19701 Lyndenwood - Pre-Preliminary Plan No. 720150040

Description:
19701 Lyndenwood - Pre-Preliminary Plan No. 720150040: Request to create one, 13.96-acre lot; located on Lyndenwood Avenue approximately 1,000 feet east of Beallsville Road. Agricultural Reserve Zone, Agricultural and Rural Open Space (AROS) Master Plan.

Accepted Date: March 16, 2016
Applicant: Tony Chamblin ("Applicant")
Review Basis: Chapter 50
Staff Recommendation: Approval of the pre-preliminary plan prior to submittal of a minor subdivision record plat pursuant to Section 50-35A(a)(8) with conditions.

Summary
The Application requests the Planning Board approve the pre-preliminary plan prior to the submittal of a record plat for one lot, through the minor subdivision process.

- Section 50-35A(a)(8) of the County Code, allows up to five lots be approved under the minor subdivision procedure in the RDT (now AR) zone if a pre-preliminary plan is approved by the Planning Board or Planning Board Staff.
- The Planning Board must act on any minor subdivision in the RDT (AR) zone that creates an average lot size larger than five acres. The subject lot is 13.96 acres.
- This application was submitted prior to January 1, 2017 and is therefore reviewed under the Subdivision Staging Policy that was in effect on December 31, 2016.
- This application was submitted prior to February 13, 2017 and is being reviewed under the Subdivision Regulations in place before that date.
SECTION 1 – RECOMMENDATIONS AND CONDITIONS

RECOMMENDATION: Approval subject to the following conditions:

1. This Pre-Preliminary Plan is limited to one (1) lot for one (1) single-family detached home.

2. Prior to recordation of plat, the Applicant must provide an affidavit for Staff approval of the availability of one TDR for the lot shown on the plat.

3. Applicant must submit a stormwater management concept with the Sediment Control Application to DPS.

4. The record plat(s) must contain the following note: “Agriculture is the preferred use in the Agricultural Reserve 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.”
SECTION 2 – SITE LOCATION AND ANALYSIS

SITE DESCRIPTION

The property is located at 17901 Lyndenwood Avenue approximately 1,000 feet east of Beallsville Road and is identified as Parcel 511 on Tax Map CU21. The property is 13.96 acres in size and zoned AR. The property is undeveloped and contains no structures. The property is in the Upper Dry Seneca Creek Watershed (Use I-P) and contains two tributaries along its eastern side. There is 8.10 acres of stream valley buffer (SVB) all of which is forested. Additionally, there is 2.82 acres in floodplain, and 1.5 acres that are wetlands. The property is surrounded by land located with the AR zone and the predominant land use in the vicinity is agriculture and some very low density residential.
HISTORY

The property has not changed in size or shape since it was rezoned from the Rural Zone to the Rural Density Transfer Zone (now AR) on January 6, 1981, therefore, the parcel meets the grandfathering provisions in 59.7.7.1.D.10.a of the Montgomery County Zoning Ordinance discussed in detail in following sections.

PROJECT DESCRIPTION

The current Application, designated Pre-Preliminary Plan number 720150040, 19701 Lyndenwood Avenue, requests approval of one (1) lot, at 13.96 acres to accommodate a one-family detached dwelling (Attachment 1). The Application is submitted under the minor subdivision process outlined in Section 50-35A(a)(8) of the County Code. This Section permits creating up to five lots in the RDT (now AR) zone, “if a pre-preliminary plan is submitted and approved by either the Planning Board or Planning Board staff.” The proposed lot is 13.96 acres and is being platted as one piece and not creating a farm reminder. The proposed lot will be served by well and septic and is in the appropriate water and sewer categories.
SECTION 3 – ANALYSIS AND FINDINGS PRE-PRELIMINARY PLAN 720150170

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

The Application is located within the boundary of the Functional Master Plan for the Preservation of Agriculture and Rural Open Space of 1980 (“Master Plan”). The Master Plan contains goals and objectives for the preservation of critical masses of farmland and rural open space in the county. The Master Plan encourages the preservation of farmland and establishes policy that will contribute to the continuation of farming. The property falls within the Western Sector of the Master Plan, which was recognized in 1980 as having very little non-farm development with large undeveloped and agriculturally workable areas that lend opportunity for continuing agricultural practices. The Master Plan recommends the entire Western Sector, including the subject property, be zoned RDT and established it as a possible Transfer of Development Rights (TDR) sending area.

The subject property is undeveloped and includes environmentally sensitive areas. The proposed lot will be created in the same size, shape and configuration as it existed prior to 1981. Approval of this lot does not measurably change the amount of land area that is used for agricultural resources nor does it further fragment agricultural land; therefore, Staff finds that the Application is in substantial conformance to the Master Plan.

