



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

MCPB
Item #
7/15/10



MEMORANDUM

DATE: July 2, 2010

TO: Montgomery County Planning Board

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

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

REVIEW TYPE: Pre-Preliminary Plan of Subdivision

APPLYING FOR: 2 lots for 2 one-family detached dwelling units and an existing dwelling unit to remain on an unrecorded farm parcel

PROJECT NAME: Gottens Good Luck
CASE #: 720090120
REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations, Section 50-35A(a)(8)

ZONE: RDT
LOCATION: On Martinsburg Road 5,760 feet northeast of Whites Ferry Road
MASTER PLAN: Agriculture & Rural Open Space

APPLICANT: Robert P. Jamison
ENGINEER: Benning & Associates

FILING DATE: March 24, 2009
HEARING DATE: July 15, 2010

RECOMMENDATION: Approval subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 2 lots for 2 one-family detached residential dwelling units and an existing dwelling unit on an unrecorded farm parcel.
- 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 each of the proposed lots.
- 4) The record plat must reference a covenant that has been recorded on the unrecorded farm parcel to document that density and TDRs have been utilized to create the 2 proposed lots.
- 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 reflect common ingress/egress and utility easements over all shared driveways.
- 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 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.
- 9) 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 77.08 acres zoned RDT on Martinsburg Road, approximately 5,760 feet northeast of Whites Ferry Road. Adjacent and confronting properties are also zoned RDT. The site is currently used for agricultural operations and contains a house in the eastern portion of the Property, accessory structures, and a modular home used as a tenant house in the western portion of the site. Both the main house and tenant house are served by previously approved and constructed sand mound septic systems and standard wells. There is a pond and stream located in the center of the site. The Property is located in the Potomac River Watershed (Use I-P). The site contains about 10.1 acres of high priority forest and about 35.4 acres of prime soils. The existing house, barn and shed are on prime soils.



Figure 1: Aerial Image

PROJECT DESCRIPTION (Attachment B – proposed plan)

The Applicant proposes to record 2 lots, both 2.5 acres in size, for future construction of 2 one-family detached dwelling units. The lots are located in the western portion of the Property where the current tenant house is currently located. The existing tenant house is proposed to be removed to accommodate one of the lots. The remaining portion of the Property which includes the existing house and accessory structures is proposed to remain as a 72.08 acre farm remainder. The 2 new dwelling units are proposed to be served by private wells and sand mound septic systems. Access to the 2 lots is shown from Martinsburg Road using an existing 12-foot wide gravel driveway that must be paved to become a shared, private driveway to the 2 lots with a 30 foot-wide ingress/egress and utility easement over it. The 2 proposed lots have been located on the Property to minimize impacts to existing agricultural operations. As a result of this chosen layout, the Applicant has requested that the Planning Board approve the 2 lots on a private driveway absent public street frontage pursuant to Section 50-29(a)(2) of the Subdivision Regulations, which is discussed in greater detail below.

