

DOSA CLARKSVILLE, LLC * BEFORE THE
PETITIONER * PLANNING BOARD OF
PLANNING BOARD CASE NO. 431 * HOWARD COUNTY, MARYLAND

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DECISION AND ORDER

In accordance with State Senate Bill 236, Section 5-104 of the Land Use Article of the Maryland Annotated Code, the Planning Board of Howard County, Maryland, held a public hearing on October 5, 2017, to consider the petition of Dosa Clarksville, LLC., Petitioner, to approve a Preliminary Equivalent Sketch Plan, SP-16-008, for eight single-family cluster lots, one buildable preservation parcel and two non-buildable preservation parcels. The 21.21 acre The Woodlands subdivision, located on the northeast side of Chamblis Drive and identified as Parcel 15 on Tax Map 34, in the Fifth Election District of Howard County, Maryland, is in the Growth Tier III residential land use category and is zoned RC-DEO (Rural Conservation – Density Exchange Option).

The notice of hearing, which is required by Section 5-104(d)(1) of the Land Use Article of the Maryland Annotated Code, 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 Rules of Procedure, the reports and official documents pertaining to the petition, including the Technical Staff Report of the Department of Planning and Zoning, the Howard County Subdivision and Land Development Regulations, the Howard County Zoning Map and Regulations, the Howard County Design Manuals, the Howard County Landscape and Forest Conservation Manuals, and the Adequate Public Facilities Ordinance were made part of the record in this case.

Mr. Thomas Meachum represented the Petitioner, Dosa Clarksville, LLC.

Ms. Diane Wesche, who was unrepresented by legal counsel, appeared in opposition to the petition.

Based on all the information presented, the Planning Board makes the following findings of fact and conclusions of law:

DEPARTMENT OF PLANNING AND ZONING’S TECHNICAL STAFF REPORT

Brenda Lubber presented the Technical Staff Report for the Department of Planning and Zoning, which recommended approval of the Preliminary Equivalent Sketch Plan, SP-16-008, subject to any conditions of approval by the Planning Board. The Technical Staff Report found that there are two criteria for the Planning Board to review pursuant to Section 5-104(e) of the Land Use Article of the Maryland Annotated Code for a proposed major subdivision on a Tier III property, only the second of which applies:

1. The cost of providing local government services to the residential major subdivision unless a local government’s adequate public facilities law already requires a review of government services; and
2. The potential environmental issues or a natural resources inventory related to the proposed subdivision.

The Department of Planning and Zoning found that criterion 1 above did not apply because Howard County has an adequate public facilities law, which already requires a review of the government services and, therefore, this requirement has been met.

As to criterion 2 above, the Department of Planning and Zoning found that while the property contains environmental features, those features will be preserved with no impacts, including a wetland, wetland buffers, stream and stream buffers.

Based on the Petitioner's presentation that no environmental resources would be disturbed, related to the proposed subdivision, the Department of Planning and Zoning recommended approval of Preliminary Equivalent Sketch Plan, SP-16-008 because it met the requirements of Section 5-104(e) of the Land Use Article of the Maryland Annotated Code.

Joanne Carey-Vert, with Sill Engineering Group, LLC, testified on behalf of the petitioner that she concurred with the information contained within the Technical Staff Report that the project complied with the criteria for Planning Board approval. Ms. Carey-Vert submitted a Natural Resource Inventory prepared by Eco-Science Professionals which was introduced as Petitioner's Exhibit 1. She testified that the site was designed so that the road would not impact the environmental features. She further added that forested area along the northern, eastern and southern portion of the site would be preserved within a Forest Conservation Easement. She testified that 18 specimen trees would be removed, with a possibility of removing nine additional trees due to the location of septic easement.

Planning Board Member, Mr. Coleman asked if another means of access could be provided to the site. It was explained that the parcel was surrounded by 2 larger parcels and the access to the property was the only public road access available.

Diane Wesche, residing at 5654 Chamblis Drive, testified in opposition to the plan. Ms. Wesche was concerned with the width of the public road, increased traffic, and removing specimen trees. Ms. Luber stated the road width was the minimum required by the County. Ms. Carey-Vert explained the proposed design minimized tree clearing as much as possible and that only those specimen trees needed to provide access to the subdivision and reasonable lot areas would be removed. She further stated that the specimen trees located within a septic easement would only be removed if required by the Health Department. She further stated that mitigation would be provided for the removal of all specimen trees.

