department

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on April 1, 2010, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Dreyfuss; seconded by Commissioner Presley; with a vote of 5-0, Commissioners Alfandre, Dreyfuss, Hanson, Presley, and Wells-Harley voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Pre-Preliminary Plan No. 720090100 to create one one-family detached residential lot 19.19 acres in size located on Bucklodge Road at the intersection with Darnestown Road ("Property" or "Subject Property"), in the Agriculture and Rural Open Space Preservation Functional Master Plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 1 lot for 1 one-family detached residential dwelling unit.
- 2) The Applicant must dedicate approximately 6,257 square feet of right-of-way for Bucklodge Road (MD117) along the property frontage to provide a total of 35 feet from the centerline as shown on the preliminary plan.
- 3) The Applicant must satisfy provisions for access and improvements as required by the Maryland State Highway Administration prior to issuance of access permits.
- 4) The record plat must reference the off-site common ingress/egress and utility easements over all shared driveways that provide access to the lot.
- 5) The Applicant must submit a final forest conservation plan to M-NCPPC staff for review and approval prior to recordation of the lot.
- 6) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS), Well and Septic Section approval dated November 18, 2009. These conditions may be amended by MCDPS, as long as the amendments do not conflict with other conditions of the preliminary plan approval.
- 7) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS), Stormwater Management Section approval dated November 10, 2008. These conditions may be amended by MCDPS, as long as the amendments do not conflict with other conditions of the preliminary plan approval.
- 8) At the time of record plat application, the applicant must provide proof to M-NCPPC staff of the availability of a TDR for the lot. A note referencing this fact must be included on the record plat.
- 9) 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.

- 10) 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."
- 11) Prior to recordation of the plat for this lot, the Applicant must record a covenant in the land records that both protects the view shed for the historic resource on the lot, and protects the location of the historical entrance and access road in perpetuity. This covenant must be approved by M-NCPPC staff prior to approval of the record plat.
- 12) The record plat must include a note that states M-NCPPC Historic Preservation Section staff must review any new construction, grading, tree removal, building demolition and/or site modifications located within the approved lot containing the identified Locational Atlas Resource.
- 13) The record plat must reflect a Category I Conservation Easement over all forest conservation area.
- 14) Other necessary easements must be shown on the record plat.
- 15) 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.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The width, shape, and orientation of the proposed lot are appropriate for the location of the subdivision. The Planning Board expressly finds that the size of the proposed lot, which is greater than 5 acres, is appropriate for the location of the subdivision and that the lot may be platted through the minor subdivision process set forth in Section 50-35A of Chapter 50 of the Montgomery County Code ("Subdivision Regulations").*

The gross tract area of the parent parcel is 190.23 acres, while the approved lot is approximately 19.19 acres in size. The approved 19.19 acre lot and the remaining 170.93 acres of the parent parcel correspond with an agricultural easement that has already been placed on the property by the Agricultural Preservation Advisory Board (APAB). The Applicant sold six (6) of eight (8) Transferable Development Rights (TDRs) associated with the subject property. One (1) TDR was retained for the approved 19.19 acre lot, while the other was retained in order to construct a farm house on the remainder at a later date. Many factors were considered when establishing the boundaries of the 19.19 acre lot. The eastern property boundary was established to include the main septic field for the existing house, while the western boundary was to accommodate three well sites

for the existing house. The northern boundary was created to include all the accessory structures and to provide what the applicant felt was an appropriate environmental setting for the farm house. Given these constraints, the Applicant was not able to propose a smaller residential lot. The Applicant did not wish to increase the size of the approved lot because it would further encroach into the existing operating farm fields of the farm remainder.

In the RDT zone, the Board would prefer to see the smallest lot size possible for an exclusively residential lot; however, a larger lot is desirable in this situation to preserve the historic context of the existing dwelling and accessory structures. In fact, the Board would prefer that the southern lot line be expanded from the southwest corner to Route 117/Bucklodge Road to create a buffer around the historic environmental setting and preserve the historic access to the house. Because of the existing agricultural easement, the Applicant prefers to maintain the proposed lot line, but has agreed to record a covenant in the Land Records for the farm remainder parcel to protect the historic driveway entrance to the historic resource and its view shed. Although protecting a historic resource and its environmental setting within the boundaries of the lot or parcel on which it is located is the preference of the Board, the proposed lot configuration and covenant will avoid the potential need for renegotiation of the agricultural easement in this case. Therefore, the Board finds the 19.19-acre lot as proposed meets the area and dimensional requirements of the RDT zone and the Board finds that it is appropriate for the location of the subdivision.

