

This appeal flows from the denial by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission (“Planning Board”), appellant, of approval of a pre-preliminary plan filed by Shirley Dufresne and her son, J. Stevens Dufresne, (“the Dufresnes”), appellees, who sought to subdivide agricultural property owned by them to create three “child lots.” The Dufresnes petitioned for judicial review in the Circuit Court for Montgomery County, which reversed the Planning Board’s decision and ordered the Planning Board to approve the Dufresnes’ application. The Planning Board then noted this appeal.

The Planning Board presents four questions for our review:

1. Whether the Planning Board may deny a proposed subdivision to create three “child lots” that is inconsistent with the master plan and zoning objective of preserving agricultural use and promoting agriculture as the primary land use?
2. Whether the Planning Board may deny a proposed forest conservation plan that calls for required tree-planting to be performed outside of the area established by law as the highest priority planting area in the subdivision?
3. Whether the Circuit Court improperly usurped the Planning Board’s authority by approving [Dufresne’s] proposed subdivision instead of remanding it to the Board for further action consistent with the Court’s holdings?
4. Whether the Circuit Court erred in holding a hearing on the merits prior to the filing deadline for the Planning Board’s answering memorandum?

We will answer the first question in the affirmative, and, accordingly, we will reverse the judgment of the circuit court, and we will remand the case with instructions to affirm the Planning Board’s decision. Because it will likely arise again in the event that the Dufresnes continue to seek approval of their pre-preliminary plan, we will address the second question,