



**MONTGOMERY COUNTY PLANNING DEPARTMENT**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB**  
**Item #**  
**11/20/08**



**MEMORANDUM**

**DATE:** November 7, 2008

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow, Chief *RLK*  
Catherine Conlon, Subdivision Supervisor *CC*  
Development Review Division

**FROM:** Richard A. Weaver, Coordinator (301) 495-4544 *RAW*  
Development Review Division

**REVIEW TYPE:** Preliminary Plan of Subdivision

**APPLYING FOR:** 3 lots for 3 one family residential units dwelling units

**PROJECT NAME:** Prather Property

**CASE #:** 120070680

**REVIEW BASIS:** Chapter 50, Montgomery County Subdivision Regulations

**ZONE:** R-200

**LOCATION:** At the western terminus of Jerusalem Church Terrace

**MASTER PLAN:** Agricultural and Rural Open Space (AROS)

**APPLICANT:** Florence Prather

**ENGINEER:** Benning and Associates

**ATTORNEY:**

**FILING DATE:** March 21, 2007

**HEARING DATE:** November 20, 2008

**RECOMMENDATION:** Approval subject to the following conditions:

- 1) Limit development to three (3) one family residential lots.
- 2) The proposed development shall comply with the conditions of the preliminary forest conservation plan. The applicant shall satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits. Conditions include, but are not limited to:
  - a. Approval of a Final Forest Conservation Plan consistent with the approved Preliminary Forest Conservation Plan prior to any clearing, grading or demolition on the site.
- 3) The applicant must construct all road improvements within the rights-of-way shown on the approved preliminary plan to the full width mandated by the master plan and to the design standards imposed by all applicable road codes or as specified by the Montgomery County Department of Transportation (MCDOT).
- 4) The applicant must comply with the conditions of the MCDPS stormwater management approval dated June 4, 2007.
- 5) The applicant must comply with the conditions of the MCDPS, Wells and Septic Section approval dated January 23, 2008.
- 6) The applicant must comply with the conditions of the MCDOT letter dated July 25, 2008, unless otherwise amended.
- 7) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board resolution.
- 8) Other necessary easements shall be shown on the record plat(s).

**SITE DESCRIPTION**

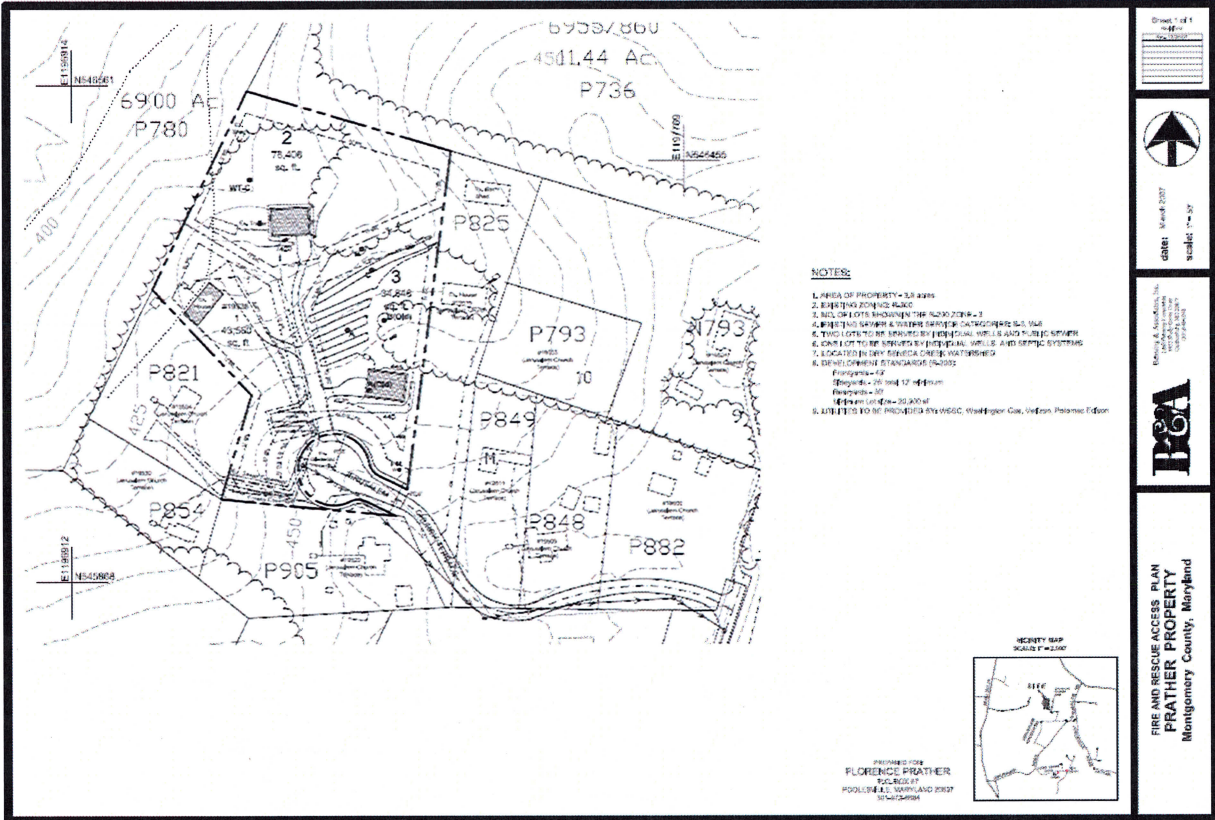
The 3.61-acre property is identified as parcel 770 on Tax Map CU31, zoned R-200, and located at the western terminus of Jerusalem Church Terrace in the Agricultural and Rural Open Space Master Plan area. Access to the property from Jerusalem Church Terrace, a publicly dedicated and maintained road, is via individual private driveways. The surrounding land uses are a mix of agricultural and residential and the property is currently developed with a one family home. The property is within the Dry Seneca Creek watershed; a Use I/P watershed. There is no forest onsite but 11 large or specimen trees ( $\geq 24''$  diameter) are present. No streams or wetlands are onsite, nor are there any environmental buffers.



