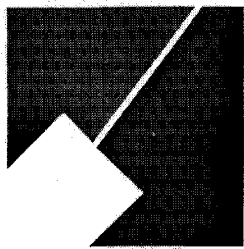


M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

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Silver Spring, Maryland 20910-3760
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MCPB
Item # 4
July 7, 2005



MEMORANDUM

DATE: July 1, 2005

TO: Montgomery County Planning Board

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

FROM: Dolores M. Kinney, Senior Planner (301) 495-1321 *DMK*
Development Review Division

REVIEW TYPE: Preliminary Plan Review

APPLYING FOR: Subdivision of 943

PROJECT NAME: Post Subdivision

CASE #: 1-05091

REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: Rural Cluster (RC)

LOCATION: Located on the west side of Berryville Road, approximately 300 feet south of the intersection with Poplar Hill Road

MASTER PLAN: Potomac

APPLICANT: Thomas E. Post

FILING DATE: April 22, 2005

HEARING DATE: July 7, 2005

STAFF RECOMMENDATION: Approval, pursuant to Section 50, Montgomery County Subdivision Regulations and Section 59-C-9.73(b)(4) of the Montgomery County Zoning Ordinance, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to two (2) lots.
- 2) Compliance with the conditions of approval of the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits.
- 3) Record plat to reflect a Category I Forest Conservation Easement over all conservation areas.
- 4) Record plat to reflect common ingress/egress and utility easements.
- 5) Compliance with the conditions of the MCDPS stormwater management approval dated January 20, 2005.
- 6) Compliance with conditions of the MCDPS (Health Dept.) septic approval letter dated June 22, 2005.
- 7) Compliance with conditions of MCDPWT letter dated, June 24, 2005 unless otherwise amended.
- 8) One shared driveway access will be provided to the property.
- 9) Applicant to provide a 20' wide Public Use Trail Easement along the southern border of the property from Berryville Road to Seneca Creek State Park to facilitate public access to State parkland and trails therein. Easement to be adequately identified and signed.
- 10) Record plat to reference that Lot 2 is being created under Section 59-C-9.73 for the use as a single-family residence only by the child or spouse of a child of the property owner. Applicant to provide signed "kiddie lot" affidavit with record plat application for the subject lots. Include note identifying specific child lots on record plat.
- 11) Other necessary easements.

SITE DESCRIPTION:

Parcel 943 ("Subject Property") is located on the west side of Berryville Road, approximately 300 feet south of the intersection with Poplar Hill Road (Attachment A). A one-family detached dwelling, pool and accessory structures currently exist on the Subject Property and will remain. Seneca Creek State Park abuts the Subject Site on the north and west. The site is zoned Rural Cluster (RC) and contains 7.29 acres.

PROJECT DESCRIPTION:

This is a preliminary plan of subdivision to create two (2) lots, one of which will be conveyed to a child of the property owner (Attachment B). Generally, the lots in the RC zone require a minimum of 5 acres. However, under Section 59-C-9.73 (b)(4) of the Zoning Ordinance, certain lots may be exempted from the minimum area and dimensional requirements provided that they are conveyed to a child of the property owner and meet the requirements of the zone applicable to them prior to their classification in the Rural Cluster zone. The provision reads as follows:

- b) The following lots are exempted from the area and dimensional requirements of Section 59-C-9.4 but must meet the requirements of the zone applicable to them prior to their classification in the Rural Cluster Zone or Low Density Rural Cluster Zone:
- 4) A lot created for use for a one-family residence by a child, or the spouse of a child, of the property owner, provided that the following conditions are met:
- i. The property owner can establish that he had legal title on or before the approval date of the most recent sectional map amendment that included the lot; and
 - ii. This provision applies to only one such lot for each child of the property owner

Prior to its reclassification to RC zone, the Subject Property was zoned RE-2 which requires a minimum lot size of 2 acres. The proposed Lot 1 contains 3.81 ac. (165,994 s.f.) and the proposed Lot 2 contains 3.48 ac. (151,628 s.f.). Additionally, an affidavit attesting to the child as the recipient of the proposed Lot 2 and a copy of the deed documenting that the property owner had legal title prior to the establishment of the RC Zone were provided as part of the application. As such, the preliminary plan complies with Section 59-C-9.73 (b)(4).