*2. The Pre-Preliminary Plan substantially conforms to the Agriculture and Rural Open Space Preservation functional master plan.*

The Property is located within the boundaries of the Approved and Adopted Functional Master Plan for the Preservation of Agricultural and Rural Open Space (AROS). The following items in the AROS plan are pertinent to the review of this proposal:

- “This Plan focuses on the preservation of farmland but it also tries to establish a policy framework that will contribute to the continuation of farming in the County” (Foreword, p. i, emphasis in original).
- “This Plan recommends...
  - “Preservation of critical masses of farmland....
  - “Applications of incentives and regulations to preserve farmland and... to encourage agricultural use of the land.
- “The Plan also recognizes that some residential development will occur even in productive areas. Therefore, residential development options are available in farming areas but only on a limited basis and in a manner that is consistent with preservation policies” (Preservation Framework, p. 35).

The 19.19 acre lot area is a tract of ground not subject to, and purposely excluded from, an Agricultural Easement conveyed to Montgomery County in July 2008. The Agricultural Preservation Advisory Board (APAB) has reviewed the size and configuration of the 19.19 acre lot and determined that it has the optimum layout to accommodate the preservation of the remaining 171 acre farm and to ensure the preservation of the existing historic house and the equestrian usage of the 19.19 acre lot. All of the land surrounding the 19.19 acre lot is subject to the Agricultural Easement and protected from development with the exception of one additional lot, the location of which is subject to evaluation and approval by the APAB. The owners have agreed to a covenant that any future residence will not be placed in the view-shed between Bucklodge Road and the historic home and to preserve the environmental setting. The covenant will be recorded in the Montgomery County Land records prior to recordation of the Final Record Plat for the 19.19 acres. Therefore, by preserving the 171-acre farm remainder with the recordation of the Agricultural Easement and a covenant to protect the historic view shed of the Property, the Board finds the Pre-Preliminary Plan is consistent with the recommendations of the Master Plan.

*3. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

There are 66.83 acres of forest, 1.46 acres of wetlands, and 12.15 acres of environmental buffers located on the Subject Property, while the approved lot is not expected to impact any of these features. 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. These requirements will likely be met with a combination of onsite forest retention and afforestation planting either onsite or off-site. A final forest conservation plan will be approved by staff prior to issuance of sediment and erosion control permit. Therefore, the Board finds that the Application satisfies all applicable requirements of the Forest Conservation Law.

*4. Public facilities will be adequate to serve the proposed lot.*

The approved lot and associated use does 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. The Subject Property is located in the Rural West Policy Area and generates fewer than three weekday peak-hour-trips. Therefore, Policy Area Mobility Review is not required. Bucklodge Road is classified as a country road, and the required right-of-way is 70 feet. The applicant must dedicate approximately 6,257 square feet along the Property frontage to provide a total of 35 feet from the centerline, which is shown on the pre-preliminary plan. Sidewalks are not required along the Property frontage in the RDT zone. Vehicle and pedestrian access to the lot will be safe and adequate. Other public facilities and services are available and will be adequate to serve the dwelling unit. The application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access

for fire and rescue vehicles. Other public facilities and services, such as police stations, schools, 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. Therefore, the Planning Board finds that roads and other transportation facilities will be safe and adequate, and that other public facilities and services are available and will be adequate to serve the lot.

BE IT FURTHER RESOLVED, that this Pre-Preliminary Plan will remain valid for 60 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Pre-Preliminary Plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed; and

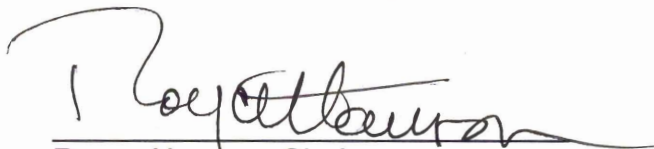
MAY - 4 2010 BE IT FURTHER RESOLVED, that the date of this Resolution is \_\_\_\_\_ (which is the date that this Resolution is mailed to all parties of record); and

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).

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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 motion of Commissioner Wells-Harley, seconded by Commissioner Dreyfuss, with Commissioners Hanson, Wells-Harley, Alfandre, and Dreyfuss voting in favor of the motion, and with Commissioner Presley absent, at its regular meeting held on Thursday, April 22, 2010, in Silver Spring, Maryland.



Royce Hanson, Chairman  
Montgomery County Planning Board