Resurvey on Kilmain - Pre-Preliminary Plan No. 720150110

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Description:
Resurvey on Kilmain - Pre-Preliminary Plan No. 720150110: Request for one, 14.51-acre lot; located on Club Hollow Road approximately 1,500 feet west of Edwards Ferry road. Agricultural Reserve Zone, Agricultural and Rural Open Space (AROS) Master Plan.

Accepted Date: March 30, 2015
Applicant: Leo Bassett, Jr. ("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 14.51 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 requirements 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.

2. The Applicant must dedicate and show on the record plat thirty-five (35) feet of dedication from the centerline of Club Hollow Road along the Subject property’s entire frontage.

3. 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.

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 Resurvey on Kilmain property is located on the north side of Club Hollow Road, approximately 1,500 feet west of the intersection with Edwards Ferry Road, at address 21707 Club Hollow Road. The total property is 14.66 acres in size and is in the AR zone. The use of the property is primarily agricultural, and contains a main house and various agricultural structures. Club Hollow Road which runs across the property’s southern boundary is a Rustic Road. The property is in the Broad Run Watershed (Use I-P) and contains two east-west running tributaries and the main stem of Broad Run. There is 3.94 acres of stream valley buffer (SVB) of which 2.87 acres is forested. Additionally, there is 3.2 acres in floodplain, and 1.1 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.

Figure 1: Aerial Photograph of Vicinity
HISTORY
In 1981 when the property was rezoned from Rural Zone to RDT (AR), the subject property, parcel 510, was the same shape, size and configuration as it is today, 14.66 acres.

PROJECT DESCRIPTION
The current Application, designated Pre-Preliminary Plan number 720150110, Resurvey on Kilmain, requests approval of one (1) lot, at 14.51 acres, after dedication, to accommodate an existing one-family detached dwelling (Attachment 1). The Application is submitted under the minor subdivision process outlined in Section 50-35A(a)(8) of the Subdivision Regulations. This Section permits creating up to 5 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 14.51 acres, after dedication, and is being platted as one piece and not creating a farm reminder. The 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 majority of the subject property is used for agriculture or is environmentally sensitive. The proposed lot will be created in the same size, shape and configuration (minus dedication) 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 the Application is in substantial conformance to the Master Plan.

In addition to the Master Plan finding, the approval of the proposed lot will result in a new building and changes to frontage on Club Hollow Road which is identified as a rustic road in the Rustic Roads Functional Master Plan. The Rustic Roads Advisory Committee has reviewed the proposed lot and frontage improvements and has recommended the plan be approved with comments as detailed in the February 14, 2017 letter (Attachment 2).

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

**Public Facilities**

**Roads and Transportation Facilities**

The proposed lot does not generate 30 or more vehicle trips during the morning or evening peak-hours. Therefore, the Application is not subject to Local Area Transportation Review. Right-of-way dedication is required for Club Hollow Road in front of the portions of the Property that will be platted. 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 the existing driveway onto Club Hollow Road. Vehicular and pedestrian access for the subdivision will be adequate.

**Transportation Policy Area Review**

The Subject Property is located within the Rural West Policy Area for the Transportation Policy Area Review ("TPAR") test and is subject to the 2012-2016 Subdivision Staging Policy, and is exempt for both roadway and transit tests. In any case, TPAR payment would not apply because the Applicant will not receive a building permit before March 1st, 2017. As such, the Applicant will pay 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 February 1, 2016. (Attachment 3).

The plan 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
A 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 December 20, 2016 (Attachment 4).

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 Application is in 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 before March 1st, 2017, the Applicant will pay the impact fees based on the Subdivision Staging Policy currently in effect at time of permit.

3. The size, width, shape, and orientation of the approved lots are 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 be the minimum necessary to accommodate the house and an on-site well and septic 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 14.51-acre lot envelops the entire parcel as it existed prior to 1981, and will not change the farmable area available.

**Section 50-35A(a)(8) (Minor Subdivision) requirements**

The proposed lot 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 February 1, 2016.

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

  The proposed lot fronts on a public street, Club Hollow Road. The Master Plan recommends 70 feet of right-of-way for Club Hollow Road. The Applicant will be dedicating 35 feet from centerline 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 14.66-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 14.51-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, SC2017012, 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 14.66 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 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 510 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 or 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 5) for the Property was approved on December 1, 2015. The NRI/FSD identifies the environmental constraints and forest resources on the Subject Property. There are 5.82 acres of forest, 1.71 acres of wetlands, 3.02 acres of 100-year floodplain, 3.94 acres of stream buffer, and multiple streams. There is no environmental impact associated with this application.

