

Maryland-National Capital Park and Planning Commission  
 Prince George's County Planning Department  
 Development Review Division  
 301-952-3530



Comment [COMMENT1]: WHEN INSERTING INFORMATION AT THE @ SIGN REMEMBER TO USE INDENT FOR SECOND LINE - NOT TAB. ALSO, IT WILL LOOK LIKE THE TEXT IS GOING WACKO, BUT DON'T WORRY - IT IS FINE.

*Note: Staff reports can be accessed at [www.mncppc.org/pgco/planning/plan.htm](http://www.mncppc.org/pgco/planning/plan.htm)*

## PRELIMINARY PLAN

**4-02095 & VP-02095**

Application	General Data
Project Name:	Date Accepted 10/22/02
<b>T.B. MIDDLETON FARM</b>	Planning Board Action Limit 01/14/03
Location:	Tax Map & Grid 097/F-02
South side of Middleton Lane, approximately 1,100 feet west of Old Branch Avenue.	Plan Acreage 1.21
Applicant/Address:	Zone R-R
Urovsky, David	Lots 2
1515 Defoe Street	Parcels 0
Rockville, MD 20850	Planning Area 76B
	Council District 08
	Municipality N/A
	200-Scale Base Map 208SE05

Purpose of Application	Notice Dates
RESIDENTIAL SUBDIVISION	Adjoining Property Owners (CB-15-1998) N/A
	Previous Parties of Record (CB-13-1994) N/A
	Sign(s) Posted on Site 12/23/02
	Variance(s): Adjoining Property Owners 12/24/02

Staff Recommendation	Staff Reviewer: Whitney Chellis
----------------------	---------------------------------

APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
		X	

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Preliminary Plan of Subdivision 4-02095  
T.B. Middleton Farm, Lots 131 and 132

OVERVIEW:

The subject property is located on Tax Map 97 in Grid F-2 and is known as Lot 38 in the T.B. Middleton Farm Subdivision, originally subdivided in 1937 (SDH 4 @ 92). The property is approximately 1.21 acres and is zoned R-R. The subject property is improved with an existing single-family dwelling unit and accessory shed that are to remain. The property has frontage on Middleton Lane, a planned primary residential public street with an ultimate right-of-way width of 60 feet. An asphalt driveway located along the east property line provides access for the existing dwelling to Middleton Lane.

The minimum lot size in the R-R Zone for conventional development is 20,000 square feet. The applicant is proposing to subdivide this property into two lots, utilizing the flag lot option provided for in Section 24-138.01 of the Subdivision Regulations. Lot 131 is proposed at 21,800 square feet and is a convention lot that will contain the existing dwelling and accessory shed. Lot 132 is a proposed flag lot and will be "stacked" behind Lot 131, with the "stem" of the lot abutting the east property line and providing access to Middleton Lane. Lot 132 has a net lot area, exclusive of the flag stem, of 23,400 square feet as discussed further in Finding 12 of this report.

The existing driveway serving the existing dwelling will be located on Lot 131 if this subdivision is approved. A new driveway and access apron will be necessary to serve the existing dwelling on Lot 131. The Subdivision Regulation does not provide for shared access easements in this circumstance. Separate and individual access is required for each lot to Middleton Lane.

The proposed subdivision will necessitate the approval of a variance to Section 27-442(d), Table III of the Zoning Ordinance for the creation of proposed Lot 131 as discussed further in Finding 13 of this report.

SETTING

The subject property is located on the south side of Middleton Lane approximately 1,000 feet west of its intersection with Old Branch Avenue in the Camp Springs community. The surrounding properties are large lot, R-R-zoned properties and generally developed with single-family dwelling units. The original T.B. Middleton Farm Subdivision created lots with an average lot size of 1.2 acres. The majority of these lots have not been resubdivided.

The property to the east is a single lot but is improved with what appears to be several single-family dwelling units. The Zoning Ordinance restricts the number of dwellings on a lot to one, with few exceptions. The property to the west was subdivided in 1987 into two lots, in a similar configuration to the proposed

subdivision; however, the original lot had 71 feet more of street frontage than the subject lot, which has 100.36 feet of frontage on Middleton Lane.