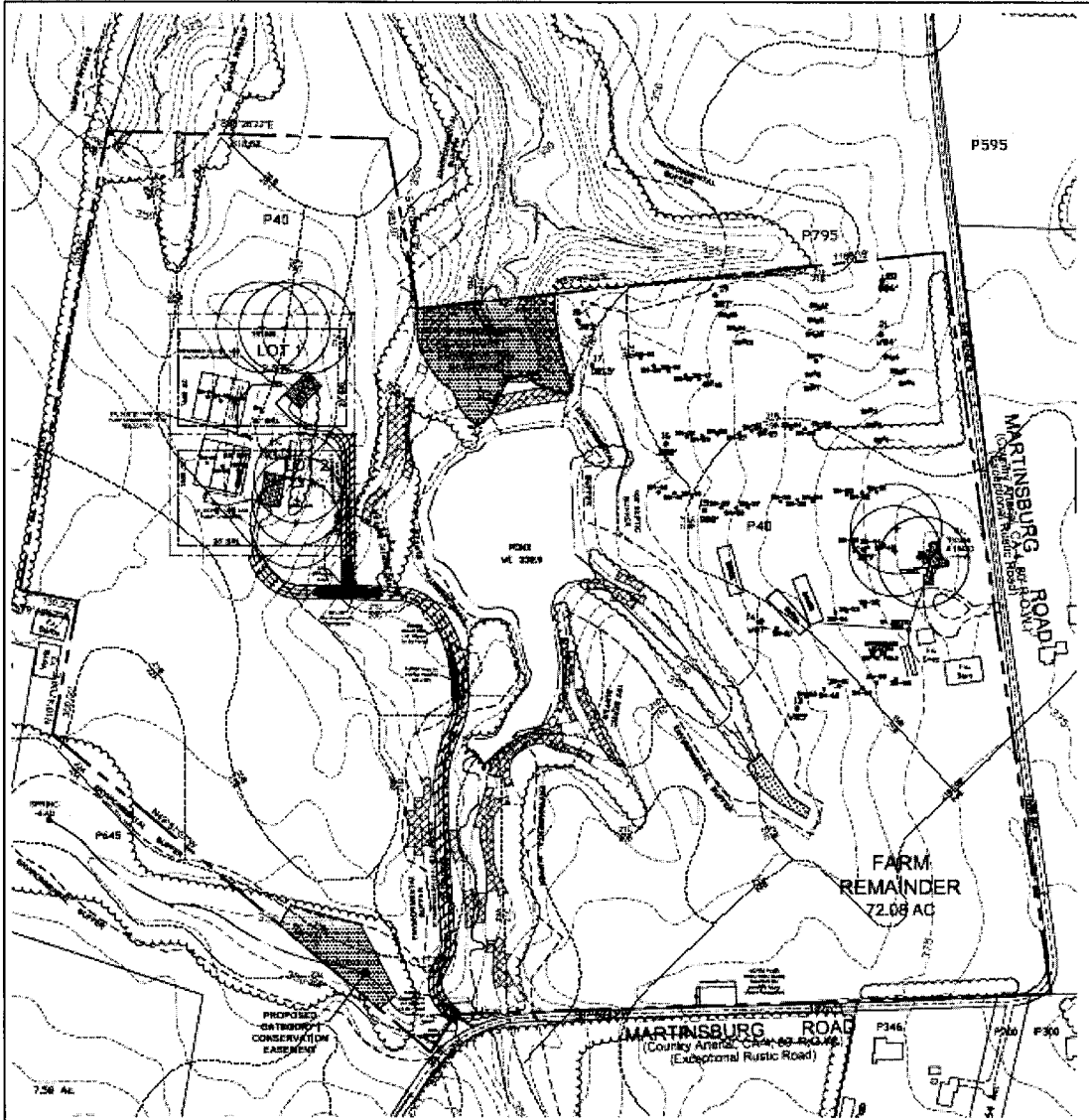


Figure 2: Preliminary Plan

ANALYSIS AND FINDINGS

Section 50-35(8) requirements

The 2 proposed lots are 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 lots. Reference to this easement must be reflected in the record plat for the lots;
- 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 sand mound septic locations and approved the plan. With respect to (b), dedication for Martinsburg Road is not required along the Property frontage. For provision (c), the Applicant must provide Staff with information verifying available TDR(s) at the time of record plat and the Applicant has submitted a forest conservation plan that is under review to satisfy provision (e). The proposed lot sizes are both 2.5 acres and, therefore, do not exceed five (5) acres in accordance with subparagraph (d) above. All of the required provisions are, or can be met, but the application is being presented to the Board for approval because it requires a street frontage waiver.

Roads and Transportation Facilities

The proposed lots 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. The Property is located on Martinsburg Road, which is classified as an exceptional rustic road. A sidewalk is not required to be constructed along Martinsburg Road. Proposed vehicle and pedestrian access for the subdivision will be safe and adequate in this low density situation.

Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the proposed dwelling units. The school cluster in which the Subject Property lies is not currently in moratorium and a School Facilities payment is not required. 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. The application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property will have adequate access for fire and rescue vehicles once the required improvements are implemented.

