

R E S O L U T I O N

WHEREAS, Sellner=s Farm, Inc. is the owner of a .583-acre parcel of land known as Lot 29, Block A, VJ 181 @ 25, said property being in the 9th Election District of Prince George's County, Maryland, and being zoned R-80; and

WHEREAS, on February 26, 2001, Sellner=s Farm, Inc. filed an application for approval of a Preliminary Subdivision Plat (Staff Exhibit #1) for 2 lots; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plat, also known as Preliminary Plat 4-01017 for Sellner=s Farm was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on June 28, 2001, for its review and action in accordance with Article 28, Section 7-116, Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

WHEREAS, the staff of The Maryland-National Capital Park and Planning Commission recommended APPROVAL of the application with conditions; and

WHEREAS, on July 12, 2001, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED Preliminary Plat of Subdivision 4-01017, Sellner=s Farm for Lots 30 & 31, Block A with the following conditions:

1. Prior to the issuance of a building permit, the applicant, his heirs, successors and/or assigns shall pay an Adequate Public Facilities fee of \$1,920.00 per dwelling unit for the schools, unless fully offset by a school facility surcharge payment. Any amount not offset shall be paid and divided among the schools at a rate determined by the guidelines. This adequate public facilities fee would be placed in an account to relieve overcrowding at Stephan Decatur Middle School and Surrattsville High School.
2. Prior to approval of the Final Plat of subdivision the applicant, his heirs, successors and or assigns shall pay a fee-in-lieu of parkland dedication for lots under one acre in size.

BE IT FURTHER RESOLVED, that the findings and reasons for the decision of the Prince George's County Planning Board are as follows:

1. The subdivision, as modified, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and of Article 28, Annotated Code of Maryland.
2. The property is located west of Branch Avenue and south of Kirby Road, at the end of

Sellner Lane, in Clinton.

3. At the June 28, 2001 Planning Board hearing the above reference preliminary plan application was continued at the request of the applicant. The applicant requested the continuance to allow time to further evaluate optional approaches to the lotting pattern proposed. The Planning Board approved the request for the continuance and the hearing was set in for July 12, 2001.

On July 2, 2001, staff received a revised lot layout. The revised layout proposes 6 feet of additional dedication along the front street line of Lots 30 and 31. This proposal would allow for adequate street frontage for both lots 30 and 31 without the need for a variance from the lot width at the front street line. This issue is further discussed in this report, which was originally presented at the June 28, 2001 Planning Board hearing.

Based on evaluation of the revised lot layout by the Department of Public Works and Transportation, staff is recommending approval of the revised preliminary plan, 4-01017. The DPW&T has no objection to the applicants proposal for the additional dedication to public use, over that required to implement the cul-de-sac at Sellner=s Lane, in this specific instance. The Transportation Planning Section has no comment regarding the revised preliminary plan.

4. 1st Revised Preliminary Plan C In 1995 the preliminary plan for the entire development was submitted by this applicant. That plan included the subject lot, and Lots 22 thru 28, Block A, which are located in the same block fronting Sellner Lane. Those lots could have been reconfigured to accommodate one additional lot without the need for a variance or additional street dedication over that required by the Department of Public Works and Transportation (DPW&T). At that time adequate lot frontage at the street line, as well as adequate lot width at the front building line, existed to accommodate one additional lot in that block. Even today a lot line adjustment would be an option. However, because the lots have been sold and developed, the processing of a 24-108 lot line adjustment plat may not be practical for the applicant.

The remaining acreage from the original Sellner farm is located abutting to the south. The current developer of Sellner=s Farm Subdivision and the property owner of the original farm are the same principals. Although an agreement has not been reached in the purchase of additional land to accommodate one additional lot adjacent to existing Lot 29, Block A, from Parcel 107, that option does exist. The land adjacent to Lot 29 is not developed. The applicant could locate the proposed dwelling on Lot 29, Block A, on the north side of Lot 29 to accommodate the potential for an additional dwelling on the south side of the lot adjacent to Parcel 170 in the event that the applicant can obtain additional acreage. Staff believes that this type of foresight in planning will allow the applicant the possibility of creating one additional lot without the need for a variance or the creation of a non-standard lot, if the opportunity arises in the future.

