



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

JUL 13 2015

MCPB No. 15-67
Preliminary Plan No. 120140130
Randolph Farms
Date of Hearing: June 25, 2015

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on February 10, 2014, Charles D., Charles E., and Alice Stevens ("Applicant"), filed an application for approval of a preliminary plan of subdivision that, by resubdividing an existing lot, would create three lots on 50,506 square feet of land in the R-90 Zone, located at 4909 Macon Road, approximately 200 feet east of the intersection of Macon Road and Hunters Lane ("Property"), in the North Bethesda/Garrett Park Master Plan ("Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120140130, Randolph Farms ("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 June 12, 2015, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on June 25, 2015, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board 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 Preliminary Plan No. 120140130 to resubdivide the Property into three lots, subject to the following conditions:¹

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.

Approved as to
Legal Sufficiency:

 7/1/15

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- 1) Approval is limited to three lots for three one-family detached dwelling units.
- 2) The Applicant must submit a Final Forest Conservation Plan consistent with the approved Preliminary Forest Conservation Plan prior to demolition, clearing or grading.
 - a. The Final Forest Conservation Plan must include a total of 17" caliper of native shade trees, using a minimum 3" caliper tree, as mitigation for the loss of ST-10 and ST-17.
 - b. The Final Forest Conservation Plan must include an ISA-certified arborist's evaluation and recommendations for ST-19, 32" scarlet oak. If ST-19 cannot be retained, the Applicant must amend the variance request and provide an additional 8" caliper of native shade trees, using a minimum 3" caliper tree, as mitigation for the loss of tree ST-19.
 - c. The Final Forest Conservation Plan must include detailed and specific tree protection measures.
- 3) Prior to any use and occupancy certificate, the Applicant must replace the existing 4-foot wide sidewalk with a 5-foot-wide sidewalk with a green panel and street trees along the property frontage of Macon Road, and provide a receiving handicapped ramp on the northwest corner of the Macon Road-Galena Road intersection.
- 4) The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated April 3, 2014, and hereby incorporates them as conditions of the Preliminary Plan 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 the Preliminary Plan approval.
- 5) Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
- 6) The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service (MCDPS) – Water Resources Section in its stormwater management concept letter dated August 19, 2014, and hereby incorporates them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

- 7) The Property is within the Wheaton High School cluster area. The Applicant must make a School Facilities Payment to MCDPS at the middle school level at the single-family detached unit rates for all units for which a building permit is issued and a School Facilities Payment is applicable. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.
- 8) 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 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.
- 9) 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.
- 10) The record plat must show necessary easements.
- 11) Prior to any use and occupancy certificate, the Applicant must install understory plantings, as noted on the Preliminary Plan and FCP, to help provide screening between existing Lot 27 and Proposed Lot 1.

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 North Bethesda/Garrett Park Master Plan supports the retention and reconfirmation of the R-90 Zone and residential land use for the Property. There are no specific recommendations for the Property or surrounding area that are applicable, but the Master Plan contains a general recommendation regarding vehicular and pedestrian connectivity. The Preliminary Plan satisfies that recommendation by providing adequate vehicular and pedestrian access to the site, and by improving the sidewalk along Macon Road. The use will not adversely impact environmental, land use and zoning, transportation, or community facilities as identified by the Master Plan. The three lots

are consistent with the zoning and residential use identified by the Master Plan. Therefore, as conditioned, the Preliminary Plan conforms to the North Bethesda/Garrett Park Master Plan.

- 2. Public facilities will be adequate to support and service the subdivision.*

Local Area Transportation Review (LATR)

The three single-family detached units do not generate 30 or more total vehicle trips during the weekday morning or evening peak-hours. Therefore, a traffic study is not required to satisfy the LATR test.

Transportation Policy Area Review (TPAR)

The lots, with one existing unit and two new units, will generate fewer than three peak-hour trips during the weekday or evening peak-hours. Therefore, the TPAR test is not applicable.

Roads and Sidewalks

Macon Road is a 60-foot-wide Secondary Residential Street. Additional dedication of right-of-way is not required. Per the County Road Code, sidewalks are required for lots in the R-90 Zone. The Applicant is required to replace the existing 4-foot wide sidewalk along the Property's frontage on Macon Road with a 5-foot-wide sidewalk, green panel, and street trees. In addition, the Applicant is required to provide a receiving handicapped ramp on the northwest corner of the Macon Road-Galena Road intersection.

Public Transportation

Transit service is available one block to the north of the Subject Property along Randolph Road, including Ride-On route 38 and Metrobus routes C4 and C8. Public transportation is adequate to serve the Subject Property.

Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the proposed dwelling units. The application meets the Montgomery County Fire and Rescue Service requirements for fire and rescue vehicle access. Public facilities and services, such as police stations, firehouses and health services are currently operating within the standards set by the Subdivision Staging Policy currently in effect. Electrical and telecommunications services are also available to serve the Property. The Property is within the Wheaton High School cluster, which is subject to a School Facilities Payment at the middle school level. Therefore, a school facilities payment related to the Subdivision Staging Policy is required for the two new residential units/lots proposed.

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

The Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections, including the requirements for resubdivision discussed below. The approved lots also meet the dimensional requirements of the R-90 Zone. The Board finds that lots' size, width, shape and orientation are appropriate for the location of the subdivision.

