

5938 TROTTER, LLC, PETITIONER * BEFORE THE
PLANNING BOARD CASE NO. 459 * PLANNING BOARD OF
* HOWARD COUNTY, MARYLAND

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DECISION AND ORDER

The Planning Board of Howard County Maryland held a public hearing on October 23, 2025, in accordance with Section 107.0.F of the Howard County Zoning Regulations, to consider the petition of 5938 Trotter, LLC to approve SP-25-002 for a subdivision of 31 single-family residential lots and 4 open space lots. The project is located on the west side of Trotter Road and identified as Tax Map 35, Grid 8, Parcel 373, Lots 6, 27, 34 and 35, and Parcel 163, Lot 5. The project is zoned R-20 (Residential – Single) but is being subdivided in accordance with the R-ED (Residential: Environmental Development) Zoning Regulations.

The Notice of Hearing was published, and the subject property was posted in accordance with the Planning Board’s requirements, as evidenced by certificates of publication and posting, all of which were made a part of the record of the case.

Pursuant to the Planning Board’s Rule of Procedure, the reports and official documents pertaining to the Petition, including the files for PB-459 and SP-25-002, the Technical Staff Report, the Certificates of Advertising, the Certificate of Posting, the Zoning Regulations, and the County Code – were made part of the record.

The Petitioner was represented by William Erskine, Esq.

The Planning Board has the authority to review and make a decision regarding the proposed Preliminary Equivalent Sketch Plan in accordance with the pertinent criteria set forth, pursuant to Section 107.0.F of the Zoning Regulations. Those criteria are as follows:

- 1. The proposed lay-out of lots and open space effectively protects environmental and historic resources.
- 2. Buildings, parking areas, roads, storm water management facilities and other site features are located to take advantage of existing topography and to limit the extent of clearing and grading.
- 3. Setbacks, landscaped buffers, or other methods are proposed to buffer the development from existing neighborhoods or roads, especially from designated scenic roads or historic districts.

After carefully evaluating all of the testimony and evidence accepted into the record, the Planning Board made the following findings of fact and conclusions of law:

FINDINGS OF FACT

- 1. Brenda Luber presented the Technical Staff Report on behalf of the Department of Planning and Zoning for PB-459/SP-25-002, River Hill Estates. Ms. Luber described the existing conditions of the subject property as comprised of five residential lots with each lot maintained as lawns with landscaping and shade trees. Access to the parcels is provided by a single driveway and two shared driveways. Most

of the forest is within the western portion of the site with a small forest occurring within the interior of the lots. A perennial stream channel exists on the adjacent property west of the site providing a 100-foot stream buffer on the property. An intermittent stream system is located on the southwestern portion. No wetlands, 100-year floodplain, or steep slopes are present on the property. There are 58 specimen trees on site. An alternative compliance application was approved for the removal of 28 trees. Ms. Luber then described the proposal for a 31-lot single-family detached residential subdivision, including excerpts of the site plan layout from the preliminary equivalent sketch plan as part of her presentation. She described the subdivision layout, proposed forest conservation areas, and proposed landscape buffering.

Ms. Luber stated in her presentation that the site is subject to the criteria listed in Section 107.0.F of the Zoning Regulations. The Technical Staff Report concluded that the petitioner's application met all applicable criteria for approval. In evaluating the Planning Board criteria under Section 107.0.F.6, the findings include:

a. The proposed lay-out of lots and open space effectively protects environmental and historic resources.

The layout of the lots has been designed to protect the stream, stream buffer, and existing forested areas on the western portion of the site. The plan provides 7.66 acres of credited open space which will protect the stream and stream buffers. The subdivision provides 104% of the forest conservation obligation onsite by retaining 2.2 acres of forest and planting 2.8 acres with native trees. There are no wetlands, 100-year floodplain, or 25% or greater steep slopes within the subject property, nor are there historic resources located within the property boundary.

b. Buildings, parking areas, roads, storm water management facilities and other site features are located to take advantage of existing topography and to limit the extent of clearing and grading.

The proposed subdivision layout places all buildings, parking areas, roads, stormwater management facilities, and other site features in locations that take advantage of existing topography, thereby limiting the extent of clearing and grading. The proposed development preserves 2.2 acres of forest. Most of the clearing is within the middle portion of the site where development will occur. Stormwater management facilities are located at the existing low points of the property. To minimize the extent of clearing and grading, the proposed houses have been centrally located on the property, adjacent to the proposed internal public road. Parking for each dwelling is provided on the respective lot. Due to the relatively gentle topography existing in the central region of the site, the necessary grading has been limited. The site will utilize 89 drywells, one surface sand filter, three micro-bioretenment facilities, and one bioretention facility for SWM treatment.

c. Setbacks, landscaped buffers, or other methods are proposed to buffer the development from existing neighborhoods or roads, especially from designated scenic roads or historic districts.

