



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #15
6/2/05



MEMORANDUM

DATE: May 11, 2005

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Development Review Division

FROM: Catherine Conlon, Acting Supervisor *RW for CAC*
Development Review Division

REVIEW TYPE: Preliminary Plan of Subdivision

APPLYING FOR: Four (4) lots for four (4) one-family detached dwelling units

PROJECT NAME: W. Drew Stabler Property

CASE #: 1-05083

REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations.

ZONE: RDT

LOCATION: Located on the west side of Laytonsville Road (MD 108)
approximately 1,000 feet north of Brink Road

MASTER PLAN: Agricultural and Rural Open Space

APPLICANT: Heritage Development LLC

ENGINEER: Fowler Associates, Inc.

FILING DATE: March 29, 2005

HEARING DATE: June 2, 2005

STAFF RECOMMENDATION: Approval of four (4) Lots, and a 146 acre remainder parcel, subject to the following conditions:

- 1) Approval is limited to four (4) one-family detached dwelling units.
- 2) Compliance with the conditions of approval of the Preliminary Forest Conservation Plan. The applicant must satisfy all conditions prior to recording of plat(s) or issuance of sediment control permits, as applicable.
- 3) Compliance with the conditions of approval of the MCDPS stormwater management approval dated March 11, 2005.
- 4) Compliance with conditions of MCDPS (Health Dept.) septic approval.
- 5) Compliance with the conditions of the MCDPWT approval letter dated May 25, 2005, unless otherwise amended.
- 6) Applicant shall provide a 4 foot bike shoulder for the Class III bikeway along Laytonsville Road (MD 108).
- 7) Revise the preliminary plan to show dedication of 80 feet of right-of-way, and an easement for future dedication of an additional 40 feet of right-of-way, for Laytonsville Road (MD 108) along the property frontage.
- 8) Record Plat shall contain the following note: "Agriculture is the preferred use in the Rural Density Transfer Zone. All agricultural operations shall be permitted at any time, including the operation of farm machinery, and no agricultural use shall be subject to restriction because it interferes with other uses permitted in the Zone."
- 9) Record Plat to reflect dedication of 80 feet of right-of-way, and easement for future dedication of an additional 40 feet of right-of-way, for Laytonsville Road (MD 108) along the property frontage.
- 10) Record Plat to reflect a Category I conservation easement over all forest conservation areas.
- 11) Record Plat to reference a recorded easement for the parent parcel indicating that density for these lots was removed from the parent parcel, Parcel 900 at Liber 19147, Folio 644 and that four TDR's were available on the parent parcel for creation of the four lots.
- 12) Record Plat to reflect shared ingress/egress and a utility easement for proposed Lots 2 and 3.
- 13) Access and improvements as required to be approved by MDSHA prior to issuance of access permits.
- 14) The term "denied access" is to be placed on the final record plat along the property that abuts MD 108, except at the approved three entrances.
- 15) Other necessary easements to be reflected on plat.

SITE DESCRIPTION:

The W. Drew Stabler Property is located immediately north of the Laytonsville town limits on Laytonsville Road (MD 108). MD 108 bisects the property into western and eastern areas (Attachment A). The eastern portion is 146.6 acres and includes existing farm fields and 23.2 acres of forested stream buffer. The western portion is 14.6

acres and includes 13.2 acres of forest and is not currently farmed. The entire property is zoned RDT.

The 14.6 acres of the parcel located on the west side of the road is the subject of the proposed preliminary plan. The remaining 146.6 acres is not included in the preliminary plan and will remain an unplatted farm. There are no dwellings currently existing on the overall property. There is an existing barn on the east side of the property which will remain on the unplatted remainder of the site.

The western portion of the property drains to the Great Seneca Creek watershed (Use Classification I-P) and the eastern portion drains to the Hawlings River watershed (Use Classification IV-P). The eastern portion of the property contains a tributary stream and associated floodplain and stream buffers.

PROJECT DESCRIPTION:

The proposed preliminary plan creates four lots on the west side of MD 108. The lots will be developed with four one-family detached dwelling units (Attachment B). The proposed lots will front on MD 108 and have direct access to the road via shared and individual driveways. The lot sizes will be 2.9, 2.8, 4.4, and 3.7 acres, respectively. The lots will be served by private wells and trench septic systems. Approximately 7.9 acres of the property will be protected in a Category I conservation easement.

The remaining acreage of the site will not be platted and will remain in agricultural use. According to documentation provided by the applicant, all but five Transfer Development Rights (TDRs) have been sold from the subject property and the property remains vacant. Therefore, only one TDR will remain with the unplatted parcel if this preliminary plan is approved.