#### FINDINGS AND REASONS FOR STAFF RECOMMENDATION

1. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	R-R	R-R
Use(s)	Residential	Residential
Acreage	1.21	1.21
Lots	1	2
Dwelling Units:		
Detached	1	2 Total

2. **Environmental**—This site is subject to the provisions of the Woodland Conservation Ordinance because it is larger than 40,000 square feet in size and contains more than 10,000 square feet of woodlands. A Tree Conservation Plan (TCP) and Forest Stand Delineation (FSD) were required.

The Type I Tree Conservation Plan proposes clearing 0.25 acre of the existing 0.77 acre of woodland. The amount of woodland conservation required for this project has been correctly calculated as 0.30 acre. The plan further proposes preserving 0.31 acre of woodland on-site to meet the requirements of the Woodland Conservation Ordinance and preserve an additional 0.21 acre on-site above and beyond that required. The Environmental Planning Section recommends approval of TCPI/54/02.

The soils found to occur on this property include the Beltsville and Sassafras series. The Beltsville soils have a K factor of 0.43 and are considered highly erodible, and steep and severe slopes are located on this property. The Sassafras soils present no special problems for development. A soils report may be required by the Prince George's County Department of Environmental Resources during the permit process review.

A review of the information available indicates that no streams, wetlands, Marlboro clay or 100-year floodplain occur on this property. The site is located in the Henson Creek watershed, which is a tributary to the Potomac River. The site is located approximately 1,700 feet west of Branch Avenue and is not expected to be significantly affected by traffic-generated noise, nor is the proposed use expected to be a noise generator. There are no rare, threatened, or endangered species located in the vicinity of this property based on information provided by the Maryland Department of Natural Resources—Natural Heritage Program. No historic or scenic roads are affected by this proposal. The sewer and water service categories are S-3 and W-3. The site is in the Developing Tier according to the 2002 *General Plan*.

3. **Community Planning**—The subject property is located within the limits of the 1981 *Master Plan for Subregion VII*, in Planning Area 76B in the Camp Springs community. The 2002 *General Plan* locates this property in the Developed Tier. The master plan land use recommendation is for Low Suburban Residential at a density up to 2.6 dwelling units per acre. The proposed preliminary plan is consistent with the land use recommendation contained in the master plan.

There are no historic sites or resources on or adjacent to the subject property. There are no public facilities proposed on or adjacent to the site. There are no parks and trails proposed in proximity to the site. The 1984 *Subregion VII* SMA classified this property in the R-R Zone.

The master plan states, “Application for preliminary plans of subdivision should show all transportation elements including streets, interior trails, proposed connection with the overall trails system, and proposed connections with the public transit system and bus stops, as well as all elements of the transportation system shown on the Master Plan.” The preliminary plan is consistent with this recommendation. The plan locates abutting streets. As indicated above, there are no interior trails proposed and there are no master plan trail systems on or in the vicinity of the property. The Department of Public Works and Transportation indicates the sidewalks will be required along Middleton Lane which will provide connection with the public transit systems and bus stops.

The Environmental Envelope chapter of the master plan states, “Limited development shall be permitted in Conditional Reserve Areas based on the significant physiographic constraints and natural processes of the land.” A portion of the Conditional Reserve Area is delineated on the southernmost portion of the site and has been reviewed by the Environmental Planning Section.

The Environmental Planning Section evaluated the extent to which this proposal complies with the guideline referred to above. It was determined that the master plan provides an overall gross evaluation of an area with specific evaluation occurring at the time of site-specific development. The site does contain steep and serve slopes, which are generally located within tree save areas on proposed Lot 132. Development of this property will be required to comply with the grading codes of Subtitle 4, Division 3, of the Prince George’s County Code.

The proposed residential subdivision, located in the Camp Springs community, is consistent with the land use policy of the 1981 *Subregion VII Master Plan*.

4. **Parks and Recreation**—In accordance with Section 24-134(a) of the Subdivision Regulations, Lot 131 is exempt from the requirements of mandatory dedication of parkland because the lot is improved with a legally existing dwelling unit at the time of this subdivision.

However, in accordance with Section 24-134(a) of the Subdivision Regulations, proposed Lot 131 is subject to and the Department of Parks and Recreation recommends the payment of a fee-in-lieu of parkland dedication because the land available for dedication is unsuitable due to its size and location.

5. **Trails**—There are no master plan trails issues associated with this application.

6. **Transportation**—The proposed subdivision would create a total two residential lots, one that is improved with an existing residential dwelling unit. Both lots are proposed to have access to Middleton Lane, a planned primary residential street with an ultimate right-of-way of 60 feet as shown on the proposed preliminary plan. The proposed on-site circulation is adequate. The plan shows adequate dedication of 30 feet from existing centerline for Middleton Lane.