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

Forest Conservation

Staff approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD #420140960) on January 24, 2014. There are no forest, streams, wetlands, floodplains, or environmental buffers on the Property.

The FCP indicates 0.19-acres of planting is required to meet the requirements of Forest Conservation Law. The Applicant will meet this requirement off-site. As conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise such resources must be left in an undisturbed condition.

The Applicant submitted a variance request on January 27, 2014, and a revised variance request on October 21, 2015 for the impacts to six trees. The Application will result in impact to four trees and removal of two trees that are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law.

Unwarranted Hardship for Variance Tree Impacts

Per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state will result in unwarranted hardship. The requested variance is necessary in this case because of the location of the trees and the need to provide adequate developable area for two additional single-family houses. To the extent practicable, the Application has minimized disturbance by retaining trees to the rear of the Property. Grading has been minimized but still provides for adequate drainage without impacting neighboring properties. The Applicant in this case would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Board makes the following findings for granting the requested variance:

1. *Granting the variance will not confer on the applicant a special privilege that would be denied to other applicants.*

Granting this variance will not confer a special privilege on the Applicant as disturbance of the specified trees is due to the location of the trees and the need to provide adequate developable area for two additional single-family houses. The Applicant could not build two new houses without disturbing the variance trees, as described in the Staff Report.

2. *The need for the variance is not based on conditions or circumstances which are the result of the actions by the applicant.*

The variance is not based on conditions or circumstances that are the result of actions by the Applicant. It is based on the locations of the trees and the need to provide adequate developable area for two additional single-family houses. Disturbance has been minimized as much as possible through the siting of the house and associated grading.

3. *The need for the variance is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the location of the variance trees, which will be affected by the need to provide adequate developable area for two additional single-family houses; it is not a result of land or building use on a neighboring property.

4. Granting the variance will not violate State water quality standards or cause measurable degradation in water quality.

The Application will not impact environmental buffers and will provide plantings to mitigate for the size and function of the lost trees. The Application includes on-site stormwater management features. The variance will not violate State water quality standards or cause a measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provisions

Mitigation for the Variance is at a rate that approximates the form and function of the protected trees removed. The variance permits the Applicant to remove two trees, ST-10, 27" mockernut hickory, and ST-17, 41" tulip poplar, for a total of 68" DBH of variance tree loss. The Applicant will mitigate for this loss by planting 1/4" caliper inch per 1" DBH lost. 17" caliper of native shade trees, using a minimum 3-inch caliper size tree, must be shown on the Final Forest Conservation Plan as mitigation for the loss of ST-10 and ST-17. If ST-19 is determined to require removal, the Applicant will further

mitigate for the loss of this tree by planting an additional 8" caliper of native shade trees, using a minimum 3-inch caliper size tree. These trees must also be shown on the Final Forest Conservation Plan.

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.*

The MCDPS Stormwater Management Section issued a letter accepting the stormwater management concept for the Randolph Farms site on August 19, 2014. The stormwater management concept proposes to meet required stormwater management goals via Environmentally Sensitive Design through the use of micro-bioretenion planter boxes, a dry well, and landscape infiltration.

6. *The approved lots are of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing neighborhood as delineated in the Staff Report ("Neighborhood").*

Frontage: Lot frontage in the Neighborhood ranges from 60 feet to 153 feet. The frontages for Lots 1, 2, and 3 (76 feet, 60 feet, and 87 feet, respectively) clearly fall within the range established by the Neighborhood. Therefore, the lots approved through this Preliminary Plan will be of the same character as existing lots in the Neighborhood with respect to lot frontage.

Alignment: All of the lots in the Neighborhood are perpendicular to their respective streets. Lots 1, 2, and 3 will be perpendicular to Macon Road. Therefore, the lots approved through this Preliminary Plan are of the same character as existing lots with respect to alignment.

Size: Lot sizes in the Neighborhood range from 8,175 square feet to 45,000 square feet. Lots 1, 2, and 3 will be 14,800, 21,800, and 13,906 square feet, respectively. Therefore, the sizes of the lots approved through this Preliminary Plan are in character with the existing lots in the neighborhood.

Shape: The Neighborhood is composed of lots that are rectangular, trapezoidal, and irregular in shape. Lots 1, 2, and 3 are all irregular in shape, which is consistent with the majority of the lots in the Neighborhood. Therefore, the shapes of Lots 1, 2, and 3 will be in character with shapes of the existing lots in the Neighborhood.

Width: Lot widths in the Neighborhood range from 60 feet to 153 feet. Lots 1, 2, and 3 will have a lot width of 76 feet, 75 feet, and 82 feet, respectively. Therefore, the lots approved through this Preliminary Plan will be in character with existing lots in the Neighborhood with respect to width.

Area: The buildable area of existing lots in the Neighborhood ranges from 2,616 square feet to 31,294 square feet. Lots 1, 2, and 3 will have buildable areas of 6,349, 8,005, and 5,763 square feet, respectively. Therefore, the lots approved through this Preliminary Plan will be in character with existing lots in the Neighborhood with respect to buildable area.

Suitability for Residential Use: The existing and the approved lots are zoned residential and the land is developed for residential use. The approved lots are therefore in character with the rest of the neighborhood.

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 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 JUL 13 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 Fani-González, seconded by Commissioner Presley, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Presley, and Fani-González voting in favor of the motion, at its regular meeting held on Thursday, June 25, 2015, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board