


8701 Burning Tree Road Reconsideration Request for Preliminary Plan 120110200

 Melissa Williams, Area 1, melissa.williams@montgomeryplann.org 301.495.4542

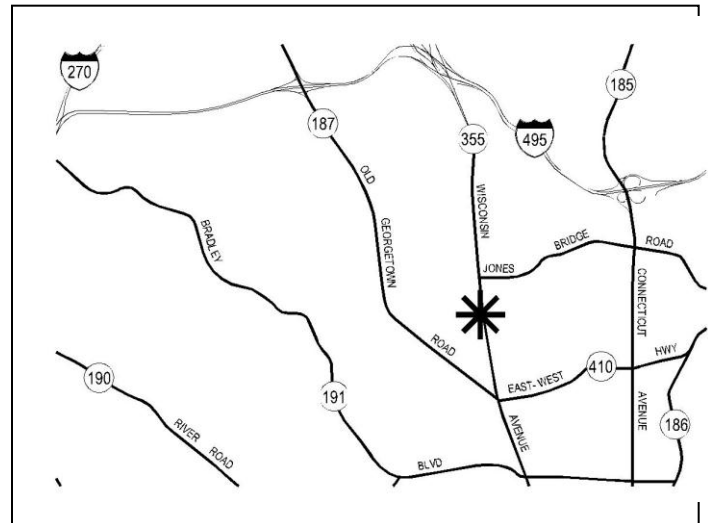
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Date of Staff Report: 06/7/2013

Description

- **Request** - to subdivide 1.45 acres into one lot in the R-200 zone
- **Address** - 8701 Burning Tree Road
- **Zoning/Master Plan/Size** - R-200 Zone, Bethesda/Chevy Chase Master Plan/1.45 acres
- **Applicant** - Keith Burgess
- **Application Filed** - April 13, 2011

Recommendation – *Approval with Conditions*



Summary

On June 6, 2013, the Planning Board approved a reconsideration request submitted by the Planning Department to revisit the issue of the lot size in the context of the resubdivision analysis required for this project. This reconsideration is unique to this project and is specifically related to the miscalculation of the gross lot size and other neighborhood compatibility issues.

The conditions of approval recommended in this report are substantially the same as those that the Board previously approved, with the exception of minor edits and clarifications. All of the findings and evaluation of the case previously approved by the Planning Board remain in full force and effect except as expressly modified.

BACKGROUND

On September 13, 2012, the Montgomery County Planning Board approved a Preliminary Plan (1200110200) application with the following conditions, for the development of a one family-detached residence on one lot.

RECOMMENDATION: Approval subject to the following conditions:

1. This Preliminary Plan is limited to one lot for one dwelling unit
2. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated December 29, 2011 and hereby incorporates them as conditions of this approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of this approval.
3. Prior to plat recordation, the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
4. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated April 4, 2011, and hereby incorporates them as conditions of this approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Stormwater Section provided that the amendments do not conflict with other conditions of this approval.
5. Prior to plat recordation the Applicant must satisfy MCDPS requirements to ensure the construction of a (5) five-foot wide sidewalk along the property frontage on Burning Tree Road, unless construction is waived by MCDPS.
6. The record plat must show necessary easements.
7. The certified Preliminary Plan must contain the following note:

“Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of building permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board’s approval.”
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. The Applicant must submit a final forest conservation plan and have that plan approved by staff prior to any land disturbing activity occurring on site. Land disturbing activity to demolish existing structures must be depicted on Phase I of the final forest conservation plan. Land disturbing activity to construct the proposed structures must be depicted on Phase II of the final forest conservation plan.
10. All retained and planted forests must be protected by a Category I Conservation Easement. All conservation easements must be shown on the record plat. Recordation must occur prior to any land disturbing activity occurring on site other than demolition of existing structures and removal of invasive species.
11. The Applicant must comply with the conditions of approval of the Forest Conservation Exemption letter dated December 16, 2011.
 - a. Areas of stream valley buffer (SVB) outside of the stream channel and the proposed dedications associated with Burning Tree Road that are not protected by the conservation easement require offsite compensation. The mitigation will occur by the use of 2:1 offsite mitigation plantings to be protected by a Category I Easement approved by the Planning Board, prior to any land disturbing activity occurring on site.
 - b. Adjust the proposed conservation easement boundary per the following:
 - i. Shift the proposed conservation easement line northward to remain at least 15 feet from the existing storm drainage R/W.
 - ii. Delete the portion of the conservation easement which overlaps the proposed PUE.
 - c. Refinement of the proposed easement plantings is required to meet reforestation criteria for spacing and species distribution, at the time of final forest conservation plan submission (subject to Planning Board approval).