The revised preliminary plan submitted by the applicant proposes additional dedication to DPW&T along the previously dedicated street line in front of Lot 31 only, and does not

require the approval of a variance. This additional dedication is not required by DPW&T. This additional area of dedication will not serve or function as a street at this time. However, it is the applicant's position that this additional dedication, which will provide proposed Lot 31 with adequate lot width at the front street line, may possibly benefit the property owner to the south in the future.

The applicant has developed a scenario whereby if the adjoining property to the south (Parcel 107) is developed in the specific manner as proposed by the applicant, the existing cul-de-sac will be extended into Mr. Sellner's property (Parcel 107), if and when it is developed. This scenario would require the adjoining property owner to honor this applicant's proposal for the future development of Parcel 107 abutting to the south. It is only in that case that the additional right-of-way would be utilized.

The applicant has indicated that staff often provides for the future development of abutting properties through the layout of streets during the subdivision process, often providing stub streets and road alignments that will benefit future development of abutting properties. Staff would agree that these types of accommodations are made in certain circumstances.

Currently Parcel 107 abutting to the south has 836 feet of existing street frontage on Sellner Lane, a dedicated public right-of-way. With this amount of street frontage Parcel 107 could be developed in a variety of ways without the assistance of the additional dedication proposed by the applicant for proposed Lot 31. In fact, unless the owner of Parcel 107 develops it as specified by the applicant, the additional dedication by this applicant along the frontage of proposed Lot 31 will remain unused. That portion of the right-of-way will not benefit the property owner, DPW&T, or the property owner of Parcel 170.

Moreover, that portion of the lot could come into ownership dispute. The owner of Lot 31 will maintain that portion of the property located between his lot line and the improvements within the street right-of-way and could be perceived by the owner of Lot 31 as a portion of the lot. Further, the owner of Parcel 107, Mr. Charles Sellner, has reviewed the new plan and stated that he finds no benefit of the proposed future extension.

Staff would point out that the Department of Public Works and Transportation has stated that they are not opposed to the additional dedication. In fact, it is more right-of-way than necessary to implement the cul-de-sac. However, staff recognizes that it is not the responsibility of DPW&T to recommend for the most beneficial use of the entire property, only to evaluate and determine that adequate land has been provided to accommodate specific road improvement through the subdivision process.

The front of Lot 31 does not correspond to the arc of the cul-de-sac. The applicant has proposed a pie-shaped area to be dedicated on a chord that provides the lot frontage at the street line required by the Zoning Ordinance for Lot 31. This would relieve the

requirement for a variance.

The subject property does not appear to be unique. Nor does the adjoining property to the south. Staff does not support variance application VP-01017A as discussed below, nor does staff support the provision of a non-standard lot in this circumstance as stated above. Staff finds that existing Lot 29, Block A, should remain as originally approved by the Planning Board, as one single-family dwelling lot.

5. Variance Application VP-01017ACA variance was required for the original preliminary plan. That plan has since been revised. Staff has included this discussion regarding the variance to provide background insofar as the evaluation of this preliminary plan.

A variance from Section 27-442(d) Table III, was required for Lot 31, Block A, for the originally submitted preliminary plan, for a reduction in the lot width at the front street line. The Zoning Ordinance requires that a lot in the R-80 Zone have 50 feet of frontage on a street. Lot 31, Block A, was proposed with 41.87 feet of existing street frontage along the arc of the cul-de-sac. A variance of 8.13 feet was required.

The following three findings are required to be made, pursuant to Section 27-230(a) of the Prince George=s County Zoning Ordinance, for the approval of a variance. Staff was unable to make these required findings; the plan was revised.

A. A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic condition, or other extraordinary situation of condition;

Staff finds that Existing Lot 29 is not unique to the surrounding properties. The existing lot is not exceptionally narrow, shallow, or oddly shaped compared to the surrounding properties. There is no exceptional topographical condition or environmental feature unique to this lot. Lot 29 is relatively flat with no significant tree stand, wetlands, floodplain, steep slope, or other significant environmental feature or condition. Staff has not identified any other extraordinary situation of condition of Lot 29.