Lot without 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. This section of the regulations also states that in exceptional circumstances, the Board may approve not more than (2) lots on a private driveway or private right-of-way provided that proper showing is made that such access is adequate to serve the lots for emergency vehicles, for

installation of public utilities and is accessible for other public services and not detrimental to future subdivision of adjacent lands.

This Applicant requests the creation of 2 lots with no street frontage. The Applicant, in his justification, argues that this lot configuration will allow more acreage to stay in the farm remainder. Furthermore, a shared private driveway using the existing gravel farm road will minimize impacts to Martinsburg Road, an exceptional rustic road. The proposed 12-foot wide driveway access to the site is free and clear of any obstructions and will be suitable for the installation of underground utilities and emergency vehicle access once it is paved and pull-off areas for emergency vehicles to pass one another in the event of an emergency are provided to satisfy MCFRS requirements. A 30-foot wide ingress/egress and utility easement is proposed over the driveway to accommodate future installation of electrical and telecommunication utilities. Staff and Montgomery County Fire and Rescue concur that access is adequate to serve the lots for emergency vehicles. Therefore, staff recommends that the Board approve the proposed lots without frontage on a public road.

Substantial Master Plan Conformance

Two master plans guide the development of the Subject Property: the Functional Master Plan for the Preservation of Agriculture and Rural Open Space (AROS) and the Rustic Roads Functional Master Plan (RRFMP). Excerpts from the master plans are included below in the order of their appearance in the respective plans.

Functional Master Plan for the Preservation of Agriculture and Rural Open Space in Montgomery County (1980)

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 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.
 - “Applications of specific innovative preservation techniques such as the Rural Density Transfer Zone...”
 - “Support of a rural sanitation policy that does not encourage development within the critical mass of active farmland” (Summary of Findings and Recommendations, p. iv).
- “The critical land use issue in this Plan is the loss of productive farmland; the focus is the identification and application of land use regulations and incentives to help retain agricultural land in farming...” (General Objectives of the Functional Master Plan, p. 8).
- “Farmland and open space are irreplaceable and valuable natural resources, and should be protected” (The Agricultural Community, p. 25).
- “It is in the public interest to preserve farmland” (Overview, Farmland Preservation as a Public Purpose, p. 27). Elements described in detail by the plan include:

- control of public costs and prevention of urban sprawl
 - adherence to County Growth Management System
 - preservation of regional food supplies
 - energy conservation
 - protection of the environment
 - maintenance of open space, and
 - Preservation of rural life-styles (pp. 28-31)
- “Preservation does not mean that every farm, regardless of size, productivity or location should be preserved forever. A farmland preservation program should be selective. Preserving a small farm which is surrounded by residential development, for example, or one which lies on the edge of an urban area, may prevent orderly development and result in a leap frog expansion pattern...
 “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).

Based on Staff’s review, the proposed preliminary plan substantially conforms to the stated goals of preserving farms and farmland. The size and location of Lots 1 and 2 in previous applications fragmented the critical mass of the current farm, but were changed based on Staff’s recommendation to create smaller lots. The proposed lots avoid prime farm soils and do not substantially fragment the existing farm.

Rustic Roads Functional Master Plan (1996)

This property is located on Martinsburg Road, an exceptional rustic road, between Wasche and Whites Ferry Roads, both of which are rustic roads. The master plan states, “Martinsburg Road has exceptional historic value, outstanding views of agricultural features, and natural landscapes” (pp. 110-111). The Significant Features of the road are:

- Politicians Road – one mile segment at north end of the road
- Stone walls north of Wasche Road
- Concrete paneled bridge
- Mountain views

As submitted, an existing driveway will be used for the proposed houses to reduce new impacts to the road and maintain the present character along the Property frontage.

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.

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 size, width, shape and orientation of the lots is appropriate for the location of the subdivision. The lots were reviewed for compliance with the RDT zone as specified in the Zoning Ordinance. The lots 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. As of the date of this report, no concerns from these parties have been brought to Staff's attention.

CONCLUSION

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and comply 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 lots. Therefore, approval of the application with the conditions specified above is recommended.

