



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 10-113
Pre-Preliminary Plan No. 720090120
Project Name: Gottens Good Luck
Hearing Date: July 15, 2010

SEP 30 2010

MONTGOMERY COUNTY PLANNING BOARD RESOLUTION

WHEREAS, pursuant to Montgomery County Code, Section 50-35A(a)(8), the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review pre-preliminary plan applications involving the creation of lots in the RDT zone; and

WHEREAS, on July 15, 2010, Robert P. Jamison ("Applicant"), filed an application for approval of a pre-preliminary plan of subdivision of property that would create 2 lots and a remainder farm parcel on 77.08 acres of land located On Martinsburg Road 5,760 feet northeast of Whites Ferry Road ("Property" or "Subject Property"), in the RDT zone, in the Agriculture and Rural Open Space master plan area ("Master Plan"); and

WHEREAS, Applicant's pre-preliminary plan application was designated Pre-Preliminary Plan No. 720090120, Gottens Good Luck ("Pre-Preliminary Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated July 2, 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 staff of other governmental agencies, on July 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 July 15, 2010, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Alfandre; seconded by Commissioner Wells-Harley; with a vote of 3-0, Commissioners Alfandre, Carrier, and Wells-Harley voting in favor, Commissioner Dreyfuss recusing himself from the hearing and Commissioner Presley being absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapters 50 and 59, the Planning Board approved Pre-Preliminary Plan No. 720090120 to create 2 lots and a remainder farm

APPROVED AS TO LEGAL SUFFICIENCY

Christina Jones 8/11/10
M-NCPPC LEGAL DEPARTMENT

parcel on 77.08 acres of land located on Martinsburg Road 5,760 feet northeast of Whites Ferry Road ("Property" or "Subject Property"), in the Agriculture and Rural Open Space master plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Pre-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 Pre-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.

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. Prior to record plat, there will be written approval for a proposed septic area from the Montgomery County Department of Permitting Services, Well and Septic section.
2. There are no required street dedications along the frontage of the proposed lots.
3. An easement will be recorded for the balance of the Property noting that density and TDRs have been utilized for the new lots. This easement will be reflected on the record plat for the lots.

4. The width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision. The Planning Board finds the sizes of the proposed lots, which are 2.5 acres, are appropriate for the location of the subdivision and the lots may be platted through the minor subdivision process set forth in § 50-35A of Chapter 50 of the Montgomery County Code ("Subdivision Regulations").
5. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.
6. The Pre-Preliminary Plan substantially conforms to the Agriculture and Rural Open Space Master Plan.
7. The Pre-Preliminary Plan satisfies all applicable requirements of Chapter 59 of the Montgomery County Code.
8. The Planning Board finds that 2 lots can be created without public street frontage. Pursuant to Section 50-29(a)(2) of Chapter 50, the Subdivision Regulations, the Planning Board finds 2 lots on a private driveway from Martinsburg Road is appropriate because 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.

BE IT FURTHER RESOLVED, that this Pre-Preliminary Plan will remain valid for 36 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

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board and the date of this Resolution is SEP 30 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

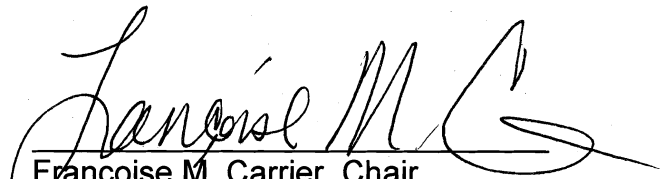
MCPB No. 10-113
Pre-Preliminary Plan No. 720090120
Project Name: Gottens Good Luck
Hearing Date: July 15, 2010
Page 4 of 4

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 Alfandre, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Alfandre and Dreyfuss present and voting in favor of the motion, and Commissioner Presley absent at its regular meeting held on Thursday, September 16, 2010, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board