



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed: JUN 15 2005

Action: Approved Staff
Recommendation

Motion of Commissioner Bryant,
seconded by Commissioner Robinson,
with a vote of 4-0;
Chairman Berlage and Commissioners
Bryant, Robinson and Wellington voting
in favor. Commissioner Perdue absent.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-04100
NAME OF PLAN: Hill Property

The date of this written opinion is JUN 15 2005 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court - State).

INTRODUCTION

On 6/16/04, MTR Land, LLC ("Applicant") submitted an application for the approval of a preliminary plan of subdivision of property in the RE-2 zone. The application proposed to create nine lots on 26.52 acres of land located on the north side of Norwood Road, approximately 445 feet southeast of the intersection with Holly Grove Road, in the Cloverly master plan area ("Subject Property"). The application was designated Preliminary Plan 1-04100. On 3/31/05, Preliminary Plan 1-04100 was brought before the Montgomery County Planning Board ("Planning Board") for a public hearing. At the public hearing, the Planning Board heard testimony and received evidence submitted in the record on the application.

The record for this application ("Record") closed at the conclusion of the public hearing, upon the taking of an action by the Planning Board. The Record includes: the information on the Preliminary Plan Application Form; the Planning Board staff-generated minutes of the Subdivision Review Committee meeting(s) on the application; all correspondence and any other written or graphic information concerning the application received by the Planning Board or its staff following submission of the application and prior to the Board's action at the conclusion of the public hearing, from the Applicant, public agencies, and private individuals or entities; all correspondence and any other written or graphic information issued by Planning Board staff concerning the application, prior to the Board's action following the public hearing; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the public hearing.

BACKGROUND

On April 11, 2000, the Applicant submitted an application for the approval of a preliminary plan for a larger parcel, including the Subject Property. That previous application, which proposed to create one lot on approximately 29 acres of land, was designated Preliminary Plan # 1-00079. On March 8, 2001, the Planning Board approved Preliminary Plan #1-00079 for one (1) 2.5-acre lot and a waiver of plat recordation for the remainder of the Subject Property. The current application, Preliminary Plan #1-04100, contains the remaining 26.52 acres.

SITE DESCRIPTION

The Subject Property, identified as Parcel 710, is located on the north side of Norwood Road, approximately 445 feet southeast of the intersection with Holly Grove Road. The Subject Property contains a total tract area of 26.52 acres and is zoned RE-2. The property contains a stream and associated stream valley buffer.

PROPOSED DEVELOPMENT

The Applicant proposes to create nine residential lots for the construction of nine one-family detached dwelling units. Access to the lots will be provided from Norwood Road via a public cul-de-sac. In addition, two of the lots will share a driveway.

MASTER PLAN COMPLIANCE

The Cloverly Master Plan ("Master Plan") does not specifically identify the Subject Property for discussion, but does give general guidance and recommendations regarding zoning and land use. The Master Plan recommends maintaining the low-density residential character of the area. The proposed preliminary plan complies with the recommendations set forth in the Master Plan.

SUMMARY OF TESTIMONY

At the public hearing before the Planning Board, Development Review Staff ("Staff") recommended approval of the proposed preliminary plan in accordance with the analysis and recommendations set forth in its Memorandum to the Planning Board, dated March 25, 2005 ("Staff Report"). Staff also supported the Applicant's requested waiver of the provisions of Section 50-26(d) of the Subdivision Regulations to allow the use of a cul-de-sac over 500 feet in length. Staff agreed with the Applicant that although the proposed cul-de-sac is approximately 1,200 feet in length, it is the best alternative for providing access to the proposed lots. Staff testified that the Applicant provided justification for the waiver request based on the shape of the Subject Property, the large size of the proposed lots, environmental constraints, and surrounding existing development. Staff explained that the relatively narrow shape of the Subject Property and the large size of the lots required by the RE-2 zoning make it impossible to use a loop road to provide the connection to Norwood Road without greatly reducing the number of proposed lots. Staff further explained that the most logical alternative access would be a connection to Bryant's Nursery Road, but that any such connection would require crossing the stream valley buffer on the north side of the site. A road connection to the north or east would also require crossing properties that have already been developed. Therefore, due to the configuration and location of the Subject Property, as well as environmental constraints, Staff supports the cul-de-sac design as proposed.¹ The Board adopts Staff's findings and approves the cul-de-sac as proposed.

