



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 13-24
Pre-Preliminary Plan No. 720110100
Club Hollow Property
Date of Hearing: February 21, 2013

MAR 4 2013

RESOLUTION

WHEREAS, under Montgomery County Code, Section 50-33A(8), the Planning Board may approve up to five lots under the minor subdivision procedure in the Rural Density Transfer ("RDT") zone if a pre-preliminary plan is submitted and approved, provided the lots must not exceed an average lot size of five acres unless approved by the Board; and

WHEREAS, on June 16, 2011, Robert P. & Susan S. Jamison, ("Applicant"), filed an application for approval of a pre-preliminary plan of subdivision of property that would create one lot on 13.78 acres of land (P560) in the RDT zone, located at 21715 Club Hollow Road, 1750 feet west of Edward's Ferry Road, ("Subject Property"), in the Preservation of Agriculture and Rural Open Space master plan ("Master Plan") area; and

WHEREAS, Applicant's pre-preliminary plan application was designated Pre-Preliminary Plan No. 720110100, Club Hollow Property ("Pre-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 February 8, 2013, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on February 21, 2013, 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 Pre-Preliminary Plan No. 720110100 to create one lot on the Subject Property, subject

Approved as to
Legal Sufficiency:


M-NCPPC Legal Department
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to the following conditions:¹

1. This Pre-Preliminary Plan is limited to one lot for one dwelling unit.
2. The certified Pre-Preliminary Plan must contain the following note:

“Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprint and site circulation shown on the Pre-Preliminary Plan are illustrative. The final locations of the building will be determined at the time of issuance of building permit. Please refer to the zoning data table for development standards such as setbacks and building restriction lines for the lot. Other limitations for site development may also be included in the conditions of the Planning Board’s approval.”
3. No building permits shall be issued for the Subject Property until a final forest conservation plan has been approved by Staff. The net tract area shall be based on the Limit of Disturbance on the sediment control permit application, with forest conservation requirements to be met off site. This condition shall be noted on the record plat.
4. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated September 22, 2011, and does hereby incorporate them as conditions of the Pre-Preliminary Plan approval. Therefore, 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 Pre-Preliminary Plan approval.
5. The Planning Board has accepted the recommendations of the Montgomery County Fire Marshall in a memo dated August 27, 2012, and does hereby incorporate them as conditions of the Pre-Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the memo, which may be amended by the Fire Marshall provided that the amendments do not conflict with other conditions of the Pre-Preliminary Plan approval.
6. The Planning Board has accepted the recommendation of the Montgomery County Department of Permitting Service (“MCDPS”) – Water Resources Section in its stormwater management concept memo dated July 19, 2011, and does hereby incorporate it as a condition of the Pre-Preliminary Plan approval.

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.

Therefore, the Applicant must comply with the recommendation set forth in the memo, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Pre-Preliminary Plan approval.

7. The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service (“MCDPS”) – Well and Septic Section in its memo dated June 19, 2012, and does hereby incorporate them as conditions of the Pre-Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the memo, which may be amended by MCDPS – Well and Septic Section provided that the amendments do not conflict with other conditions of the Pre-Preliminary Plan approval.
8. The Applicant must dedicate and show on the record plat(s) the following dedication:

Thirty five (35) feet from the existing pavement centerline along the Subject Property frontage for Club Hollow Road.
9. The Applicant must construct all road improvements within the rights-of-way shown on the approved Pre-Preliminary Plan to the full width mandated by the master plan and/or to the design standards imposed by all applicable road codes.
10. The record plat must show necessary easements.
11. A building permit for a one-family residence issued for the lots and pursuant to this Pre-Preliminary Plan must show that the building is to be built in substantially the same location and orientation as shown on the certified Pre-Preliminary Plan.
12. The Applicant must coordinate the precise location of the driveway access point with the Rustic Roads Advisory Committee.
13. The record plat must reflect serialization and liber/folio reference for a transfer of development right (“TDR”) utilized by the development.
14. The Applicant must include with the submission of the record plat an affidavit to verify the availability of a TDR for the lot shown on that plat and include a note referencing the affidavit on the record plat.
15. The record plat(s) must contain the following note:

“Agriculture is the preferred use in the Rural Density Transfer 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.”