**Forest Conservation**

The Forest Conservation Plan covers 1.76 acres of the net tract area; 0.15 acres is being deducted as Right-of-way not being developed as part of this project, and 12.81 acres as agriculturally exempt. The Forest Conservation Plan will retain no existing forest, clear 0.37 acre of forest, and generate a 0.74-acre planting requirement. The applicant proposes to meet the planting requirement by retaining forest on the agricultural exempt portion of the Subject Property at a 2:1 ratio or, 1.5 acres of existing forest.
The submitted forest conservation plan, SC2017012, 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 in a memorandum dated April 23, 2015 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 (Attachment 6).

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 of 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 – Rustic Roads Advisory Committee Letter
Attachment 3 – MCDPS Well & Septic Approval
Attachment 4 – MCDPS Fire Access and Water Supply Approval
Attachment 5 – Approved NRI/FSD
Attachment 6 – MCDPS Stormwater Management Comments
MISS UTILITY
EXISTING UNDERGROUND UTILITY LOCATIONS ARE APPROXIMATE AND MUST BE FIELD VERIFIED. UTILITY LOCATIONS ARE BASED UPON AVAILABLE RECORDS AND SHOWN TO THE BEST OF OUR ABILITY.

UTILITY INFORMATION

REQUEST DATE
INFO. RECEIVED
PLAN REVISED

0 50 75 100

1 INCH = 50 FEET

GRAPHIC SCALE

EXPERIENCE YOU CAN BUILD ON.

CIVIL    SURVEYING    LAND PLANNING
10 South Bentz Street
Frederick, Maryland 21701
301-607-8031 office
301-607-8045 fax
www.casengineering.com
info@casengineering.com

THIS PLAN IS FOR PLANNING BOARD APPROVAL TO CONVERT PARCEL P510 INTO A LOT OF RECORD VIA MINOR SUBDIVISION RECORD PLAT, IN ACCORDANCE WITH MONTGOMERY COUNTY CODE SECTION 50-35A(a).
February 14, 2017

Curt Schreffler, PE
CAS Engineering
10 South Bentz Steret
Frederick, MD 21071

RE: Club Hollow Road, rustic road, fire cistern easements
Bassett property, Resurvey on Kilmain, 720150110
Jamison property, Club Hollow Property, 720110100, 220141180

Dear Mr. Schreffler:

Thank you for presenting the joint fire cistern easement alternative on Club Hollow Road, a rustic road, to our committee on November 29, 2016.

There are currently two fire cistern easement areas proposed on two adjacent properties, the Bassett and Jamison properties, on this rustic road. We understand that neither property owner is being asked to install a cistern or access driveway; the easements would allow future installation by others. The Jamison easement is parallel to the road, and would involve widening the rustic road by approximately 12 feet. The Bassett easement is perpendicular to the rustic road, and involves a 32-foot wide paved driveway and fire cistern access area, close to and in clear view of the rustic road. We consider both proposals to negatively impact the character of the rustic road.

To reduce the negative impacts, a single easement is proposed at the southwestern corner of the Bassett Property. The alternative you have provided us (dated 12/13/2016) shows an easement perpendicular to the road, adjacent to the common property boundary that will accommodate the future 20-foot driveway and fire cistern. As proposed, there will be three above-ground structures that may be visible from the rustic road: a dry hydrant, a concrete slab, and a circular lid that cover an access point to the cistern vault. The proposed structures are to be approximately 41 feet outside of the proposed right-of-way. A 20-foot driveway will be located within the right-of-way to provide access to the proposed cistern.

We recommend approval of this proposed fire access easement, contingent upon the removal of the other two cistern easements proposed on the Bassett and Jamison properties. At the time of permitting, if the following elements cannot be accommodated, we would like to review the final plans:

- The access driveway should be constructed at the time of installation of the cistern.
- MCDPS staff reviewing this fire access easement has indicated that the driveway can be constructed with an appropriate gravel mix; gravel is preferred to asphalt.
- The driveway apron width should match the existing 26-foot wide apron on the fire cistern installation on Stoney Creek Road, a rustic road.

RUSTIC ROADS ADVISORY COMMITTEE
• Provide screening for the above-ground structures using native plants arranged in a naturalistic design.

Thank you for your presentation and especially for your assistance in coordinating this project. If you have any questions, you may reach us through our staff coordinator Michael Knapp, at 240-777-6335 or Michael.Knapp@montgomerycountymd.gov.