DISCUSSION:

A pre-preliminary plan for the subject property was submitted for staff review in 2003. Strictly speaking, the proposed lots could be platted by minor subdivision per Section 50-35A(a)(8)¹ of the Subdivision Regulations. However, in this instance, Staff chose to require preliminary plan review to more fully address the forest conservation, road, and potential compatibility issues related to the proposal.

Relationship to the Master Plan

The property is located within both the Agricultural and Rural Open Space (AROS) Master Plan (subject 14.6 acre western portion) and the Olney Master Plan

¹ Section 50-38A(a)(8) establishes the ability to plat up to five lots in the RDT zone through the minor subdivision process after Planning Staff or Planning Board approval of a pre-preliminary plan, with the requirement that the pre-preliminary plan *must* be approved by the Planning Board if proposed lots exceed an average lot size of five acres, which these do not.

(remainder 146.6 acre eastern portion). Both AROS and the Olney Master Plan establish agriculture as the preferred use for land in the Rural Density Transfer (RDT) zone. The proposed development plan creates four residential lots on the property west of MD 108 and retention of the majority of the parent parcel as an unplatted remainder that will continue to be farmed.

The remainder parcel can receive building permits for agricultural structures (barns, storage buildings, etc.) currently allowed under Section 50-20 of the Subdivision Regulations. One development right will remain on the remainder parcel if this proposal is approved.

Staff believes the proposed plan meets the goal of the master plans for agricultural preservation and the requirements for the RDT Zone. Grouping of smaller lots provides a large, contiguous remainder parcel (146 acres), most of which will continue to be used for agriculture and related uses. The zone allows one-family dwellings as a permitted use on lots as small as 40,000 square feet.

Forest Conservation

During review of the pre-preliminary plan for this site, Environmental Planning staff recommended against the placement of proposed dwelling units in existing forested area rather than utilizing unforested portions of the overall property on the eastern side of MD 108. Since portions of the eastern property border residentially-developed land on the northern edge of the town of Laytonsville, and southwest of the Brook Hollow subdivision to the north, staff requested justification from the applicant for not placing the proposed residential development adjacent to one of these areas. In response to staff, the applicant stated that the more productive farmland on the eastern portion of the property exists on the southern area adjacent to the town of Laytonsville. The applicant cited a strong desire to continue farm use of this area at current levels, and the fact that the western portion of the site is not desirable for replacement of these uses. The applicant's engineer also provided soils data for the lower quality, northern area of the eastern portion of the property along Griffith Road which demonstrated that percolation rates would be inadequate to provide septic fields for the proposed dwellings in this location.

Staff accepts the justification provided by the applicant for placement of houses in existing forested area, however, given the extent of forest loss, staff felt the Planning Board should review and approve the proposed Forest Conservation Plan. The applicant has indicated his intent to submit an Agricultural Declaration of Intent for the entire eastern portion of the property. The Agricultural Declaration of Intent confirms the applicant's desire and intent to continue farming on the eastern portion of the property.

The applicant's preliminary forest conservation plan covers only the western side of the property because the eastern side will be exempt from forest conservation. Under Section 22A-5(b) of the Montgomery County Code, an agricultural activity that is exempt from both platting requirements under Section 50-9 and requirements to obtain a

sediment control permit under Section 19-2(c)(2), is also exempt from forest conservation. The eastern portion of the property is exempt from platting and sediment control.

The preliminary plan of subdivision proposes to create four new lots on the 14.6-acre western portion of the property. Since the proposed development is in an agricultural resource area, it must comply with Section 22A-12(f) of the Montgomery County code. This section of the code requires developments in agricultural resource areas to either retain or plant a certain percentage of forest onsite. For this particular plan, the appropriate threshold is the conservation threshold. The applicant is proposing to remove 4.99 acres of forest and retain 8.21 acres. The amount of forest retained exceeds the conservation threshold. The preliminary forest conservation plan submitted indicates that there will be a planting requirement of less than 1 acre, which will occur on-site. All retained and planted forest will be permanently protected in a Category I forest conservation easement.

Road Issues

Proposed Lot 4 may be impacted by the proposed right-of-way for a bypass of MD 108 around the town of Laytonsville which is shown in the Comprehensive Plan of Laytonsville, but which is not included in the county master plans covering the area outside the Town's boundary. By letter of April 18, 2005 (Attachment C), the Town of Laytonsville has requested that the applicant be required to provide the necessary right-of-way. Accommodating the right-of-way as requested would necessitate reconfiguration of the house and driveway as shown on the plan. The house location is conceptual and could be modified to provide necessary setback from the bypass right-of-way. Approval of the driveway access points fall under the purview of the State Highway Administration (SHA). If SHA determines that the driveway location must be changed, a revision to the forest conservation easement boundary may be required.