## PROJECT DESCRIPTION

The application proposes three (3) lots to accommodate three, one family residences. The lots will range in size from 34,848 square feet to 78,408 square feet and all will have direct frontage to the public street. One lot, Lot 2, is a pipestem lot that places the proposed house to the rear of the other two. Each lot will have a separate single driveway serving the home. The existing house is shown to be saved. It appears that the existing house may currently be within the established side yard setback for the R-200 zone. This is an existing condition and the plan, if approved, will have no effect on this lot line-to-house relationship and, therefore, has no ability to remedy this non-conformance. However, if the house is replaced, it will need to conform to the zoning setbacks established at the time of building permit.

Because of the limitations for sewer at the Poolesville wastewater treatment plant, only two of the lots will be served by public water and sewer; one will rely on an approved septic system and well. The existing cul-de-sac is not adequate to accommodate an adequate fire and rescue turnaround. To accomplish such a movement, Lot 1 will need to have a small paved turnaround established on it to satisfy Fire and Rescue requirements. Fire and Rescue has approved the fire access plan.



## ANALYSIS AND FINDINGS

### Master Plan Compliance

The AROS Master Plan zoned this property R-200 and recognizes this and other surrounding property as a residential enclave in close proximity to the Town of Poolesville. As such, public water and sewer service has been extended into the general area in recognition of localized septic failures and the need to serve half acre zoning with public sewage systems. The proposed plan is consistent with the AROS plan vision to maintain rural communities (p.71) and specifically mentions “Jerusalem” as one of the old settlements with well known place names. Staff finds the proposed subdivision complies with the recommendations adopted in the Master Plan.

### Public Facilities

#### Roads and Transportation Facilities

The proposed lots do not generate 30 or more vehicle trips during the morning or evening peak-hours. Therefore, the application is not subject to Local Area Transportation or Policy Area Mobility Reviews. Vehicular access via the existing public street will be safe and adequate. Access for emergency vehicles will be adequate with the proposed onsite improvements to provide turnaround area.

The preliminary plan does not show any sidewalk along the property's frontage, therefore, the applicant will be required to obtain a sidewalk waiver from MCDPS. MCDPS, in granting a waiver may require the applicant to enter into a covenant whereby future homeowners in this subdivision will contribute a proportionate share towards a sidewalk if, or when, it is built by others. For the following reasons, staff would be in support of a sidewalk waiver, including one without a requirement for future contributions:

- There are no other local sidewalks, either existing or proposed, to connect to.
- There are no local parks or schools that require pedestrian linkages.
- Traffic volume on this cul-de-sac is minimal, thereby significantly reducing possible pedestrian conflicts with vehicles. Pedestrian access can safely be accommodated by use of the existing street system.

Staff does not believe that pedestrian mobility will be enhanced to any degree with the construction of a short portion of sidewalk along the property's frontage. Proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed public improvements.

#### Other Public Facilities and Services

Based on a review of the proposed plan by all appropriate agencies and including consideration of the Growth Policy Resolution currently in effect, staff finds that other public facilities and services will be adequate to serve the three lots (including water and sewer, well and septic, schools, police stations, firehouses and health clinics). Additionally, 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. Local utilities have approved the plan finding that their respective utilities, if locally provided, can serve the proposed lots. The application is not within a school moratorium area and is not required to make a School Facilities Payment.

#### Environment

##### Environmental Guidelines

The applicant submitted a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) for the subject site prior to submission of the preliminary plan of subdivision. Environmental Planning staff approved NRI/FSD 420071560 on March 8, 2007. The site does not include any streams, wetlands, or floodplains and there is no environmental buffer on the property. The proposal conforms to the *Environmental Guidelines*.

##### Forest Conservation

The applicant submitted a Preliminary Forest Conservation Plan with the Preliminary Plan of subdivision. There is no existing forest on the property. While there is forest directly adjacent to the subject property, it is not prudent to create forest on the proposed lots. Therefore, the applicant is proposing to meet forest conservation requirements off-site, with the method to be determined at the time of the Final Forest Conservation Plan.