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

**Public Facilities**

**Roads and Transportation Facilities**

No right-of-way dedication is required for Lyndenwood Avenue because it is already terminated in a hammerhead within the existing 60-foot Right-of-Way (Figure 3). A public turnaround will be built and maintained within a public use easement that will be established on the record plat. The Application, which has also been accepted by Fire code enforcement.

*Figure 3: Public use turnaround for proposed driveway*
A sidewalk is not required along the Property frontage because it is in the rural policy area. Access to the proposed dwelling unit will be from a new driveway onto Lyndenwood Avenue. Vehicular and pedestrian access for the subdivision will be adequate.

Adequate Public Facilities
The transportation Adequate Public Facilities (APF) test is satisfied under the 2012-2016 Subdivision Staging Policy since the application was submitted prior to January 1, 2017.

Local Area Transportation Review
A traffic study is not required to satisfy the APF’s Local Area Transportation Review (LATR) test because one new single-family detached unit does not generate 30 or more vehicle trips during the weekday morning or evening peak-hours. Therefore, the Application is not subject to LATR.

Transportation Policy Area Review
The property is located within the Rural West Policy Area for the Transportation Policy Area Review (TPAR) test, which makes it exempt for both roadway and transit tests in accordance with the 2012-2016 Subdivision Staging Policy. However, any building permit issued after March 1st, 2017 will be subject to the impact fees based on the Subdivision Staging Policy currently in effect.

Other Public Facilities and Services
Other public facilities and services are available and will be adequate to serve the proposed lot. The well and septic systems were approved by The Montgomery County Department of Permitting Services, Well and Septic Division on June 2, 2016. (Attachment 2).

The application was reviewed by the Montgomery County Department of Permitting Services, Fire Department Access and Water Supply Division who determined that an easement for a future water tank and access easement is required for the application. The proposed fire access plan including the location of the required easements was found acceptable in a letter dated June 2, 2016 (Attachment 3).

Electrical and telecommunications services are available to serve the 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 property is located within the Poolesville High School cluster, which is not identified as a school moratorium area; and is not subject to a School Facilities Payment under the 2012-2016 Subdivision Staging Policy. However, because the Applicant will not receive a building permit for any structure before March 11st, 2017, the Applicant will need to pay the impact fees based on the Subdivision Staging Policy currently in effect.

3. The size, width, shape, and orientation of the proposed lot is appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50 “Subdivision Regulations” and Chapter 59 “Zoning Ordinance”. The lot meets the dimensional requirements for area, frontage, width and setbacks in the AR zone. The Planning Board has historically sought to reduce the size of new residentially-used lots in the AR zone to the minimum necessary to
accommodate the house and an on-site well and septic in order to maximize agricultural opportunities elsewhere on farmed properties. Generally, that has resulted in lots that are under three acres in size. As part of the minor subdivision requirements detailed below, the Planning Board must review any minor subdivision that creates an average lot size of five acres or larger. In this instance, the proposed 13.96-acre lot envelops the entire parcel as it existed prior to 1981, and will not change the farmable area available. The farmable area the parcel will not change because the parcel is not currently being farmed and is in a undeveloped and fallow state. In addition, under the grandfathering provision of 59.7.7.1.D.9.a, the entirety of the parcel must be platted which essentially precludes the ability to reduce the lot size to anything less than the entire 13.96 acre tract.

Section 50-35A(a)(8) (Minor Subdivision) requirements
The parcel is to be platted pursuant to Section 50-35A(a)(8) of the Subdivision Regulations. This section establishes the ability to plat up to five (5) lots in the RDT (now AR) zone through the minor subdivision process after Planning Staff or Planning Board approval of a pre-preliminary plan. Applications for minor subdivision under Section 50-35A(a)(8) must meet the following criteria:

a. **Written approval for a proposed septic area must be received from the Montgomery County Department of Permitting Services, Well and Septic Section prior to recordation of the plat;**

   The Montgomery County Department of Permitting Services, Well and Septic Division issued an approval of the existing well and septic system on June 2, 2016. (Attachment 2)

b. **Any required street dedications along the frontage of the proposed lot(s) must be shown on the record plat;**

   No dedication is required as part of this Application.

c. **An easement must be recorded for the balance of the property noting that density and TDR’s have been utilized for the new lots. Reference to this easement must be reflected in the record plat for the lots;**

   The Applicant is proposing to record the entire 13.96-acre parcel; no remaining balance will be created.

d. **Lots created in the RDT zone through the minor subdivision procedure must not exceed an average lot size of five (5) acres in size unless approved by the Planning Board in the review of a pre-preliminary plan of subdivision; and**

   The proposed 13.96-acre lot envelops the entire parcel as it existed prior to 1981, and will not change the farmable area available.

e. **Forest conservation requirements must be satisfied prior to recording of the plat.**

