



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

APR 21 2015

MCPB No. 15-32
Preliminary Plan No. 720070270
Gladhill Property
Date of Hearing: April 16, 2015

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50-35A(a)(8), the Montgomery County Planning Board is authorized to approve up to five residential lots in the Rural Density Transfer ("RDT") zone through the minor subdivision procedure if a pre-preliminary plan is submitted and approved, provided the lots must not exceed an average size of five acres unless approved by the Board; and

WHEREAS, on January 25, 2007, the Estate of Lew Gladhill & Larry and Sharon Gladhill ("Applicant") filed an application for approval of a minor subdivision and pre-preliminary plan of subdivision, which the Applicant revised on September 15, 2014, that would create two lots on 123.95 acres (P333 and P287) of land in the RDT zone, located at 27000 and 27210 Clarksburg Road, approximately 0.75 miles northeast of Prices Distillery Road, Damascus, ("Subject Property"), in the Damascus Master Plan ("Master Plan") area; and

WHEREAS, Applicant's pre-preliminary plan application was designated Preliminary Plan No. 720070270 Gladhill Property ("Pre-Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated April 2, 2015, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on April 16, 2015, the Planning Board held a public hearing on the Application, and at the hearing heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing the Planning Board voted to approve the Application, subject to certain conditions, by the vote as certified below;

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Pre-Preliminary Plan No. 720070270 to create two lots on the Subject Property, subject

Approved as to
Legal Sufficiency

 4/8/15

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to the following conditions:¹

1. This Pre-Preliminary Plan is limited to two (2) lots including one (1) created as a Child Lot.
2. The Applicant must place a Category I Conservation Easement over all areas of stream valley buffers within Lot 2 and off-site forest conservation areas. The easement must be in the form of a deed approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records prior to recordation of plat(s). The liber and folio of the recorded deed of easement must be shown on the record plat.
3. Prior to recordation of plat(s), the Applicant must satisfy all conditions of the Final Forest Conservation Plan.
4. A note must be included on the record plat for Lot 2 noting that Lot 2 was created as a child lot pursuant to Section 59-C-9.41.1(f)(1) of the zoning ordinance in effect prior to October 30, 2014.
5. Prior to recordation of plat(s), a deed of easement must be recorded on the farm remainder noting that density and a TDR has been used for Lot 1. This easement must be referenced on the record plat for Lot 1.
6. The Applicant must dedicate and show on the record plat(s) approximately forty (40) feet of right of way from the existing pavement centerline along each lot's frontage on Clarksburg Road, as shown on the Pre-Preliminary Plan.
7. Prior to recordation of plat(s), the Applicant must satisfy any provisions for access and improvements as required by MCDOT.
8. The record plat must show all necessary easements.
9. Prior to recordation of plat(s), the Applicant must provide an affidavit for Staff approval of the availability of a TDR for each lot shown on the plat. The record plat(s) must reflect serialization and liber/folio reference for the TDR used for each lot.
10. The record plat(s) 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

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

farm machinery and no agricultural use shall be subject to restriction because it interferes with other uses permitted in the Zone.”

11. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”) – Well and Septic Section in its letter dated July 3, 2013, and incorporates them as conditions of the Pre-Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Well and Septic Section provided that the amendments do not conflict with other conditions of the Pre-Preliminary Plan approval.

BE IT FURTHER RESOLVED that, having considered 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 herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the Master Plan.*

The Pre-Preliminary Plan conforms to the Development Guidelines established in the Master Plan for residential development in the RDT zone that place emphasis on preserving open, contiguous farmland when considering new subdivisions in this area. The Master Plan indicates that the location of lots and the placement of houses are more important to the protection of rural character and open vistas of farmland than the actual size of lots. The Development Guidelines established in the Master Plan are generally intended for subdivisions creating five or more lots on properties of 100 acres or more; however, the Application was analyzed for conformance with the Guidelines.

This Application does not result in the construction of any new homes in the RDT Zone. The two existing homes on the Subject Property were already constructed when the Master Plan was adopted in 2006, and they are part of the rural or scenic vistas that the Master Plan strives to protect. Since no development is proposed under this Application, there will be no impact to any of the resources identified for protection in the Development Guidelines.

