

DECISION AND ORDER

As to criterion 2 above, the Department of Planning and Zoning found that the environmental features, wetlands, streams, and their associated buffers, floodplain, and steep slopes, are located in the rear of the

lot, and most will be further protected with forest conservation easements to protect and preserve these environmental resources.

PETITIONER TESTIMONY

Mr. Paul Sill P.E. with Sill Engineering Group, LLC., the engineering consultant for the Petitioner, presented the Final Plan and provided testimony regarding the details of the plan. Mr. Sill stated that the property is 7.2 acres in size, is zoned RR-DEO and located within the Dayton zip code. Mr. Sill testified that the property fronts Rutherford Way and backs along Maryland Route 32, and that the neighboring properties are developed with single family detached dwellings. He identified that proposed Lot 1 encompasses the existing house on the northwest side of the lot and has more acreage along Maryland Route 32 at the rear of the property and that Lot 2 is the proposed buildable area on the south side of the property, and the lot turns north to access the area of approved perc testing. Mr. Sill stated that the applicant received approval through Alternative Compliance for the irregularly shaped lots and the environmental features which exist across both lots. He further stated that the green area identified on the presentation encompasses the onsite environmental areas and highlights the landscape buffer along the south boundary of the proposed development.

The Planning Board Chair, James Cecil, confirmed there were no other speakers or witnesses on behalf of the applicant. Mr. Sill declined providing a closing statement.

Board member Barbara Mosier requested additional information regarding the location of the environmental features onsite in relation to the proposed development. Mr. Sill identified the locations of Lot 1, which contains the existing house and accessory structure, and Lot 2, which includes the proposed house, having an L-shaped lot to accommodate the approved septic disposal area. Mr. Sill also identified the locations of the stream, floodplain, wetland, forest conservation easements, and landscape buffer. He identified the proposed and existing driveway locations for both lots as well. Board member Mosier asked about the location of the steep slopes. Mr. Sill explained that the steep slopes are located within the proposed forest conservation easement. Board member Mosier then asked about the location of the approved perc area and Mr. Sill identified its location.

FINDINGS OF FACT

1. The proposed Final Plan, F-25-039 is a request to resubdivide existing Lot 3 into 2 buildable lots on 7.22 acres of RR-DEO (Rural Residential Density Exchange Option) zoned land in Growth Tier III.
2. The Planning Board has the authority to review the final plan in accordance with the criteria set forth in Senate Bill 236
3. Howard County's Adequate Public Facilities Ordinance (APFO) requires certain government services to be reviewed. Therefore, Howard County's APFO fulfills the requirements of the first Planning Board review criterion under Section 5-104(e)(1) of the Land Use Article, as indicated in the Department of Planning and Zoning's Technical Staff Report. Review by the Planning Board of the cost of providing local governmental services to the residential subdivision does not apply to a major subdivision in Tier III designated property, such as the proposed development, because Howard County has an APFO law. The Board agrees with and adopts the Department of Planning and Zoning's analysis, with which the petitioner concurred, that the Planning Board's review of public facility costs, based on the language of Section 5-104(e)(1) of the Land Use Article of the Maryland Annotated Code, does not apply. Consequently, the Board did not consider any testimony regarding the adequacy or cost of public facilities related to this subdivision.
4. The only applicable criterion for the Planning Board to consider in its review of this proposed major subdivision in Growth Tier III is "the potential environmental issues or a natural resources inventory related to the proposed residential subdivision." As noted by Ms. Bolton in DPZ's technical staff report and confirmed by the testimony of Mr. Sill, all environmental features present onsite are

located towards the rear of the lots and most will be retained within forest conservation easements, which serves to protect and preserve these environmental resources. No specimen trees exist onsite. The Petitioner presented a plan identifying the environmental features, wetlands, streams, and their associated buffers, floodplain, and steep slopes outside the proposed impacts of the development with a majority retained within forest conservation easements, outside of where impacts were allowed per alternative compliance request. Forest conservation easements will be recorded on site in conjunction with the development.

CONCLUSIONS OF LAW

1. Petitioner, as one seeking approval of a major subdivision on a property designated as a Growth Tier III area of the County, has the burden of demonstrating that it has satisfied the only criterion of Section 5-104(e)(2) of the Land Use Article of the Maryland Annotated Code which applies in Howard County – that there are no potential environmental issues related to a natural resources inventory associated with the proposed residential subdivision.

2. There is sufficient evidence in the record, as identified in the Board's Finding of Fact above, for the Board to have considered the testimony of the Petitioner regarding the major subdivision in Growth Tier III and "the potential environmental issues or a natural resources inventory related to the proposed residential subdivision." The Petitioner's engineer presented the plan identifying the environmental features, wetlands, streams, and their associated buffers, floodplain, and steep slopes outside the proposed impacts of the development with a majority retained within forest conservation easements, outside of where impacts were allowed per alternative compliance request. The Planning Board was persuaded by the Petitioner's evidence, including the testimony of its engineer, and concludes that the Petitioner has met its burden by demonstrating that it has satisfied the above-cited criterion for approval.

3. For the reasons stated in the above Findings of Fact and the Department of Planning and Zoning's Technical Staff Report and testimony, the Board concludes that the Petitioner has conclusively established, through the evidence in the record that the proposed Final Plan, F-25-039, has satisfied all the approval standards for a major subdivision, according to State Senate Bill 236, Section 5-104(e)(2) of the Land Use Article of the Maryland Annotated Code.

For the foregoing reasons, the petition of Tom and Jill Henderson, to approve Final Plan, F-25-039, to resubdivide existing Lot 3 into 2 buildable lots, is this 30th day of September, 2026 is approved by the Planning Board of Howard County, Maryland.

HOWARD COUNTY PLANNING BOARD

Signed by:

James Cecil

James Cecil - Chairperson

DocuSigned by:

Mason Godsey

Mason Godsey - Vice Chairperson

Signed by:

Barbara Mosier

Barbara Mosier

ABSENT

Lynn Moore

ABSENT

William Tilburg

PB Case No. 463

ATTEST:

DocuSigned by:

Lynda Eisenberg

Lynda Eisenberg, AICP
Executive Secretary

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

DocuSigned by:

David Moore

David Moore
Senior Assistant County Solicitor

No exhibits were submitted