   The submitted forest conservation plan, SC2017018, is currently under review by Staff and will be approved if the Planning Board approves the minor subdivision.
Density in the RDT zone
Per Section 59.4.2.1.F of the Zoning Ordinance, only one single-family dwelling unit per 25 acres is permitted in the AR zone. A development right has to be retained for each single family dwelling. The subject property is approximately 13.96 acres in size and would have been assigned two TDRs as part of the rezoning in 1980 that established the old RDT zone. The property cannot be platted under the current zoning standards, however there is an exemption under 59.7.7.1.D.9.a of the Zoning Ordinance. A lot or parcel in the Agricultural Reserve (AR) zone is exempt from the minimum lot area requirements and lot width requirements of the AR zone, but must satisfy the requirements of the zone applicable to it before its classification to the AR zone if the lot or parcel was created before January 6, 1981. Parcel 511 has been in the same size, shape, and configuration since prior to January 6, 1981 and can be platted under the size requirement of the Rural Zone, which is five acres.

As conditioned, prior to recordation of a plat the Applicant must provide verification for Staff approval of the availability of a development right for the lot shown on the plat and the plat must include a note referencing such.

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

Environmental Guidelines
The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420151320 (Attachment 4) for the Property was approved on February 24, 2014 and recertified on March 29, 2016. The NRI/FSD identifies the environmental constraints and forest resources on the Subject Property. There are 13.96 acres of forest, 1.5 acres of wetlands, 2.82 acres of 100-year floodplain, 8.1 acres of stream buffer, and multiple streams. There are no environmental impacts associated with this application, other than the clearing of forest.

Forest Conservation
The Forest Conservation Plan will retain 9.48 acres of existing forest, clear 4.48 acres of forest, and does not generate any additional planting requirement.

The submitted forest conservation plan, SC2017018, is currently under review by Staff and will be approved if the Planning Board approves the minor subdivision.

5. All stormwater management requirements shall be met as provided in Montgomery County Code Chapter 19, Article II, titled “Storm Water Management,” Sections 19-20 through 19-35.

Montgomery County Department of Permitting Services at the Development Review committee meeting on December 8, 2014 recommended approval of the application with the condition that a stormwater management concept be submitted at time of Preliminary Plan, or if there is no Preliminary Plan then it is to be submitted with the Sediment Control Application.
SECTION 4 – CITIZEN CORRESPONDENCE AND ISSUES

The Applicant notified adjacent and confronting property owners of the pre-preliminary plan submission, as required. As of the date of posting of the Staff Report, staff has not received any correspondence.

SECTION 5 – CONCLUSION

Staff recommends that the Planning Board approve this Application for the purposes of allowing it to proceed as a minor subdivision. The lot proposed under this Application meets all the requirements under Section 50-38A(a)(8) of the Subdivision Regulations pertaining to the minor subdivision process. The Application complies with the 1980 AROS Master Plan and is of the appropriate size shape, width and orientation to accommodate the residential use. The lot does not conflict with the continuation of agricultural uses on the farm remainder created by the subdivision of the Property.

Attachment 1 – Pre-Preliminary Plan
Attachment 2 – MCDPS Well & Septic Approval
Attachment 3 – MCDPS Fire Access and Water Supply Approval
Attachment 4 – Approved NRI/FSD
GENERAL NOTES:

1. AREA OF PROPERTY - 13.96 AC
2. EXISTING ZONING: AR
3. NO. OF LOTS PERMITTED - 1
4. NO. OF LOTS SHOWN - 1
5. Lot to be served by a private well & on-site septic system.
6. Located in Dry Seneca Creek Watershed (Class A)
7. SOILS SERIES 21B IS A PRIME AGRICULTURAL SOIL.
8. All wells and septic systems within 100' of the subject property are shown per available records.
9. 100-YEAR FLOODPLAIN FROM A STUDY BY JAS ENGINEERING & DESIGN, LLC. APPROVED BY MCPS ON 03/03/13.
10. WETLAND DELINIEATION BY KLEIBASKO ENVIRONMENTAL, LLC, JANUARY 2014.
11. BOUNDARY FROM A SURVEY COMPLETED BY POTOMAC VALLEY SURVEYS, LLC.
12. TOPOGRAPHY FROM MNCPPC GIS DATA MAPS.

*In accordance with Section 87-17.3.D.iii., the subject parcel is exempt from the area and dimensional requirements of the AR zone but is subject to the requirements of the zone in place prior to January 6, 1981 which was Rural
FIRE MARSHAL COMMENTS

DATE: 02-Jun-16
TO: Joshua Maisel - benninglandplan@aol.com
    Benning and Associates
FROM: Marie LaBaw
RE: 19701 Lyndenwood Ave
     720150040

PLAN APPROVED

1. Review based only upon information contained on the plan submitted 02-Jun-16. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.

2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.