The proposed development would generate 2 AM and 2 PM peak hour vehicle trips as determined using *The Guidelines for the Analysis of the Traffic Impact of Development Proposals*. The traffic generated by the proposed preliminary plan would impact the intersection Middleton Lane and Old Branch Avenue. This intersection is not programmed for improvement with 100 percent construction

funding within the next six years in the current Maryland Department of Transportation Consolidated Transportation Program or the Prince George's County Capital Improvement Program.

The *Guidelines* states that the Planning Board may find that the traffic impact of a very small development plan, defined as any development which generates five or fewer peak hour trips, is a de minimus, or insignificant, impact. Therefore, the Transportation Planning Section concludes impact to the transportation facilities is de minimus and that adequate transportation facilities will exist to support the development if this application is approved.

7. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed the subdivision plans for adequacy of school facilities in accordance with Section 24-122.02 of the Subdivision Regulations and the *Adequate Public Facilities Regulations for Schools* (CR-23-2001) and concluded that the subdivision is exempt from the APF test for schools because it is located in the Developed Tier.
8. **Fire and Rescue**—The Historic Preservation 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 Silver Hill Fire Station, Company 29, located at 3900 Silver Hill Road, has a service travel time of 4.93 minutes, which is within the 5.25-minute travel time guideline.
  - b. The existing ambulance service at Silver Hill Fire Station, Company 29, located at 3900 Silver Hill Road, has a service travel time of 4.93 minutes, which is within the 6.25-minute travel time guideline.
  - c. The existing paramedic service at Silver Hill Fire Station, Company 29, located at 3900 Silver Hill Road, has a service travel time of 4.93 minutes, which is within the 7.25-minute travel time guideline.

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*.

The proposed subdivision will be within the adequate coverage area of the nearest existing fire/rescue facilities for fire engine, ambulance and paramedic services.

9. **Police Facilities**—The proposed development is within the service area for the District IV-Oxon Hill police station. In accordance with Section 24-122.01(c) of the Subdivision Regulations, the existing county police facilities will be adequate to serve the proposed T.B. Middleton Farm development. This police facility will adequately serve the population generated by the proposed subdivision.
10. **Health Department**—The Health Department has reviewed the proposed preliminary plan and has no comment.
11. **Stormwater Management**—The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. A Stormwater Management Concept Plan, #5602-2002-00, has been approved with conditions to ensure that development of this site does not result in on-site or downstream flooding. Development must be in accordance with this approved plan.

12. **Flag Lot**—The proposal includes one flag lot, proposed Lot 132. Flag lots are permitted pursuant to Section 24-138.01 of the Subdivision Regulations in certain circumstances. Flag lots are required to satisfy the following design standards found in Section 24-138.01(d) as follows:

- a. **A maximum of two tiers are permitted.** The applicant is proposing only one flag lot.
- b. **The flag stem has a minimum width of 25 feet for the entire length of the stem.** The applicant is proposing a 25-foot-wide flag stem.
- c. **The net lot area, exclusive of the stem, must meet the minimum lot size standard.** The minimum net lot area for conventional development in the R-R Zone is 20,000 square feet. The net lot area of Lot 132 is 23,400 square feet exclusive of the flag stem that is approximately 7,100 square feet.

Section 24-138.01(f) establishes specific findings for the approval of the use of flag lots. The Planning Board must find the following:

- a. **The design is clearly superior to what would have been achieved under conventional subdivision techniques.** This property could not be subdivided under conventional development techniques into two lots without the approval of significant variances due to the lot width. The lot width is not adequate to accommodate two lots. The existing lot has 100.36 feet of street frontage. The minimum lot width at the front street line for a lot in the R-R Zone for conventional development is 70 feet. The minimum lot width at the front building line is 80 feet for each lot.
- b. **The transportation system will function safely and efficiently.** Staff recommends that the permit plans for development demonstrate driveways with turn-around capabilities to alleviate the need for vehicles backing out onto Middleton Lane. Access permits will be required from the Department of Public Works and Transportation for proposed Lot 131 ensuring that the transportation system will function safely and efficiently.
- c. **The use of flag lots will result in the creative design of a development that blends harmoniously with the site and with adjacent development; and**

The abutting property to the west was developed by stacking one lot behind the other. The appearance is that of a flag lot; however, both lots meet the minimum standards for development in the R-R Zone and were not subdivided utilizing the flag lot provision of the Subdivision Regulations. The subdivision to the west is a resubdivision of Lot 39 of the T.B. Middleton Farm subdivision. The resubdivision occurred in 1988 and allowed the “flaring” of the lot at the street to meet the minimum street frontage.