Since the bypass alignment for MD 108 is not included in the applicable county master plan, staff does not feel that grounds exist to require dedication of the right-of-way for this alternative alignment. Staff has recommended to the applicant that they coordinate with the Town of Laytonsville prior to final placement of a house on Lot 4. If future relocation of the proposed house or driveway modifies the proposed limits of the on-site conservation easement, an amendment to the approved forest conservation plan would be needed. Such an amendment would likely be minor, and could be done at a staff level.

Compatibility

During review of this plan, staff met with adjacent property owners, the Linthicum Family, who have an existing farm operation on land immediately west of the proposed lots. The Linthicum's expressed concern that residential dwellings may be incompatible with their existing operation which includes stockpiling of manure and operation of large machinery and heavy vehicles. The main driveway entrance to their

farm is located along the northern boundary of proposed Lot 1. The Linthicum's questioned the location of houses in this portion of the overall property as opposed to placing them closer to the other residential development on the eastern portion of the property. At a minimum, the Linthicum's requested that the proposed house on Lot 1 be located as far as possible from their existing driveway and that the lot boundaries adjacent to their farm be fenced.

Staff does not feel that relocation of the proposed houses is justified given the resulting loss of agricultural use area on the eastern portion of the property that would result, and the existing soil limitations on septic fields in that area. We also do not believe that the applicable master plans, Subdivision Regulations or Zoning Ordinance contain any provisions on which to base denial of the proposed lots. The preliminary plan has been modified to move proposed houses away from the existing driveway entrance and maintain a forested buffer. A portion of the property boundary is already fenced and staff has included a requirement that the remainder be provided by the applicant as part of the approval conditions. Finally, staff is recommending that future lot owners be notified of the adjacent farm operation.

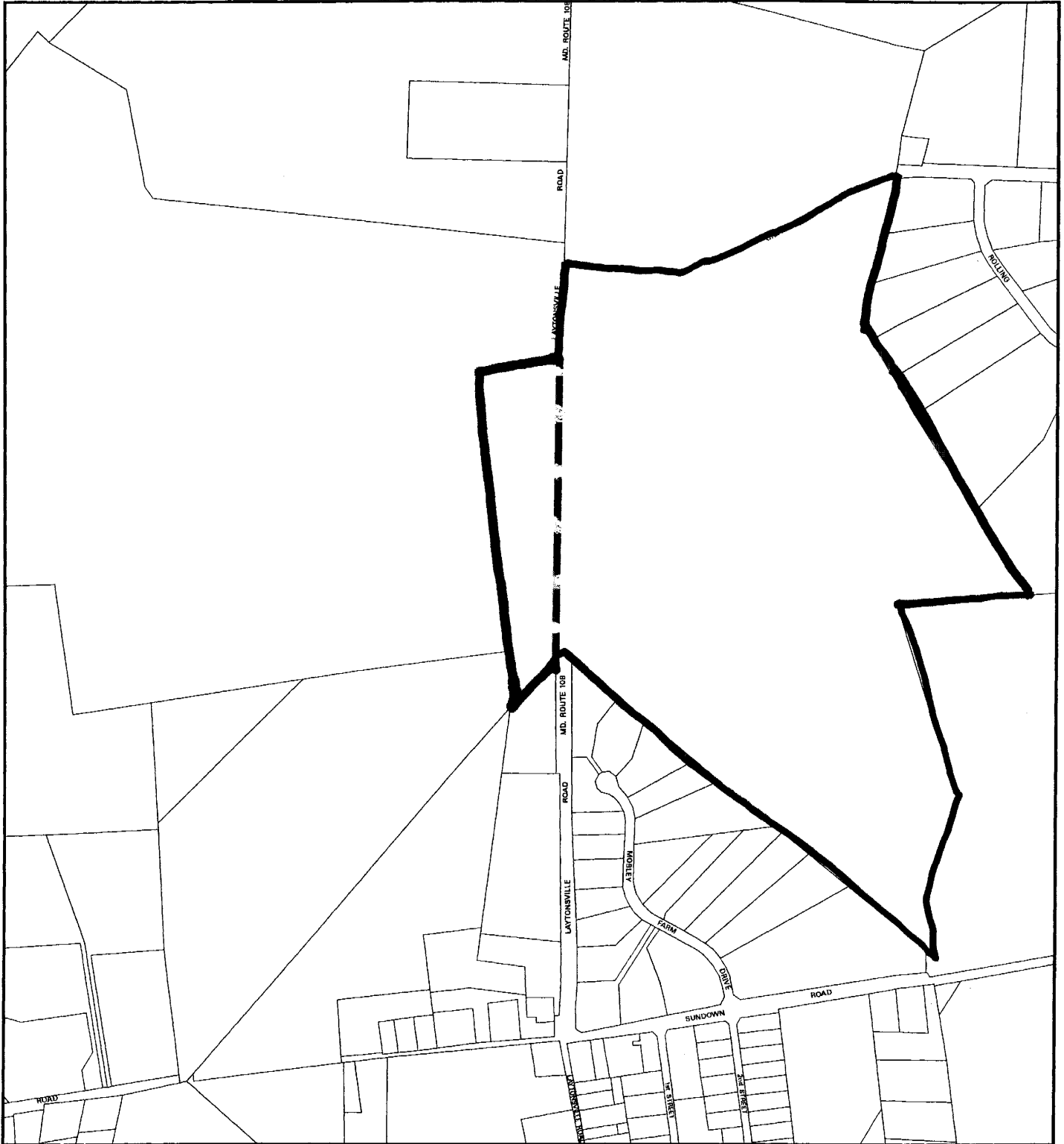
CONCLUSION:

Staff believes this request complies with Chapter 50, the Subdivision Regulations, Chapter 59, the Zoning Ordinance, and all applicable regulations and guidelines regarding the subdivision of land in Montgomery County. Based on the discussion above, staff recommends approval of the subdivision subject to the specified conditions.

ATTACHMENTS:

- Attachment A – Vicinity Map
- Attachment B – Preliminary Plan
- Attachment C – Town of Laytonsville Letter

No citizen letters concerning this proposal have been received up to this point.



Map compiled on May 16, 2005 at 2:13 PM | Site located on base sheet no - 231NW07

NOTICE

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Key Map



N



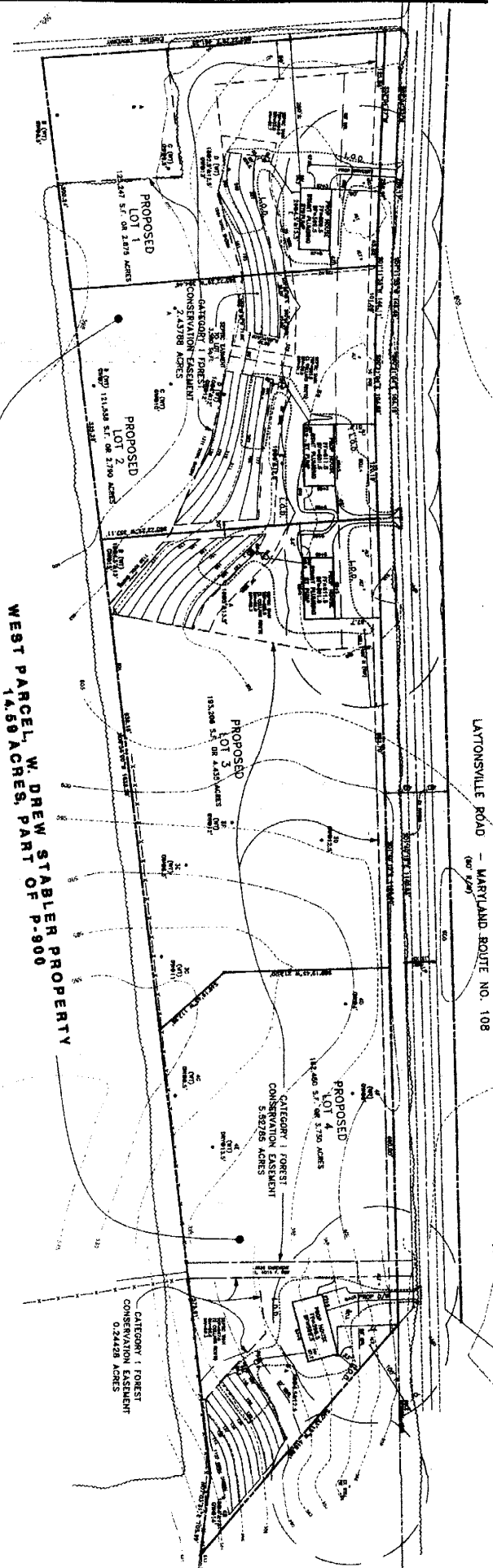
Research & Technology Center



1 inch = 800 feet
1 : 9600

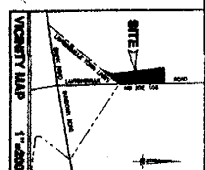


EAST PARCEL, W. DREW STABLER PROPERTY
146.81 ACRES, PART OF P-900
TO REMAIN IN AGRICULTURAL USE



LANTONVILLE ROAD - MARYLAND ROUTE NO. 108

WEST PARCEL, W. DREW STABLER PROPERTY
14.59 ACRES, PART OF P-900



GENERAL NOTES

1. THIS SITE IS PART OF A LANTONVILLE SECTION SUBDIVISION, LIBERTY TOWNSHIP, DISTRICT OF DELAWARE.
2. THE PROPERTY IS PART OF A 146.81 ACRES, W. DREW STABLER PROPERTY, PART OF P-900.
3. THE PROPERTY IS PART OF A 146.81 ACRES, W. DREW STABLER PROPERTY, PART OF P-900.
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12. THE PROPERTY IS PART OF A 146.81 ACRES, W. DREW STABLER PROPERTY, PART OF P-900.

SITE DATA

1. TOTAL AREA: 146.81 ACRES
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12. TOTAL AREA: 146.81 ACRES

SEPTIC SYSTEM DESIGN DATA

LOT NO.	TEST SITE	AREA	POPULATION	SEPTIC TANK	DISCHARGE	PERMITS	REMARKS
1	A	1.00	1	1000	600	600	
2	B	1.00	1	1000	600	600	
3	C	1.00	1	1000	600	600	
4	D	1.00	1	1000	600	600	

SUPERVISOR'S CERTIFICATE

I, the undersigned, being duly sworn, hereby certify that the foregoing is a true and correct copy of the original as shown to me by the applicant. My commission expires on 12/31/2023.

[Signature]
DATE: 11/15/2023
OFFICE: DISTRICT OFFICE, LIBERTY TOWNSHIP, DISTRICT OF DELAWARE

PRELIMINARY PLAN

P/O PARCEL 900
W. DREW STABLER PROPERTY, et al