SITE DESCRIPTION

Vicinity

The subject property is located at 8701 Burning Tree Road, east of the intersection with Beech Tree Road and adjacent to Booze Creek (Cabin John Creek Watershed, Use 1). It is comprised of and identified as the following property with an area of 63, 066 square feet or 1.45 acres:

- Outlot B located in Bradley Hills Grove Subdivision
- Part of Lot One located in the Lee Lloyd's Addition to Burning Tree Valley Subdivision
- Remaining portion (triangular shaped area roughly 175 feet x 70 feet) of unimproved Lybrook Drive, which was abandoned by Montgomery County Resolution (16-1296)

An existing one-story, one-family detached residence that was damaged by fire and a dilapidated pool are located on Lot One. The site is encumbered by a variety of environmental features including a stream buffer and 100-year floodplain. The existing house is located entirely within the stream buffer and partially within the floodplain and its buffer. The existing pool is located entirely within the flood plain and stream buffer. A storm drain right of way traverses the southern boundary adjacent to Booze Creek, which is contained within a concrete flume along this boundary. There are no known Threatened or Endangered plant or animals or Critical Habitat documented in the field or by the Maryland Department of Natural Resources. However, the study area contains one contiguous forest stand, portions of which area contained within environmentally sensitive areas and their buffers.

The current driveway is opposite the intersection of Beech Tree Road and Burning Tree Road and crosses the 100 year flood plain of Booze Creek.



Vicinity Map

PROPOSED AMENDMENT

On June 6, 2013, Staff submitted a petition requesting reconsideration of the Planning Board's Preliminary Plan approval to correct an inaccurate statement of the lot size, which had led to an incorrect resubdivision analysis. The Board approved the reconsideration request at its June 6, 2013 meeting. As discussed herein, based on the correct lot size, the project will still be in character with the existing lots in the neighborhood. Therefore, Staff recommends that the Board approve it.

The Application should be approved under the same analysis previously performed in this matter, because, although the previous resubdivision analysis incorrectly used the net tract area of 47,431 square feet, the actual lot size of 63,066 square feet is still in character with the surrounding neighborhood. The 47,431 square foot number was derived by subtracting 0.6 acres of dedication from the gross tract area of 63,066. Based on this number, the lot was incorrectly identified as the fourth largest lot in the delineated neighborhood rather than the largest.

In addition to the issue of lot size, there are several minor changes to the resubdivision analysis that in no way change the conclusion that the proposed lot is in character with the surrounding neighborhood, but are noted here for the sake of accuracy and completeness.

Staff recommends that this analysis be revised to the following:

Alignment:

Eighteen of the 21 existing lots in the neighborhood are perpendicular in alignment, and the remaining ~~eight~~ three are angled with the street. The approved lot is perpendicular in alignment and of the same character as existing lots with respect to the alignment criterion.

Size:

Including the proposed lot, the 21 lots in the delineated neighborhood range from 63,066 square feet to 11,035 square feet. ~~Seven~~ Four of the lots are smaller than 20,000 square feet, ~~seven~~ four are between 20,000 and 36,000 square feet, and ~~eight~~ are larger than 36,000 square feet. The approved lot will be ~~47,431~~ 63,066 square feet in size.

At ~~47,371~~ 63,066 square feet, the approved lot will be the ~~fourth~~ largest lot in the

neighborhood. Additionally, it is only 2,000 square feet larger than the next largest lot but includes more than 15,000 square feet of land that is dedicated for Forest Conservation. As such, the approved lot size is in character with the size of existing lots in the neighborhood.

Shape:

~~Four~~ 19 of the 21 existing lots in the neighborhood are irregular with the remaining 17 lots being rectangular in nature.

Area:

The existing lots in the delineated neighborhood range from 7, 370 square feet to 33,741 square feet in buildable area. Ten of the existing lots have a buildable area less than 16,000 square feet, ~~six~~ five are between 16,000 and 21,000 square feet, and ~~four~~ four are larger than 22,000 square feet. The Applicant reported that the area for one existing lot was unavailable. The approved lot will have a buildable area of ~~36,930~~ 32,061 square feet.

ANALYSIS

Other than the change to the language regarding analysis of neighborhood compatibility existing lots, the Application remains in conformance with the other conditions of approval. Further, as originally approved by the Planning Board on September 13, 2012, the Application is in general conformance with the Bethesda/Chevy Chase Master Plan and findings for subdivision specific to Chapter 50, the Subdivision Regulations.

CONCLUSION

Staff recommends that the Planning Board reconsider its decision on this resubdivision and revise the analysis of Preliminary Plan 120110200 to reflect staff's current interpretation of neighborhood compatibility. Staff further recommends that the Planning Board adopt the original staff report for Preliminary Plan 120110200 except as modified herein. The attached draft resolution has been modified to reflect the change to the Resubdivision Analysis (Comparison of the Character of Proposed Lots to Existing).

APPENDICES

- A. Applicant's Reconsideration Petition, approved June 6, 2013
- B. Staff Report 120110200, dated August 31, 2012
- C. Approved Resolution 120110200, dated December 20, 2012