The Applicant also appeared before the Planning Board, represented by its engineer, and testified that it agrees with Staff's recommendation and proposed conditions, but questioned whether there should be an additional condition regarding the Applicant's requested sidewalk waiver. The Applicant explained that, although Section 50-26(h)(3) of the Subdivision Regulations requires the provision of sidewalks on both sides of a tertiary street, the proposed preliminary plan includes a sidewalk along only one side of the cul-de-sac. The Applicant testified that the proposed plan includes the provision of a sidewalk along the entire Norwood Road frontage of the Subject Property. The Applicant further testified that the provision of a sidewalk on only one side of the cul-de-sac would reduce the impervious surface area and would be adequate to serve the large lots. Staff supported the waiver request and testified that the proposed sidewalks would provide safe pedestrian movement. The Board adopts Staff's findings and approves the sidewalk waiver request.

¹ Staff also testified that the Record includes correspondence from Mr. Kirk Anderson, the owner of property on the south side of Norwood Road, stating his concern that the location of the northwest boundary line of the Subject Property, as shown on the proposed preliminary plan, does not agree with Montgomery County land records. Staff indicated that it did not have any more information about the nature of Mr. Anderson's concern. Mr. Anderson did not testify at the public hearing.

No other speakers testified at the public hearing.

FINDINGS

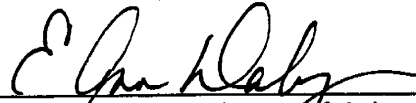
Having given full consideration to the recommendations of its Staff; the recommendations of the applicable public agencies²; the Applicant's position; and other evidence contained in the Record, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board finds that:

- a) The Preliminary Plan No. 1-04100 substantially conforms to the Cloverly Master Plan.
- b) Public facilities will be adequate to support and service the area of the proposed subdivision.
- c) The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.
- d) The application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A. This finding is subject to the applicable condition(s) of approval.
- e) 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 meets MCDPS' standards.
- f) The proposed 1,200-foot cul-de-sac is the best alternative for providing access to the proposed lots. The Planning Board expressly finds that, in accordance with Section 50-26(d) of the Subdivision Regulations, the use of a cul-de-sac longer than 500 feet is justified by the narrow shape of the Subject Property, the large size of the proposed lots, environmental constraints, and the surrounding residential development.
- g) The proposed sidewalks will be adequate to provide safe pedestrian circulation. The Planning Board expressly finds that pedestrians will be able to safely use the cul-de-sac with a sidewalk on only one side of the street and, therefore, waives the requirement of Section 50-26(h)(3) of the Subdivision Regulations that sidewalks must be provided on both sides of a tertiary street.

² The application was referred to outside agencies for comment and review, including the Washington Suburban Sanitary Commission, the Department of Public Works and Transportation, the Department of Permitting Services and the various public utilities. All of these agencies recommended approval of the application.

CERTIFICATION OF BOARD VOTE ADOPTING OPINION

At its regular meeting, held on Thursday, June 9, 2005, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, by unanimous consent and with four Commissioners present, ADOPTED the above Opinion which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for **Preliminary Plan 1-04100, Hill Property**. Vice Chair Perdue abstained.



Certification As To Vote of Adoption
E. Ann Daly, Technical Writer

Pursuant to section 50-35A, the following minor subdivision plat is recommended for conditional approval subject to any applicable conditions of previous preliminary plans approvals and conditioned on conformance with all requirements of Chapter 50 of the Montgomery County Code as will be determined during detailed agency review of the record plats prior to signature.