A 100-foot vegetative buffer from Trotter Road will block the view of the new homes. The remainder of the development provides a minimum 75-foot setback from the project boundary. To buffer existing neighborhoods and roads from the development, open space lots surround the proposed development on all sides. A landscape buffer is proposed for the perimeter of the site to supplement the existing trees and vegetation. Two 50-foot-wide forest conservation easements have been provided along portions of the northern and southern property boundaries. Perimeter landscaping has also been provided along these boundaries to provide additional buffering to adjacent properties. The eastern boundary adjacent to Trotter Road is buffered by perimeter landscaping and forest conservation easement. The western boundary is buffered with existing

forest, which will be placed within a forest conservation easement. On September 18, 2025, the Planning Board determined the proposed 100-foot buffer would adequately screen the subdivision from Trotter Road.

2. William Erskine, attorney for the Petitioner, provided an opening statement. Mr. Erskine described the property, including the environmental features. He explained the purpose of the R-ED regulations, how density is calculated under the R-ED regulations, and cited the criteria for evaluation of the subdivision. He reminded the Board that their evaluation or approval of the plan does not include APFO requirements and density. He compared the density and layout of an existing subdivision within the vicinity of the project and explained their similarities.

3. David Thompson of Benchmark Engineering, Inc. testified on behalf of the Petitioner. Mr. Thompson described the existing site conditions and proposed site design. Mr. Thompson identified the on-site environmental features and those within the vicinity of the property.

Mr. Thompson testified to the criteria that the Planning Board must consider when evaluating the proposal:

a. The proposed lay-out of lots and open space effectively protects environmental and historic resources.

Mr. Thompson testified there are to be no disturbances to the on-site streams and stream buffers. He stated there are no wetland, wetland buffers, 100-year floodplain, 25% of greater steep slopes or historic resources within the site. Twenty-eight specimen trees will be retained, along with 2.4 acres of forest. The subdivision was designed to protect the stream and stream buffers within the forested area and to provide significant planting around the perimeter to buffer the site. An alternative compliance application was approved for the removal of 28 specimen trees. Mitigation for the specimen trees and 104% of the forest conservation obligation will be provided on site within the credited open space.

b. Buildings, parking areas, roads, storm water management facilities and other site features are located to take advantage of existing topography and to limit the extent of clearing and grading.

Mr. Thompson testified most of the clearing is within the middle of the site. Storm water management is provided at the existing low points of the property. To minimize clearing and grading, the proposed houses were centrally located adjacent to the new internal public road. Extensive grading was limited by placing the lots in the central region of the site, where relatively gentle topography exists. The project will preserve 2.4 of forest to be placed within a forest conservation easement. Stormwater management consists of 89 drywells, one surface sand filter, three micro-bioretenment facilities, and one bio-retention facility. The stormwater management facilities will be maintained by the lot owners and homeowners association.

c. Setbacks, landscaped buffers, or other methods are proposed to buffer the development from existing neighborhoods or roads, especially from designated scenic roads or historic districts.

Mr. Thompson testified a 100-foot vegetative buffer is to be provided, per Section 16.125(c)(2) of the Subdivision and Land Development Regulations. The remainder of the subdivision requires a 75-foot structure setback from the project boundary adjoining a single-family detached development. The structures along the northern and southern project boundary are set back 122

feet, and the houses along the western project boundary are set back 180 feet. Open space lots, with existing vegetation and new plantings, will surround the subdivision to buffer the project from the adjacent properties. The open space lots along the southern and northern property boundary will contain 50-foot-wide forest conservation easement. The western property boundary will contain the existing forest and will become a forest conservation easement. The eastern property boundary, along Trotter Road, will provide a 100-foot vegetated buffer. The developer will plant 650 trees to comply with the specimen tree mitigation, landscaping, and forest conservation requirements. The proposed architecture is similar to existing architecture within the vicinity of the site. Mr. Thompson concluded by testifying that the subdivision meets the requirements of the criteria.

4. Ms. Anne Hoke had questions about the maintenance of the dry wells. Mr. Erskine, attorney for the Petitioner, objected to the question because the criteria address the placement of the facilities as it relates to the low point of the site to minimize grading. The Board does not evaluate the effects of storm water runoff. Planning Board Chair McAliley explained that the project met the requirements of storm water management before it was scheduled for the Board's evaluation of the criteria.