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 Master Plan contains goals and objectives for the preservation of critical masses of farmland and rural open space in the county. The Master Plan focuses on the identification and application of land use regulations and incentives to help retain agricultural land in farming. This Application will retain a small farm, and approval of the lot with the dwelling location will allow the agricultural use to continue. Therefore, the Planning Board finds that the Application substantially conforms with the recommendations adopted in the Master Plan, as it is designed to minimize fragmentation of the Subject Property and maximize the viable farmland.

The subdivision will not impinge on any forests, trees, natural features, or scenic views, and as conditioned to dedicate 35 feet from centerline of Club Hollow Road, the Pre-Preliminary Plan is in compliance with the Rustic Roads Master Plan.

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

The Application is not subject to Local Area Transportation Review because it will not generate 30 or more vehicle trips during the morning or evening peak-hours. A sidewalk is not required along the Subject Property frontage. Vehicle and pedestrian access for the Subject Property will be safe and adequate.

Other public facilities and services are available and will be adequate to serve the approved lot. Septic facilities have been approved by the MCDPS. Gas, electrical and telecommunications services are available to serve the Subject Property. Other public facilities and services, such as schools, police stations, and health services are currently operating within the standards set by the Subdivision Staging Policy currently in effect.

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

The approved lot is 13.71 acres after required dedication to accommodate a one-family detached dwelling unit. The size, width, shape, and orientation of the lot is appropriate for the location of the subdivision and as the setting for the dwelling unit because of pre-existing boundaries and approved well and septic facilities.

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

As conditioned, the Application complies with the requirements of the Forest Conservation Law. A preliminary forest conservation plan was reviewed by Staff and a final forest conservation plan will be approved by Staff prior to issuance of a building permit.

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.*

This finding is based in part upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards. When the Application proceeds to building permit, the Applicant will be required to address stormwater management at the sediment and erosion control permit stage.

6. *The Application complies with Montgomery County Code applicable subdivision requirements under Section 50-35A(a)(8).*

- A. The MCDPS, Well and Septic Section approved the septic area on June 19, 2012;
- B. All required street dedications will be shown on the record plat;
- C. Recording an easement noting the density and utilization of TDRs on the Subject Property's plat is a condition of approval;
- D. The Planning Board approves the Application to create one 13.71 acre lot, which exceeds the five acre lot size required by Section 50-35A(a)(8)(D) because it will allow agricultural use to continue on the Subject Property as a small farm; and
- E. A condition of approval requires that the forest conservation requirements be satisfied prior to record plat.

BE IT FURTHER RESOLVED, that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this Pre-Preliminary Plan will remain valid for 60 months from its initiation date (as defined in Montgomery County Code Section 50-35(h)), and that prior to the expiration of this validity period, a final record plat for all

property delineated on the approved Pre-Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; and

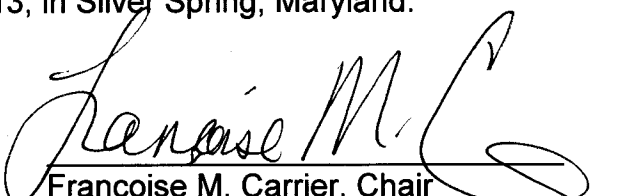
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAR 4 2013 (which is the date that this Resolution is mailed to all parties of record); and

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 Presley, seconded by Commissioner Dreyfuss, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Dreyfuss and Presley, voting in favor, and Commissioner Anderson temporarily absent, at its regular meeting held on Thursday, February 21, 2013, in Silver Spring, Maryland.


Françoise M. Carrier, Chair
Montgomery County Planning Board