220060130 Resurvey On Non Eaton
North side of Whites Ferry Road, approximately 1800 feet west of
Sugarland Road
RDT Zone, 1 Lot
Private Well, Private Septic
Master Plan Area: Ag. and Rural Open Space
Andrezej Gawlik, Applicant

Staff recommends approval of this minor subdivision plat pursuant to section 50-35A (8) of the Subdivision Regulations, which states:

Plats for Certain Residential Lots located in the Rural Density Transfer Zone. Up to five lots are permitted under the minor subdivision procedure in the RDT zone provided that a pre-preliminary plan is submitted and approved by either the Planning Board or Planning Board staff, in accordance with the procedures for submission and approval of a pre-preliminary plan of subdivision. In addition:

- 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 dedication along the frontage of the proposed lots, must be shown on the record plat;
- c. An easement must be recorded for the balance of the property noting that density and TDRs have been utilized for the new lots. Reference to this easement must be reflected on the record plat for the lots; and
- 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 plat of subdivision.
- e. Forest conservation requirements must be satisfied prior to recording the plat.

Staff applied the above-noted minor subdivision criteria for the parcel (previously known as parcel 314) and concludes that the proposed minor subdivision complies with the criteria of Section 50-35A (8) of the subdivision regulations. The proposed lot is greater than 5 acres in size and, as such, was reviewed by the Planning Board. Staff has determined that the plat complies with Pre-Preliminary Plan No. 7-05041, as approved by the Board; and that any minor modifications reflected on the plats do not alter the intent of the Board's previous approval of the pre-preliminary plan.

RECORD PLAT REVIEW SHEET

Plat Name: <u>RISURVEY ON NEW EASTON</u>	Plat File Number: <u>220060130</u>
Submission Date: <u>7/29/05</u>	Due Date: <u>10/10/05</u>
DRD Plat Reviewer: <u>Dolores Kinney</u>	DRD Prelim. Plan Reviewer: <u>Dolores Kinney</u>

Initial DRD Review:

Signed Preliminary Plan: Date 8/2/05 Checked: Initial DMK Date 10/6/05
 Planning Board Opinion: Date July 27 2005 Checked: Initial DMK Date 10/6/05
 Site Plan Required For this Development? Yes No Verified By: DMK (Initial)
 Site Plan Name: _____ Site Plan Number: _____
 Planning Board Opinion: Date _____ Checked: Initial _____ Date _____
 Site Plan Signature Set: Date _____ Checked: Initial _____ Date _____
 Lot #'s & Layout _____ Lot Area _____ Zoning _____ Bearings & Distances _____ Coordinates _____ Plan # _____
 Road/Alley Widths _____ Easements _____ Open Space _____ Non-standard BRLs _____ Adjoining Land _____
 Vicinity Map _____ Septic/Wells _____ TDR note _____ Surveyor Cert. _____ Owner Cert. _____ Tax Map _____
 Child Lot Note _____
 Site Plan Reviewer Plat Approval: Checked _____ Initial _____ Date _____

Agency Reviews Req'd	Reviewer	Date Sent	Date DUE	Date Rec'd	Comments
Envir.	(specify by plan)				
Research	Bobby Fleury				
St. Hwy.	Doug Mills				
DPS	Granville Campbell				
PEPCO	Jose Washington				
Parks	Doug Powell				
DRD	Steve Smith				

Final DRD Plat Review:

DRD Review Complete:	Initial <u>DMK</u>	Date <u>10/6/05</u>
(All comments rec'd and incorporated into mark-up)	_____	_____
Engineer Notified - (Pick up Mark-up):	_____	_____
Final Mylar w/Mark-up & PDF Rec'd.:	_____	_____
Board Approval of Plat:		
Plat Agenda	_____	_____
Planning Board Approval:	_____	_____
Chairman's Signature:	_____	_____
DPS Approval of Plat:		
Engineer Pick-up for DPS Signature:	_____	_____
Final Mylar for Reproduction Rec'd:	_____	_____
Plat Reproduction:	Initial	Date
Addressing:	_____	_____
File Card Update:	_____	_____
Final Zoning Book Check:	_____	_____
Update Address Books with Plat #:	_____	_____
Update Green Books for Resubdivision:	_____	_____
Notify Engineer to Seal Plats:	_____	_____
Engineer Seal Complete:	_____	_____
Complete Reproduction:	_____	_____
Send to Courthouse for Recordation:	_____	_____

No. _____