5. Ms. Kathy Kwang inquired about the potential increase in density, traffic, and flooding on Trotter Road. Mr. Erskine objected to questions about density, traffic, and flooding, stating they are not relevant to the criteria.

6. Planning Board Vice Chair James Cecil questioned the criteria as it relates to grading for stormwater management. In response to the question from Mr. Cecil, Mr. Erskine cited the criteria and explained flooding is not part of the criteria. He explained County agencies have evaluated the projects for compliance with the regulations, which includes stormwater management.

7. Mr. Tim Seelaus questioned the infiltration rates for R tanks. Mr. Erskine objected to the question as the purpose of the hearing is not to litigate the purpose of the stormwater management but to evaluate the subdivision on the criteria.

8. Planning Board Vice Chair James Cecil questioned the grading needed for the installation of dry wells. In response to the question from Mr. Cecil, Mr. Thompson of Benchmark Engineering explained that dry wells are underground facilities whose creation consists of digging a hole and filling it with rocks and for which grading is therefore not needed.

9. Mr. Tom Mateya questioned the 100-foot vegetated buffer along Trotter Road and its relationship with the sand filter. Mr. Thompson explained that the scenic road buffer along Trotter Road contains forest conservation plantings of 1-inch caliper native trees, landscaping trees consisting of shade and evergreen plantings, and street trees along Trotter Road.

10. Mr. Hugh Golden questioned the mitigation for the removal of specimen trees. Mr. Thompson clarified that the 1-inch caliper trees are for forest conservation plantings, and that 3-inch caliper native trees will be planted as mitigation for the removal of specimen trees as required by the Alternative Compliance approval.

11. Ms. Mary Ellen Moir questioned the approvals granted for the subdivision. Mr. Thompson indicated that all plans are available as public records. Ms. Luber of Planning and Zoning stated that an Alternative Compliance request was approved for the removal of specimen trees, and that the Planning Board approved the plan for compliance with the scenic road regulations.

12. Planning Board member Barbara Mosier asked Mr. Thompson to explain the grading proposed for the subdivision. In response to the question from Ms. Mosier, Mr. Thompson testified that there will be an area of fill and cut on the site, but that the overall grade of the site will not change, nor will the grade and embankment along Trotter Road. The grading plan was shown to the Board, where the limit of disturbance was shown in red.

13. Anne Hoke, 5914 Trotter Road, testified against the project. Ms. Hoke stated the project does not protect environmental features. She testified the proposed subdivision is the largest subdivision proposed on Trotter Road in 25 years and stated that the subdivision would increase traffic. Mr. Erskine objected to the testimony as it is not relevant to the criteria. Planning Board Chair McAliley advised Ms. Hoke that AFPO requirements have been evaluated and satisfied.

In response, Ms. Hoke requested that the community be permitted to express their concerns about the subdivision even though their concerns may not be relevant to the criteria.

Chair McAliley sought direction from David Moore, Senior Assistant County Solicitor, as it relates to allowing testimony which may not be relevant to the criteria. Mr. Moore advised the Board that the objections must adhere to the Rules of Procedures. He further advised testimony may be presented, but testimony not related to the criteria cannot be considered when making the decision.

Chair McAliley ruled to allow the testimony. Mr. Erskine requested a standing objection. Chair McAliley acknowledged the objection.

Ms. Hoke continued her testimony about the scenic character of Trotter Road. She stated walkers and cyclists are frequently seen along Trotter Road but expressed concern that the subdivision would create additional traffic which may impact public safety. She testified that new lot owners may use pesticides, chemicals, and fertilizers for lawn care which will impact the environment and wildlife. She further testified that the community will be impacted by the noise and light pollution generated by the additional 31 homes. Ms. Hoke requested that the Board evaluate traffic and environmental impacts before approving the subdivision.

14. Stephen Charing, 5912 Trotter Road testified against the project. He expressed concerns about water runoff as it relates to his property, the adequacy of the proposed stormwater management to serve the 31 lots, and the use of pesticides as his property is served by a well. Mr. Erskine objected to the testimony. Chair McAliley acknowledged the objection.

15. Kathy Kwang, 5906 Trotter Road, testified against the project. She expressed concerns about density, traffic, and flooding along Trotter Road. Mr. Erskine objected to the testimony. Chair McAliley acknowledged the objection.

16. Tim Seelaus, 6008 Leaves of Grass Court, testified against the project. Mr. Seelaus expressed concerns about stormwater management, flooding along Trotter Road, and the maintenance of the on-site stormwater management facilities. He asked the Board to delay their decision and requested that the developer reduce the density of the subdivision. Mr. Erskine objected to the testimony. Chair McAliley acknowledged the objection.