Detailed and specific tree protection measures will also be shown on the Final Forest Conservation Plan when the limits of disturbance and grading are finalized. The applicant is proposing to retain seven trees and remove four large or specimen trees. With the conditions proposed as part of this approval, the plan complies with Chapter 22A of the Montgomery County Code regarding the Forest Conservation Law.

#### Proposed Stormwater Management

The MCDPS Stormwater Management Section approved the stormwater management concept for the project on June 4, 2007, which includes on-site water quality control and on-site recharge via non-structural methods. Channel protection volume control is not required because the post development peak discharge is less than 2.0 cubic feet per second. Based on the approval from MCDPS, staff finds that stormwater management has been provided in accordance with Chapter 50.

#### Compliance with the Subdivision Regulations and Zoning Ordinance

This application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections. In the review of lot alignment, staff gave consideration to the alignment of Lot 2 with respect to Lot 3, noting that the pipestem shape of Lot 2 had the potential to result in a home essentially to the rear of another. Staff is generally opposed to lot alignments that place homes directly to the rear of, and in close proximity to, the rear of other homes. However, for this application, staff took into consideration the large-lot nature of the proposed lots and the placement of the home sites shown on the plan. While a preliminary plan cannot typically dictate the location of a house, the limit of disturbance for tree save on Lot 2 and the location of the septic system on Lot 3 will require at least 200 feet of separation between any potential homes on Lot 2 and Lot 3. The limit of disturbance shown on Lot 2 will also assure that the house on Lot 2 will not be directly behind the house on Lot 3. These factors give reasonable assurance that it is not possible to place a home on Lot 2 to the immediate rear of the home on Lot 3 and that the home on Lot 2 will maintain a decent "street presence" from the cul-de-sac. Therefore, staff finds that the lot size, width, shape and orientation are appropriate for the location of the subdivision.

The lots were reviewed for compliance with the dimensional requirements for the R-200 zone as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is included in attached Table 1. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

#### Citizen Correspondence and Issues

This plan submittal pre-dated any requirements for a pre-submission meeting with neighboring residents; however, written notice was given by the applicant and staff of the plan submittal and the public hearing date. As of the date of this report, no citizen letters have been received.

## **CONCLUSION**

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and comply with the recommendations of the AROS Master Plan. Access and public facilities will be adequate to serve the proposed lots, and the application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan. Therefore, approval of the application with the conditions specified above is recommended.

## **Attachments**

Attachment A – Vicinity Aerial Photo

Attachment B – Proposed Development Plan

Table 1: Preliminary Plan Data Table and Checklist

<b>Plan Name: Prather Property</b>				
<b>Plan Number: 120060680</b>				
<b>Zoning: R-200</b>				
<b># of Lots: 3</b>				
<b># of Outlots: 0</b>				
<b>Dev. Type: Residential</b>				
<b>PLAN DATA</b>	<b>Zoning Ordinance Development Standard</b>	<b>Proposed for Approval by the Preliminary Plan</b>	<b>Verified</b>	<b>Date</b>
Minimum Lot Area	20,000 sq. ft.	34,848 sq. ft. minimum	RW	11/7/08
Lot Width	100 ft.	120 ft. minimum	RW	11/7/08
Lot Frontage	25 ft.	25 ft. minimum	RW	11/7/08
Setbacks				
Front	40 ft. Min.	Must meet minimum <sup>1</sup>	RW	11/7/08
Side	12ft. Min./ 25 ft. total	Must meet minimum <sup>1</sup>	RW	11/7/08
Rear	30 ft. Min.	Must meet minimum <sup>1</sup>	RW	11/7/08
Height	50 ft. Max.	May not exceed maximum <sup>1</sup>	RW	11/7/08
Max Resid'l d.u. per Zoning	7 lots	3	RW	11/7/08
MPDUs	no		RW	11/7/08
TDRs	no		RW	11/7/08
Site Plan Req'd?	no		RW	11/7/08
<b>FINDINGS</b>				
<i>SUBDIVISION</i>				
Lot frontage on Public Street		Yes	RW	11/7/08
Road dedication and frontage improvements		N/a	Agency letter	7/25/08
Environmental Guidelines		N/a	Staff memo	9/22/08
Forest Conservation		Yes	Staff memo	9/22/08
Master Plan Compliance		Yes	RW	11/7/08
Other (i.e., parks, historic preservation)				
<i>ADEQUATE PUBLIC FACILITIES</i>				
Stormwater Management		Yes	Agency letter	6/4/07
Water and Sewer (WSSC)		Yes	Agency comments	5/7/07
10-yr Water and Sewer Plan Compliance		Yes	Agency comments	5/7/07
Well and Septic		Yes	Agency letter	1/23/08
Local Area Traffic Review		N/a	Staff memo	5/7/07
Policy Area Mobility Review		N/a	Staff memo	5/7/07
Transportation Management Agreement		No	Staff memo	5/7/07
School Cluster in Moratorium?		No	RW	11/7/08
School Facilities Payment		No	RW	11/7/08
Fire and Rescue		Yes	Agency letter	2/4/08
Other (i.e., schools)				

<sup>1</sup> As determined by MCDPS at the time of building permit.