Staff has found that creating this relationship between two lots is not beneficial and generally no longer supports this layout. While the subject property is not proposing to flare the lot at the street to meet the minimum development standards, utilizing the flag lot development option with only two lots results in a “stacking” effect similar to the abutting development to the west.

Staff has found that among the best-case scenarios for utilizing the flag lot provision of the Subdivision Regulations is a proposal of four lots that would allow for the creation of a courtyard effect and flexibility in the orientation of dwellings to ensure a harmonious relationship to one another.

In the subject case, the existing dwelling on Lot 131 faces the street with the rear yard facing the buildable lot area of proposed Lot 132, the flag lot. The options for house siting in the most appropriate manner are limited due to the fact that one of the two dwellings being considered is fixed, being already constructed.

However, the subdivision to the west has been developed by stacking one lot behind the other. That relationship is compatible with the proposed subdivision. Although the dwelling on the rear lot abutting Lot 132 has been developed with its rear facing the dwelling on Lot 132, appropriate landscaping could create a harmonious environment.

- d. **The privacy of adjoining property owners has been assured in accordance with the evaluation criteria established above.**

Section 24-138.01(d)(6) of the Subdivision Regulations required that the preliminary plan demonstrate compliance to the *Landscape Manual* where a rear yard is oriented toward a driveway that accessed other lots, or toward a front or side yard of another lot. The preliminary plan does not demonstrate conformance to the *Landscape Manual* and should be revised to reflect the required bufferyards.

13. **Variance**—Section 27-230 of the Zoning Ordinance sets forth the required findings for approval of variance requests. The applicant attempted to address the required findings in the statement of justification. However, staff does not concur with the applicant's justification and does not support the request for a variance. A variance may only be approved if:

- a. **A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions.**  
The applicant has indicated that existing Lot 38 is exceptionally narrow, when in fact the lot has the identical lot width as six of the seven lots in the block the lot is located. The applicant also states that the lot is exceptionally deep, when in fact the lot has an average lot depth consistent with the 59 lots originally created in the T.B Middleton Farm subdivision SDH 4 @ 92. Lot 38 has a lot depth of 525.4 feet, and the average lot depth is 540 feet.

Staff has found that the topographic conditions of this lot are shared by the abutting properties and are not exceptional in nature to this property. The Conditional Reserve Areas identified in the 1981 *Master Plan for Subregion VI* and discussed in Finding 3 of this report identifies significant physiographic constraints of the land in this area. This feature extends from Old Branch Avenue to the southeast, to Middleton Court to the southwest. The steep and severe slopes are a feature shared by a large number of properties in the area as graphically depicted in the master plan. Staff found no other extraordinary situation or condition on this property and the applicant has not provided any additional information regarding this finding.

- 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.** Of the seven lots in the block only one lot has been legally subdivided to create an additional lot. The applicant currently does have reasonable use of the property being improved with an existing single-family dwelling unit. However, the denial of a five-foot variance could be viewed by the applicant as unnecessarily burdensome to the property owner.

The approval of a variance could be considered more consistent with the justice given to adjoining property owners. The approval of a subdivision abutting to the west, which provided essentially the same layout as that requested by the applicant, and the appearance that the property to the east is improved with six dwelling units, creates a character that is consistent with the applicant's request. Although to staff's knowledge the improvements on the property to the east do not legally exist, the improvements do exist at this time.

c. **The variance will not substantially impair the integrity of the General Plan or Master Plan.**

It appears that granting relief of 5 feet from the 80-foot lot width at the front building line, in this specific circumstance, would observe the spirit of the Zoning Ordinance and not jeopardize the public safety and welfare and will not substantially impair the integrity of the *General Plan* or master plan.

However, staff does not recommend approval of the request of a five-foot variance from the lot width at the front building line. Section 27-230 of the Zoning Ordinance sets forth three required findings for the approval of a variance. Staff has not found, nor has the applicant demonstrated, that the specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions. Staff recommends denial of the request for approval of Variance VP-02095 and therefore cannot support the request of the resubdivision of this property as proposed.

**STAFF RECOMMENDS DISAPPROVAL.**