17. Ray Tomasic, 6518 Barley Crow Road, testified against the project. Mr. Tomasic testified about another development activity within the vicinity of the subject property and the impact the subject property will have on the pedestrian safety along Trotter Road as there are no sidewalks. He requested that the Board minimize the size of the River Hill Estates as an attempt to decrease traffic on Trotter Road. Mr. Erskine objected to the testimony. Chair McAliley acknowledged the objection.

18. Hugh Golden, 6001 Leaves of Grass Court, testified against the project. Mr. Golden expressed concerns about the traffic and flooding along Trotter Road, overcrowding of the elementary school, and the number of the proposed lots. Mr. Erskine objected to the testimony. Chair McAliley acknowledged the objection.

19. Tom Mateya, 6054 Red Clover Lane, stated that the developer should implement some of the New Town requirements within the subdivision.

20. Mary Ellen Moir, 5916 Trotter Road, testified against the project. Ms. Moir stated the process is flawed and the residents should be permitted to express their concerns. She expressed concerns about the density of the subdivision, increased traffic, public safety, and the quality of life for the community post construction. She requested that the Board require an additional traffic study, consider the public input, deny any waivers, and require less density. Mr. Erskine objected to the testimony. Chair McAliley acknowledged the objection.

21. In Summation, Mr. Erskine stated that there is ample evidence demonstrating that all three criteria for approval, as outlined in the Technical Staff Report and as presented by Mr. Thompson's testimony have been satisfied and asks for the Planning Board's approval of the preliminary equivalent sketch plan.

22. In Summation, Ms. Hoke stated that criterion has not been met because the environmental resources are not protected, the grading is not minimal, and 1-inch caliper trees do not adequately screen the subdivision.

CONCLUSIONS OF LAW

1. The Board is persuaded that the evidence, based on the testimony provided by the Petitioner's witnesses and as further set forth in the above Findings of Fact, as well as the information in the Department of Planning and Zoning's Technical Staff Report, convincingly demonstrate the proposed preliminary equivalent sketch plan for River Hill Estates (SP-25-002) meets the requirements of Section 107.0.F of the Zoning Regulations, and in particular:

- a. The Board finds that the project satisfies the criteria: The proposed layout of lots and open space effectively protects environmental and historic resources as determined by Findings of Fact #1 and #3.
- b. The Board finds that the project satisfies the criteria: Buildings, parking areas, roads, storm water management facilities, and other site features are located to take advantage of existing topography and to limit the extent of clearing and grading as determined by Findings of Fact #1 and #3.
- c. The Board finds that the project satisfies the criteria: Setbacks, landscaped buffers, or other methods are proposed to buffer the development from existing neighborhoods or roads, especially from designated scenic roads or historic districts as determined by Findings of Fact #1 and #3.

2. There is sufficient evidence in the record, as identified in the Board's Findings of Fact above, for the Board to conclude that the Petitioner has met its burden of demonstrating that it has satisfied the above-cited criteria for approval.

3. For the reasons stated in the above Findings of Fact, the Board concludes that the Petitioner has conclusively established through the evidence in the record that the following criteria for approval have been met by its proposal:

- a. The proposed layout of lots and open space effectively protects environmental and historic resources.
- b. Buildings, parking areas, roads, storm water management facilities, and other site features are located to take advantage of existing topography and to limit the extent of clearing and grading.
- c. Setbacks, landscaped buffers, or other methods are proposed to buffer the development from existing neighborhoods or roads, especially from designated scenic roads or historic districts.

For the foregoing reasons, the petition of 5938 Trotter, LLC to approve PB-459/SP-25-002 for a subdivision containing 31 single-family lots and 4 open space lots on Tax Map 35, Grid 18, Parcel 373, Lots 6, 27, 34 and 35, and Parcel 163, Lot 5, on this 18th day of November, 2025, APPROVED by the Planning Board of Howard County, Maryland.

HOWARD COUNTY PLANNING BOARD

Signed by:

Kevin McAliley

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Kevin McAliley – Chair

Signed by:

James Cecil

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James Cecil – Vice Chair

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Lynn Moore

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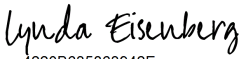
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Barbara Mosier

PB Case No. 459

ATTEST:

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Director
Executive Secretary

REVIEWED FOR LEGAL SUFFICIENCY BY:
HOWARD COUNTY OFFICE OF LAW
Gary W. Kuc, County Solicitor

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David Moore
Senior Assistant County Solicitor

List of Petitioner's Exhibits

None

List of Protestant's Exhibits

None