Sincerely,

Christopher H. Marston, Chair
Rustic Roads Advisory Committee

Committee Members: Todd Greenstone, Thomas Hartsock, Sarah Navid, Jane Thompson, Robert Tworkowski

Cc: Leo Bassett, Jr.
    Robert Jamison
    Jared Sims Carhart, CAS Engineering
    Thomas A. Maddox, Land Surveyor
    Marie LaBaw, PE, MCDPS
    Joshua Penn, M-NCPCC
    Stephen Smith, M-NCPCC
    Carol Rubin, M-NCPCC
    Richard Weaver, M-NCPCC
    Leslie Saville, M-NCPCC
MEMORANDUM

February 1, 2016

TO: Cathy Conlon, Development Review
    Maryland National Capital Park and Planning Commission

FROM: Diane R. Schwartz Jones, Director
      Department of Permitting Services

SUBJECT: Status of Preliminary Plan: Resurvey on Kilmain – Lot 1 720150110

This is to notify you that the Well & Septic Section of MCDPS approved the plan received in this office on January 8, 2106.

Approved with the following reservations:

1. The record plat must be at the same scale as the preliminary plan, or submit an enlargement of the plat to match the preliminary plan.

2. The record plat must show the septic reserve area as it is shown on this plan.

If you have any questions, please contact Heidi Scott at (240) 777-6318.

Cc: Cas Engineering File
DATE: 20-Dec-16
TO: Curt Schreffler - curt@casengineering
CAS Engineering
FROM: Marie LaBaw
RE: Resurvey on Kilmain (21707 Club Hollow Road)
720150110

PLAN APPROVED

1. Review based only upon information contained on the plan submitted 20-Dec-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.

*** Modified easement location ***
ATTACHMENT 5

FOREST STAND ANALYSIS

TREE DATA

ENVIRONMENTAL DATA TABLE

GENERAL NOTES
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MONTGOMERY COUNTY DEPARTMENT OF PERMITTING SERVICES  
255 Rockville Pike, 2nd Floor, Rockville, Maryland 20850-4153  

Date: April 23, 2015

MEMO TO: Mark Pfefferle, Supervisor for Development Review Committee, MNCPPC

FROM: William Campbell, Senior Permitting Services Specialist  
Division of Land Development Services, MCDPS

SUBJECT: Stormwater Management Concept Plan/Floodplain Review  
Preliminary Plan Pre -720150110; Resurvey on Kliman  
Subdivision Review Meeting April 27, 2015  
SWM File #: NA  
DPS Reviewer: NA

The subject plan has been reviewed to determine if it meets the requirements of Executive Regulation 7-02AM for stormwater management and Executive Regulation 108-92 AM for Floodplain. The following summarizes our findings:

SM CONCEPT PLAN PROPOSED:
☐ On-site: ☐ CPv ☐ WQv ☐ Both ☐ ESD  
☐ CPv < 2cfs, not required  
☐ Waiver: ☐ CPv ☐ WQv ☐ Both ☐ ESD  
☐ On-site/Joint Use ☐ Central (Regional): waived to ☐ Existing Concept: ☐ Approved Date,  
☐ Other

Type Proposed:
☐ Infiltration ☐ Retention ☐ Surface Detention ☐ Wetland ☐ Sand Filter  
☐ Separator Sand Filter ☐ Underground Detention ☐ Non Structural Practices ☐ Other

FLOODPLAIN STATUS: 100-Year Floodplain On-Site ☒ Yes ☐ No ☐ Possibly  
☐ Provide the source of the 100-Year Floodplain Delineation for approval:  
☐ Source of the 100-Year Floodplain is acceptable.  
☐ Submit drainage area map to determine if a floodplain study (>or equal to 30 acres) is required. 
☐ Dam Breach Analysis ☐ Approved ☐ Under Review  
☐ 100 yr. floodplain study ☐ Approved ☐ Under Review

SUBMISSION ADEQUACY COMMENTS:
☐ Downstream notification is required.  
☐ The following additional information is required for review:

RECOMMENDATIONS:
☒ Approve ☒ as submitted ☒ with conditions (see approval letter).  
☐ Incomplete, recommend not scheduling for Planning Board at this time.  
☐ Hold for outcome of the SWM Concept review.  
☒ Comments/Recommendations: Submit a Storm water concept with a geotechnical report at the Preliminary Plan stage or if there is no Preliminary plan then with the sediment control application.