Planning Board Member, Mr. McAliley asked Ms. Wesche if adjacent residents were concerned with possible runoff. Ms. Wesche testified that given the topography of the site, she did not believe the residential lots would be impacted by runoff.

Mr. McAliley asked the petitioner if the surrounding farms and properties would be impacted by runoff. Ms. Carey-Vert explained that all stormwater management would be managed on site by storm water management facilities and individual bioretention facilities on each lot. She added that stormwater management was provided for a 10-year storm.

FINDINGS OF FACT

1. The proposed Preliminary Equivalent Sketch Plan, SP-16-008, creates eight single-family cluster lots, one buildable preservation parcel, and two non-buildable preservation parcels on 21.21 acres of Tier III land, zoned RC-DEO (Rural Conservation – Density Exchange Option).
2. The Planning Board has the authority to review the Preliminary Equivalent Sketch Plan in accordance with the criteria set forth in State 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 for the first 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 government 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 petition 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.” The Petitioner presented a plan that illustrated all wetlands, wetland buffers, stream and stream buffers, and specimen trees on the property. This inventory shows that the plan does not propose any major disturbance to the referenced wetlands, wetland buffers, stream, and stream buffers, however, eighteen specimen trees are proposed for removal. Based on this information, which the Board finds to be persuasive, convincing and reliable, the Board agrees with and adopts the Department of Planning and Zoning’s recommendation for approval, and finds that sufficient information has been presented to show that there are no environmental issues associated with the proposed subdivision.
5. The proposed subdivision, based on the Board’s Findings of Fact, will effectively protect and preserve the environmental resources by placing streams and wetlands, and their related buffers, within a non-buildable preservation parcel. The development plan does not disturb environmentally sensitive areas.

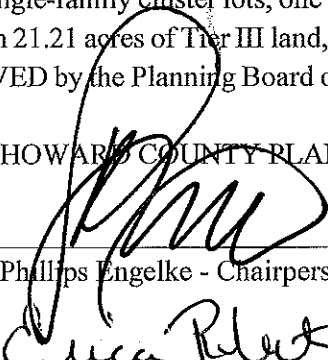
CONCLUSIONS OF LAW

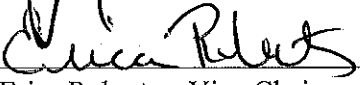
1. Petitioner, as the one seeking approval of a major subdivision on a property designated as a Growth Tier III area of the County, has the burden of demonstrating that it has satisfied the only criterion of Section 5-104(e)(2) of the Land Use Article of the Maryland Annotated Code which applies in Howard 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 Findings of Fact above, for the Board to conclude that the Petitioner has met the burden of demonstrating that the above-cited criterion for approval have been satisfied.
3. For the reasons stated in the above Findings of Fact and the Department of Planning and Zoning's Technical Staff Report, the Board concludes that the Petitioner has conclusively established, through the evidence in the record, that the proposed Preliminary Equivalent Sketch Plan, SP-16-008, 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 Dosa Clarksville, LLC, to approve a Preliminary Equivalent Sketch Plan, SP-16-008, to subdivide eight single-family cluster lots, one buildable preservation parcel, and two non-buildable preservation parcels on 21.21 acres of Tier III land, zoned RC-DEO, is the 19th day of October, 2017 APPROVED by the Planning Board of Howard County, Maryland.

HOWARD COUNTY PLANNING BOARD


Phillips Engelke - Chairperson


Erica Roberts - Vice-Chairperson



Delphine Adler


Ed Coleman

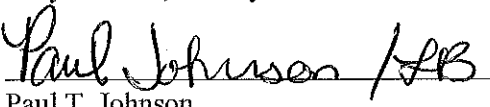

Kevin McAiley

PB Case No. 431

ATTEST:


Valdis Lazdins
Executive Secretary

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


Paul T. Johnson
Deputy County Solicitor

LIST OF APPLICANT'S EXHIBITS:

Natural Resource Inventory, Date 10/2/17 Prepared by Eco-Science Professionals, Inc.

LIST OF PROTESTANT'S EXHIBITS:

None were introduced