

JUL 28 2011



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

MCPB No. 11-24
Preliminary Plan No. 120100050
Cedar Knolls Farm
Date of Hearing: March 17, 2011

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 September 9, 2009, Joseph Smoot ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 1.10 acres of land in the Rural Cluster zone, located in the northwest corner of the intersection of Haw Lane and Ednor Road ("Property" or "Subject Property"), in the Sandy-Spring - Ashton Master Plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No.120100050, Cedar Knolls Farm, ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated March 4, 2011, 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 March 17, 2011, 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 March 17, 2011, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Dreyfuss; seconded by Commissioner Wells-Harley with a vote of 4-0, Commissioners Carrier, Dreyfuss, Presley and Wells-Harley voting in favor and with Commissioner Alfandre absent.

NOW, THEREFORE, BE IT RESOLVED, that, pursuant to the relevant

Approved as to
Legal Sufficiency:

Christina Sonnet 6/22/11

8787 Georgia Avenue, Suite 30010 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120100050 to create one lot on 1.10 acres of land in the Rural Cluster zone, located in the northwest corner of the intersection of Haw Lane and Ednor Road, in the Sandy Spring-Ashton Master Plan area, subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to one residential lot.
- 2) The record plat must show dedication along Ednor Lane 40 feet from centerline as shown on the Preliminary Plan drawing.
- 3) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated July 22, 2009. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 4) The Applicant must comply with the conditions of the MCDPS, Wells and Septic Section approval dated October 13, 2009. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 5) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated September 13, 2010. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 6) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s).
- 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 footprint, building height, 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 building permit.
- 8) The record plat must include a note that reads:, "Access Denied to Ednor Road" along Ednor Road frontage.
- 9) The record plat must show necessary easements.

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff as presented at the Hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference, except as modified to clarify that the Property is located in the Sandy Spring-Ashton Master Plan area and not the Olney Master Plan area as stated on page 4 of the Staff Report and to modify condition #7 to clarify that buildings, structures and hardscape will be determined, *at the time of* building permits and not, *during the* building permit, 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 Master Plan does not make specific recommendations on the Subject Property; however, it does designate the area that contains the Property as the *Rural/Open Space Area*. Within the *Rural/Open Space Area* the Master Plan recognizes that a few farms remain but that they are interspersed with subdivisions and that development pressures are mounting. The Master Plan recommends a continuation of low-density land use patterns to protect farmland and other rural open space. The Master Plan goes on to suggest that this area has never been considered part of the County's critical mass of farmland but recommends a continuation of the low density zoning as a means to allow small farms to continue "along with some residential development." This Property is not currently farmed nor does it comprise any part of the remaining agricultural resource that may be left in this part of the planning area. It is located in an area along a major transportation route that is mostly residential in character but with a rural flavor. The large lot nature of this Property will continue the patterns that have developed along Ednor Road.

The Master Plan also does not recommend that sewers be extended into this area. As stated above, the lot will use a private septic system which has been approved by the Montgomery County Department of Permitting Services (MCDPS).

The Master Plan also discusses Ednor Road and recommends that it be designated as a Country Arterial with a right-of-way of 80 feet but continuing as a two lane road. The Master Plan recommends that any safety improvements to Ednor Road be designed to maintain any roadside trees that help maintain the rural character. The Master Plan also recommends an on-street, Class II "signed" bikepath for this portion of Ednor Road. As part of this approval, the Montgomery County Department of Transportation will require an additional 4 feet of pavement on the north side of Ednor Road along the Property frontage to accommodate lane widening and the bikeway. No trees will need to be removed for the widening.

The Preliminary Plan allows residential development in an area that the Master Plan recognizes to have the potential for some residential development. It utilizes septic because the Master Plan does not recommend extension of public sewer into this low density area. The Applicant will also be required to provide additional pavement along Ednor Road to accommodate a Master Plan bikepath but no trees will need to be removed in order to do so. The Board finds that the Preliminary Plan substantially conforms to the recommendations of the Master Plan.

2. *Public facilities will be adequate to support and service the area of the proposed subdivision.*

Roads and Transportation Facilities

The creation of one new lot generates less than 3 new peak-hour vehicle trips, so the Application is not subject to either Local Area Transportation or Policy Area Mobility reviews. The dedication of Ednor Road right-of-way 40 feet from centerline and the requirement to add 4 feet of pavement will allow for a full width travel lane and a future signed bikepath. The bikepath can also be used by pedestrians. The Board finds that there will be adequate vehicular and pedestrian circulation for the new lot.

Other Public Facilities and Services

The private septic system has been approved by MCDPS in a letter dated October 13, 2009. Water service is available and adequate according to the Washington Suburban Sanitary Commission. Verizon and Pepco have also found that they can adequately provide their respective services to the lot. The Board finds that all public utilities and services needed to accommodate the proposed lot are available and will be adequate.

The Application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as schools, police stations, firehouses and health services are currently operating within the standards set by the Growth Policy Resolution currently in effect. The Application is not within a school moratorium area and is not subject to a School Facilities Payment. The Board finds that other public facilities and services are adequate to serve the proposed lot.

3. *The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

All public services required to serve the lot have been determined to be adequate. Public utility agencies have all recommended approval of the Application. Roads and pedestrian facilities will be adequate to serve the new lot. The lot size, shape, width and orientation are appropriate given the character of other lots in the neighborhood and with respect to the Master Plan's recommendation that low density residential uses be maintained. The Board finds that this Application complies with all applicable sections of the Montgomery County Subdivision Regulations.

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

Environmental Guidelines

There are no streams, wetlands or 100 year floodplains on the Subject Property. While it is in the Patuxent River Watershed, none of the Property is within the Patuxent Primary Management Transition Area and therefore it is not subject to the imperviousness limitations. There are no sensitive environmental features on the Property that warrant protection measures.

Forest Conservation

Forest Conservation Plan Exemption #420080390E was granted for the Subject Property on September 19, 2007. The Property contains no forest or any significant or specimen trees. Based on these factors and the fact that the Property is less than 1.5 acres in size, it qualified for the exemption. The Property will not need a Tree Variance because it is exempt from the Forest Conservation Law. The Board finds that the Preliminary Plan complies with Chapter 22A, the Montgomery County Forest Conservation Law.

5. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site.*

This Planning Board's finding is based on a determination by the Montgomery County Department of Permitting Services that the Stormwater Management Concept Plan, approved July 22, 2009, meets MCDPS' standards. Therefore, the Planning Board finds that the Application meets all applicable stormwater management requirements.

BE IT FURTHER RESOLVED that for the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor in interest to the terms of this approval.

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 Land Records of Montgomery County, Maryland or a request for an extension must be filed; and


BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 28 2011 (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).

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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 Vice Chair Wells-Harley, seconded by Commissioner Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, and Commissioner Dreyfuss voting in favor of the motion, and with Commissioner Anderson abstaining and Commissioner Presley absent, at its regular meeting held on Thursday, June 30, 2011, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board