No common open space is required or provided by this Application; however, the 109 acre farm remainder created by platting the two new lots can continue to support many agricultural opportunities, including new products that might be grown on the farm in response to changing market conditions.

Finally, the configurations of new lots conform to the Master Plan’s Development Guidelines. Lot 1 is designed to preserve productive agricultural soil, and Lot 2 is

designed in a manner so the existing driveway and septic system can stay on the same lot as the house the infrastructure serves.

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

Because the approved lots and farm remainder will not generate 30 or more vehicle trips during the morning or evening peak-hours, the application is not subject to Local Area Transportation Review. The Subject Property is located in the Rural East Policy Area, which is exempt from TPAR. Therefore, no TPAR payment is required. Right-of-way dedication is required for Clarksburg Road in front of the portions of the Subject Property that will be platted. However, because the Subject Property is located in a rural policy area, a sidewalk is not required along the Subject Property's frontage. Access to both existing dwelling units will be from the existing driveways onto Clarksburg Road. Vehicular and pedestrian access for the Subject Property will be adequate to support and service the area of the approved subdivision.

Other public facilities and services are available and will be adequate to serve the approved lots. Existing well and septic systems have been approved by the Department of Permitting Services to serve the dwelling units. Gas, electrical and telecommunications services are available to serve the Subject Property. Other public facilities and services, such as schools, police stations, firehouses and health services are currently operating within the standards set by the Subdivision Staging Policy currently in effect. The Subject Property is located in the Damascus High School cluster, which does not require a School Facilities Payment.

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

The approved lots conform to all applicable provisions of the Subdivision Regulations. Lots 1 and 2 are 4.2 and 9.7 acres, respectively, and each accommodates one existing single-family detached dwelling unit. Although the average size of the two lots exceeds 5 acres, the size of Lot 1 was minimized to avoid fragmenting a small area of productive farm field, and Lot 2's size was necessary to include the existing driveway and approved septic field serving the existing home. While Lot 2 is nearly 10 acres, its size and shape does not substantially impact available farm fields or prime agricultural soils, nor does it conflict with any of the Master Plan Development Guidelines.

The approved lots also conform to all applicable provisions of the Montgomery County Zoning Ordinance in effect on October 29, 2014. In particular, Lot 2 meets the requirements of a Child Lot in the RDT Zone described in Section 59-C-9.41.1(f)(1). This Application was filed before October 1, 2010, and Lot 2 was a tract conveyed from

parent to child by deed recorded before October 1, 2010, and it contains an existing dwelling unit.

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

A. Forest Conservation

As conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420140590 was approved by Staff, and a Final Forest Conservation Plan consistent with this approval will be approved by Staff prior to recordation of the plat(s).

5. *All storm water management requirements shall be met as provided in Chapter 19, article II, title "storm water management," Section 19-20 through 19-35.*

Because no construction is proposed with this Application, no stormwater mitigation requirements are necessary under Chapter 19.

6. *The Application complies with Montgomery County Code applicable subdivision requirements under Section 50-35A(a)(8).*

The Subject Property meets all the minor subdivision requirements applicable in RDT zones under Section 50-35A(a)(8) because:

- A. The MCDPS, Well and Septic Section approved the septic areas on July 3, 2013;
- B. All required street dedications will be shown on the record plat(s);
- C. Approval of this Application is conditioned on the Applicant recording an easement on the farm remainder noting the density and use of TDR's, and the easement will be noted on the appropriate plat;
- D. As described above, the Planning Board approves the Subject Property's subdivided lots' size, notwithstanding the average lot size exceeds 5 acres; and
- E. A condition of approval requires that the forest conservation requirements be satisfied prior to record plat.

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this Pre-Preliminary Plan will remain valid for 60 months from its initiation date (as defined in Montgomery County Code Section 50-35(h)), 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 in 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 in this matter, and the date of this Resolution is APR 21, 2015 (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).

* * * * *

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 Dreyfuss, seconded by Commissioner Fani-González, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss and Fani-González voting in favor of the motion, and Commissioner Presley absent, at its regular meeting held on Thursday, April 16, 2015, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board