Attachments

Attachment A – Agency Correspondence

Table 1: Preliminary Plan Data Table and Checklist

Plan Name: Gottens Good Luck				
Plan Number: 720090120				
Zoning: RDT				
# of Lots: 2				
# 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.	2.5 ac is min. proposed	EG	6/22/10
Lot Width	125 ft.	260 ft. is min. proposed	EG	6/22/10
Lot Frontage	25 ft.	N/a ²	EG	6/22/10
Setbacks				
Front	50 ft. Min.	Must meet minimum ¹	EG	6/22/10
Side	20 ft. Min./40 ft. total	Must meet minimum ¹	EG	6/22/10
Rear	35 ft. Min.	Must meet minimum ¹	EG	6/22/10
Height	50 ft. Max.	May not exceed maximum ¹	EG	6/22/10
Max Resid'l d.u. or Comm'l s.f. per Zoning	3 dwelling units	3 dwelling units	EG	6/22/10
MPDUs	No		EG	6/22/10
TDRs	Yes		EG	6/22/10
Site Plan Req'd?	No		EG	6/22/10
FINDINGS				
<i>SUBDIVISION</i>				
Lot frontage on Public Street	No	Board Approval required		
Road dedication and frontage improvements	N/a	EG		6/22/10
Environmental Guidelines	Prior to plat	EG		6/22/10
Forest Conservation	Prior to plat	EG		6/22/10
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		6/22/10
Water and Sewer (WSSC)	N/a	EG		6/22/10
10-yr Water and Sewer Plan Compliance	N/a	EG		6/22/10
Well and Septic	Yes	Agency Letter		1/28/10
Local Area Traffic Review	N/a	Staff memo		5/11/09
Policy Area Mobility Review	N/a	Staff memo		5/11/09
Transportation Management Agreement	No	Staff memo		5/11/09
School Cluster in Moratorium?	No	EG		6/22/10
School Facilities Payment	No	EG		6/22/10
Fire and Rescue	Yes	Agency comments		5/24/10
Other (i.e., schools)				

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

²Waiver requested.



FIRE MARSHAL COMMENTS

DATE: 24-May-10
TO: Patrick Perry
Benning and Associates
FROM: Patsy Warnick
RE: Gottens Good Luck
720090120

PLAN APPROVED

1. Review based only upon information contained on the plan submitted 10-Mar-10 .Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

FIRE CODE ENFORCEMENT

Fire Department Access Review

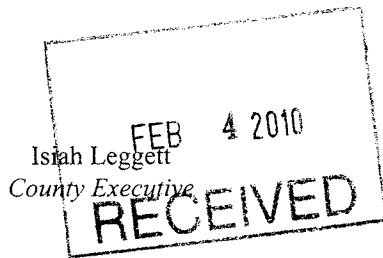
Review based only upon information contained on

MAY 28 2010
RECEIVED



DEPARTMENT OF PERMITTING SERVICES


Carla Reid
Director



MEMORANDUM

January 28, 2010

TO: Cathy Conlon, Development Review,
Maryland National Capital Park and Planning Commission

FROM: Carla Reid, Director
Department of Permitting Services 

SUBJECT: Status of Pre-Application Plan: Gottens Good Luck
720090120

This is to notify you that the Well & Septic Section of MCDPS has approved the subject plan submitted to our office on January 20, 2010.

Approved with the following reservations:

1. Prior to record plat approval, the existing septic tank and pump chamber on Lot 1 must be relocated.
2. Prior to record plat approval, the existing trailer on Lot 2 must be removed.
3. The record plat must be at the same scale as the Pre-Application plan, or submit an enlargement of the plat to match the Pre-Application plan.
4. The approved sand mound sites must be protected from physical disturbance and compaction of the soil. Prior to the issuance of any permits, the sand mound sites must be fenced using 4-foot high "orange construction fencing".
5. Any physical disturbance or compaction of a sandmound site could render that site non-functional and therefore negate this approval.

If you have any questions, please contact Kim Beall at (240) 777-6315.

cc: Benning & Associates
File