



MCPB No. 10-44
Preliminary Plan No. 120090220
Rhea Property
Date of Hearing: April 15, 2010

MAY 19 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 preliminary plan applications; and

WHEREAS, on January 7, 2009, James and Karen Rhea ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create three (3) lots on approximately 5.38 acres of land located on the east side of Barnesville Road (MD 117) approximately 1000 feet northwest of the intersection with Ganley Road ("Property" or "Subject Property"), in the Boyds Master Plan Area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120090220, Rhea Property ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board Staff ("Staff") issued a memorandum to the Planning Board, dated April 5, 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 Staff and the staff of other governmental agencies, on April 15, 2010, the Planning Board held a public hearing on the Application (the "Hearing"); and

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

WHEREAS, on April 15, 2010, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Dreyfuss; seconded by Commissioner Wells-Harley; with a vote of 4-0, Commissioners Alfandre, Dreyfuss, Hanson, and Wells-Harley voting in favor, Commissioner Presley absent.

Approved as to
 Legal Sufficiency:

Christina Sonnet 5/6/10

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 120090220 to create three (3) lots on approximately 5.38 acres of land located on the east side of Barnesville Road (MD 117) approximately 1000 feet northwest of the intersection with Ganley Road ("Property" or "Subject Property"), in the Boyds Master Plan Area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to three one-family detached residential lots.
- 2) The Applicant must comply with the conditions of approval for the preliminary forest conservation plan prior to recording of a plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permit, as applicable.
- 3) The Applicant must obtain Staff approval of the final forest conservation plan in accordance with Forest Conservation Regulations, Section 22A.00.01.09(B), prior to any land clearing activities.
- 4) The Applicant must comply with the conditions of the MCDPS stormwater management concept approval dated December 31, 2008. These conditions may be amended by MCDPS, as long as the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 5) The Applicant must comply with the conditions of the MCDPS, Wells and Septic Section approval dated August 20, 2009. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 6) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated March 24, 2009. These conditions may be amended by MCDOT, as long as the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 7) The record plat must provide for dedication along the entire property frontage on Barnesville Road (MD 117) of 40 feet from centerline as indicated on the Preliminary Plan.
- 8) The Applicant must comply with the Maryland State Highway Administration (MDSHA) letter dated February 20, 2009. These conditions may be amended by MDSHA, as long as the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 9) The Applicant must satisfy provisions for access and improvements as required by the Maryland State Highway Administration (SHA) prior to issuance of an access permit.
- 10) A School Facility Payment at the middle school level must be paid to MCDPS prior to the issuance of a building permit for any new single-family detached dwelling unit
- 11) The certified Preliminary Plan must contain the following note: "The building footprints shown on the Preliminary Plan are illustrative. Final building

locations and associated parking facilities will be determined at site plan. Please refer to the zoning data table for development standards such as setbacks, building restriction lines and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."

- 12) The record plat must reflect common ingress/egress and utility easements over all shared driveways.
- 13) The record plat must show other necessary easements.
- 14) 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, 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 Preliminary Plan substantially conforms to the Master Plan.

The Subject Property is located in the Boyds Master Plan area. The Boyds Master Plan supports the retention and reconfirmation of the R-200 zone and residential land-use for the Subject Property. For this Application, there are three applicable land use and zoning recommendations in the Master Plan.

- *"Boyds should continue as a rural, residential community composed primarily of single-family detached dwellings at varying densities" (p. 8).*
- *"This Plan recommends a continuation of half-acre zoning (R-200) in Boyds and White Grounds. The development of new homes at this density is directly dependent upon finding a solution to the sewage problems in the area" (p.8).*
- *"The Boyds Land Use Plan does recommended areas for half-acre zoning (R-200). Although the absence of public sewer and water will make it difficult, if not impossible, to achieve densities of 2 units per acre, R-200 zoning will allow flexibility in lot configuration and lot sizes" (p. 20).*

The Applicant's proposal contains large lots that are rural in character and will have single-family residential detached dwellings on them. The proposed lots are much larger than the R-200 minimum requirements in order to accommodate the area needed for septic fields. The Application has been reviewed by jurisdictional agencies, and the Board finds that the proposed use will not adversely impact environmental, land use and zoning, transportation, or community facilities as identified by the Master Plan. The Application will create three lots that are consistent with the zoning, density, and

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The proposed size, width, shape and orientation of the lots are appropriate for the location of the subdivision. The lots were reviewed for compliance with the dimensional requirements for the R-200 zone as specified in the Zoning Ordinance. The proposed lots meet the dimensional requirements for area, frontage, width, and setbacks in that zone. The Application has been reviewed by other applicable county agencies, all of which have recommended approval of the Preliminary Plan. Therefore, the Planning Board finds that the size, shape, width, and area of the lots are appropriate for their location within the subdivision.

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

Environmental Guidelines

Environmental Planning Staff approved the Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) for the site on June 5, 2007. The NRI/FSD identifies five specimen trees onsite. The topography on the Subject Property is relatively flat, and there are no known environmentally sensitive features onsite. Therefore, this Preliminary Plan complies with the Montgomery County Environmental Guidelines.

Forest Conservation

The Applicant submitted a preliminary forest conservation plan as part of the Preliminary Plan. No forest exists on the Subject Property. There are five specimen trees onsite. None of the specimen trees are proposed for removal, and none are expected to be adversely impacted by this Preliminary Plan. The Applicant will provide 0.77 acres of afforestation offsite. Therefore, the Board finds that the Application satisfies the Forest Conservation Law and the Environmental Guidelines.

5. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan approval dated January 8, 2009, meets MCDPS' standards.*

The MCDPS Stormwater Management Section approved the stormwater management concept for the project on December 31, 2008. The stormwater management concept consists of on-site water quality control and onsite recharge via rooftop disconnect and drywells. Channel protection is not required because the one-year post-development peak discharge is less than two cubic feet per second.

BE IT FURTHER RESOLVED, that this 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 Preliminary Plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Planning Board, and that the date of this Resolution is MAY 19 2010 (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 motion of Commissioner Presley, seconded by Commissioner Wells-Harley, with Commissioners Hanson, Wells-Harley, Alfandre, Dreyfuss, and Presley voting in favor of the motion, at its regular meeting held on Thursday, May 13, 2010, in Silver Spring, Maryland.



Royce Hanson, Chairman
Montgomery County Planning Board