The applicant=s justification statement indicates that the lot is unusually long and deep and has limited frontage on the cul-de-sac. Lot 29 is rectangular in shape, a shape shared by the majority of the lots in Sellner=s Farm, a 51-lot subdivision. Further, Lot 29 currently has frontage in excess of the minimum required for a single-family dwelling in the R-80 Zone. Staff finds that the existing frontage is not limited and could only be construed to be limited for the purposes of creating two lots. No lot in the subdivision has less than the 50 feet of street frontage required in the R-80 Zone for the construction of a single-family dwelling unit.

B. The strict application of the Zoning Ordinance will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the

owner of the property; and

Lot 29, Block A, is one of a 51-lot subdivision originally subdivided in 1995 by the applicant. At the time of the original subdivision by the applicant, this property was subject to the provision of the Moderately Priced Dwelling Unit (MPDU) regulations. Those regulations required a percentage of townhouses be provided when the subdivision proposed the construction of 50 dwelling units or more. Sellner=s Farm, Preliminary Plat 4-94061, was originally submitted with a proposal for 67 lots and 65 dwelling units. Two dwelling units existed; therefore, the applicant was proposing to construct 65 dwelling units. The proposal would then require conformance to the MPDU regulations.

PGCPB Resolution No. 94-341, File No. 4-94061, Finding 8, sets forth a scenario whereby, A the applicant during the review process changed his mind and decided to amend the subject application to provide less lots so that the MPDUs would not be required.@ The preliminary plat was revised to create only 51 lots, with 49 dwelling units proposed. At that time the applicant had the opportunity to create a situation where adequate lot frontage could have been provided in anticipation of the possible future subdivision of Lot 29, Block A, without the need for a variance. Since that time the MPDU legislation has been repealed. The applicant can exceed 50 dwelling units and not be subject to an MPDU requirement.

Staff believes this variance to be self imposed. Moreover, the applicant has realized the opportunity to construct 49 dwelling units. To deny the applicant a 50th dwelling unit does not appear to constitute an unusual practical difficulty or an exceptional or undue hardship.

C. The variance will not substantially impair the intent, purpose, or integrity of the *General Plan* or *Master Plan*.

Staff has reviewed the subject application and associated variance for compliance with the current master plan and the *General Plan* and has found that the application is not in conflict with the recommendations for land use. Approval of the variance would not alter the residential character of the subject property or the surrounding properties. Staff does not believe that this application would impair the intent, purpose, or integrity of the *General Plan* or master plan if approved.

Staff acknowledges that Lot 29, Block A, is a large lot with adequate square footage to accommodate one additional lot, but only if a variance is approved for the lot width at the front street line. Staff agrees that approval of the variance, because of the amount of the variance requested, would not impair the purposes of the master plan. However, the required findings relating to the uniqueness of the physical characteristics of the lot and practical difficulty upon the owner have not been met. These findings specifically do not

relate the amount of the variance or percentage of overall conformance of the lot to the Zoning Ordinance.

Staff recommended disapproval of the variance based on an inability to find conformance with all the above required findings. Further, staff found that several options existed for the applicant with regard to additional lot yield as discussed in Finding 1.

6. EnvironmentalCThis site is not subject to the provisions of the Woodland Conservation Ordinance because it is less than 40,000 square feet in size and contains less than 10,000 square feet of woodland. The original subdivision was not subject to the requirements of the Tree Conservation and Preservation Manual. A Tree Conservation Plan is not required.

There are no floodplains, streams or wetlands on the site. Current aerial photos indicate that none of the site is wooded. No historic or scenic roads are affected by this proposal. There are no significant nearby noise sources and the proposed use is not expected to generate significant noise levels. No rare/threatened/endangered species are known to occur in the project vicinity. According to the Sewer Service and Water Service maps produced by DER, the property is in water and sewer categories W-3 and S-3. The soils information included in the review package indicates that no problematic soils occur in the proposed development area.

7. Community PlanningCIn the 1993 *Subregion V Master Plan and SMA*, land use recommendation for the subject property is for suburban residential land use. The proposed re-subdivision of one single-family residential lot into two smaller single-family lots is consistent with the master plan recommendation for this property.
8. Parks and RecreationCIn accordance with Section 24-134(a)(3)(C) of the Subdivision Regulations, Lot 29, Block A, was improved with an existing dwelling unit at the time of subdivision and was therefore exempt from the mandatory dedication of parkland. However, the dwelling has since been razed and the lot is now vacant and subject to the requirement of mandatory dedication of parkland.