Private wells and standard private septic will serve the site. An existing driveway depicted on the preliminary plan to be used during construction, is proposed to be removed upon completion of the project. One shared driveway is proposed to provide access to both of the proposed lots.

DISCUSSION OF ISSUES

Master Plan Compliance

The Potomac Master Plan does not specifically identify the Subject Property for discussion but does give general guidance and recommendations regarding preservation of farmland and rural open space. The master plan recommends that this area maintain low-density residential use.

Environmental

The 7.29-acre property is located in south-central Montgomery County between Seneca Creek State Park and Berryville Road. The property shares a common boundary with Seneca State Park to the north and west. Residential properties are to the south and Berryville Road to the east. The property consists of one existing house, pool, and two accessory structures. There are no streams, wetlands, or floodplains on the property. There are 4.56-acres of existing forest on the subject property. The highest quality forest

with the most specimen trees is located on the northeast portion of the property near Berryville Road. The property is within the Great Seneca Creek watershed.

In a letter to the Development Review Division (Attachment D), The Maryland Department of Natural Resources has expressed concerns regarding the location of the septic drainfields on the Subject Property. The plan proposes extensive drainfields on the property, which are adjacent to the Seneca Creek State Park. The State questions the harmful impact of the drainfields on the vegetation of the adjacent park property and has requested to have the septic areas relocated elsewhere on the property.

In response to the State's concern, the M-NCPPC Environmental Staff has indicated that alternative locations, for septic areas on the Subject Property, are limited. The topography on other areas of the site consists of highly erodible soils and moderately steep slopes of 15 to 25%, which are not suitable conditions for septic areas. Additionally, the plan illustrates the extent of both initial and reserve trenches, the initial tree impacts will be minimal and further extension of the field may not be needed for many years.

Forest Conservation

The forest is contiguous to the State Park and the adjoining residential properties to the south. There are numerous specimen trees in the forest; however, there are few specimen trees in the area of proposed clearing. The forest removal is for the new house location, and the septic fields. The applicant will minimize forest loss by placing a new driveway from Berryville Road within the unforested portion of the site. The only place to locate the proposed new house is in the forest because the existing topography of the subject property and two ephemeral channels limit the locations for approvable septic areas.

The applicant's forest conservation plan indicates the removal of 1.02 acres of existing forest, however, not all of this forest will be removed. The applicant will not remove forest immediately behind the proposed house location but these trees will not be permanently protected. The forest conservation plan shows the retention of trees within 15 feet of the proposed new house location. Environmental Planning objects to placing conservation easements within 35 feet of proposed house locations. However, Environmental Planning does encourage the retention of trees within 35 feet of the house, just not within an easement. This allows the property owner to maintain the trees and remove trees when necessary without violating a forest conservation easement. The applicant has a net planting requirement of 0.89-acres of forest, which they will meet, either at an offsite location or by paying a fee-in-lieu.

Environmental Buffers

The site does not include any streams, wetlands, or floodplains and there are no environmental buffers on the property.

ANALYSIS:

Staff's review of Preliminary Plan #1-05091, Post Subdivision, indicates that the plan conforms to the recommendations of the Potomac Master Plan. The proposed preliminary plan is consistent with the master plan goal to maintain the area's low density, residential character. Staff's review also indicates that the proposed preliminary plan complies with Chapter 50 of the Montgomery County Code, Subdivision Regulations, in that public facilities will be adequate to support and service the area of the proposed subdivision. Staff further finds that the size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.

CONCLUSION:

Staff concludes that Preliminary Plan #1-05091, Post Subdivision, conforms to the Potomac Master Plan and meets all necessary requirements of the Subdivision Regulations. As such, Staff recommends approval of the preliminary plan subject to the above conditions.

Attachments

Attachment A Vicinity Development Map

Attachment B Proposed Development Plan

Attachment C Letter from Maryland Department of Natural Resources