Because the land area available for mandatory park dedication is insufficient due to its size, the Department of Parks and Recreation is recommending the payment of a fee-in-lieu of parkland dedication be paid prior to approval of the final plat of subdivision.

9. TrailsCThere are no master plan trail issues associated with this property.
10. TransportationCThe Transportation Planning Section has reviewed the proposal and noted that both lots would access Sellner Lane, a secondary residential street, which is acceptable. Staff has found that this applicant would have de minimus impact on master plan rights-of-way and the existing dedication along Sellner Lane is acceptable as previously dedicated.

Staff believes that adequate access roads would exist, as required by the Prince George=s County Subdivision Regulations (Subtitle 24), if this application is approved.

11. SchoolsCThe Growth Policy and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public facilities in accordance with Section 24-122.02 of the Subdivision Regulations and the *Regulations to Analyze the Development Impact on Public School Facilities* (revised January 2001) (CR-4-1998) and has concluded the following:

Projected Impact on Affected Public Schools

Affected School Name	D.U. by Type	Pupil Yield Factor	Development Pupil Yield	5-Year Projection	Adjusted Enrollment	Total Projected Enrollment	State Rated Capacity	Projected% Capacity
James Ryder Randall Elementary School	2 sfd	0.24	0.48	554	0	554.48	584	94.95%
Stephen Decatur Middle School	2 sfd	0.06	0.12	1076	0	1076.12	828	129.97%
Surrattsville High School	2 sfd	0.12	0.24	1383	0	1383.24	1265	109.35%

Source: Prince George=s County Planning Department, M-NCPPC, January 2001

Since the affected Stephen Decatur Middle School and Surrattsville High School projected percentage of capacities are greater than 105 percent, an Adequate Public Facilities fee will be required for each dwelling unit at the time of building permit. The amount of the Adequate Public Facilities fee for schools shall be offset by the School Facilities Surcharge. Any amount not offset shall be paid and divided among the schools at a rate determined by the guidelines.

12. Fire and RescueCThe Growth Policy and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of public facilities and concluded the following.
 - a. The existing fire engine service at Clinton Fire Station, Company 25, located at 9025 Woodyard Road, has a service response time of 2.74 minutes, which is within the 5.25-minute response time guideline.
 - b. The existing ambulance service at Clinton Fire Station, Company 25, located at 9025 Woodyard Road, has a service response time of 2.74 minutes, which is within the 6.25-minute response time guideline.

- c. The existing paramedic service at Clinton Fire Station, Company 25, located at 9025 Woodyard Road, has a service response time of 2.74 minutes, which is within the 7.25-minute response time guideline.
- d. The proposed subdivision will be within the adequate coverage area of the nearest existing fire/rescue facilities for fire engine, ambulance and paramedic service.

The above findings are in conformance with the *Adopted and Approved Public Safety Master Plan 1990* and the *Guidelines For The Analysis Of Development Impact On Fire and Rescue Facilities*.

- 13. Police FacilitiesCThe proposed development is within the service area for District V-Clinton. In accordance with Section 24-122.1(c)(1)(A) and (B) of the Subdivision Regulations, staff concludes that the existing county police facilities will be adequate to serve the proposed Sellner=s Farm development. This police facility will adequately serve the population generated by the proposed subdivision.
- 14. Health DepartmentCThe Health Department has no comment regarding this proposed subdivision.
- 15. Stormwater ManagementCA Stormwater Management Concept Plan was submitted and approved in conjunction with the original preliminary plat for Sellner=s Farm Subdivision. However, a new Concept Approval letter is required for the addition of another lot. The application has been submitted to the Department of Environmental Resources but has not yet been approved. Approval of the revised application should occur prior to approval of the preliminary plat.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board=s action must be filed with Circuit Court for Prince George=s County, Maryland within thirty (30) days following the adoption of this Resolution.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Brown, seconded by Commissioner Eley, with Commissioners Brown, Eley, Scott and Hewlett voting in favor of the motion, and with Commissioner Lowe voting in opposition of the motion at its regular meeting held on Thursday, July 12, 2001, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 6th day of September, 2001.

Trudye Morgan Johnson
Executive Director

By Frances J. Guertin
Planning Board Administrator

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