RECORDED IN LIBER 19147 AT LIBER 644
LANTONVILLE SECTION, DISTRICT 1, LIBERTY TOWNSHIP, DISTRICT OF DELAWARE

FOWLER ASSOCIATES, INC.
PLANNERS
250 WASHINGTON ST., SUITE 200
LIBERTY, DE 19359
LIBER 19147 AT LIBER 644



TOWN OF LAYTONSVILLE

INCORPORATED 1892
Montgomery County, Maryland

CHARLES W. OLAND
Mayor

CATHRYN D. BUIT
Clerk

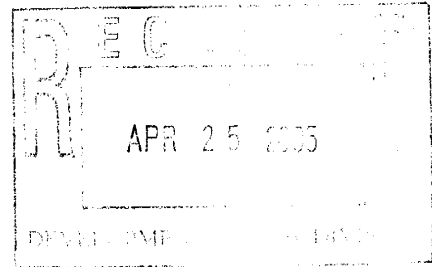
CHRISTINE WILKINSON
Treasurer

April 18, 2005

Ms Cathy Conlon, Acting Supervisor
 Development Review Division
 Montgomery County Department of Park & Planning
 The Maryland-National Capital Park and Planning Commission
 8787 Georgia Avenue,
 Silver Spring, MD, 20910

Re. Preliminary Plan
W. DREW STABLER PROPERTY

Dear Ms Conlon;



Thank you for the courtesy of sharing the subject Preliminary Plan with us.

The Mayor and Council of the Town of Laytonsville has reviewed the subject preliminary plan and find that it is lacking in many respects. We are sure that you will pick up these deficiencies and will correct them in the process of your normal review, but we would like to express our observations in order to make sure that they are on the public record.

1. The entire property is not shown on the plan although density is being transferred to the lone existing parcel. The "East Parcel" should be included and recorded as an out lot.
2. Highway dedications are not correct. Laytonsville Road St. Rt. 108 is listed as a Major Highway on the Master Plan of Highways and as such requires 150 feet of right of way dedication. There should be 70 feet of dedication for Griffith Road which is not shown on this plan.
3. The Town has been reviewing its Comprehensive Plan for some time and is nearing completion of that task. A very important part of that plan and is also shown on the Montgomery County Master Plan of Highways and the Comprehensive Plan of Laytonsville is a bypass of the town for State Route 108. This is a very important and critical aspect of both plans to the Town and its citizens. The Town has worked long and hard to obtain commitments for most of the necessary right of way for the by pass and request that your agency require the necessary right of way from this applicant.

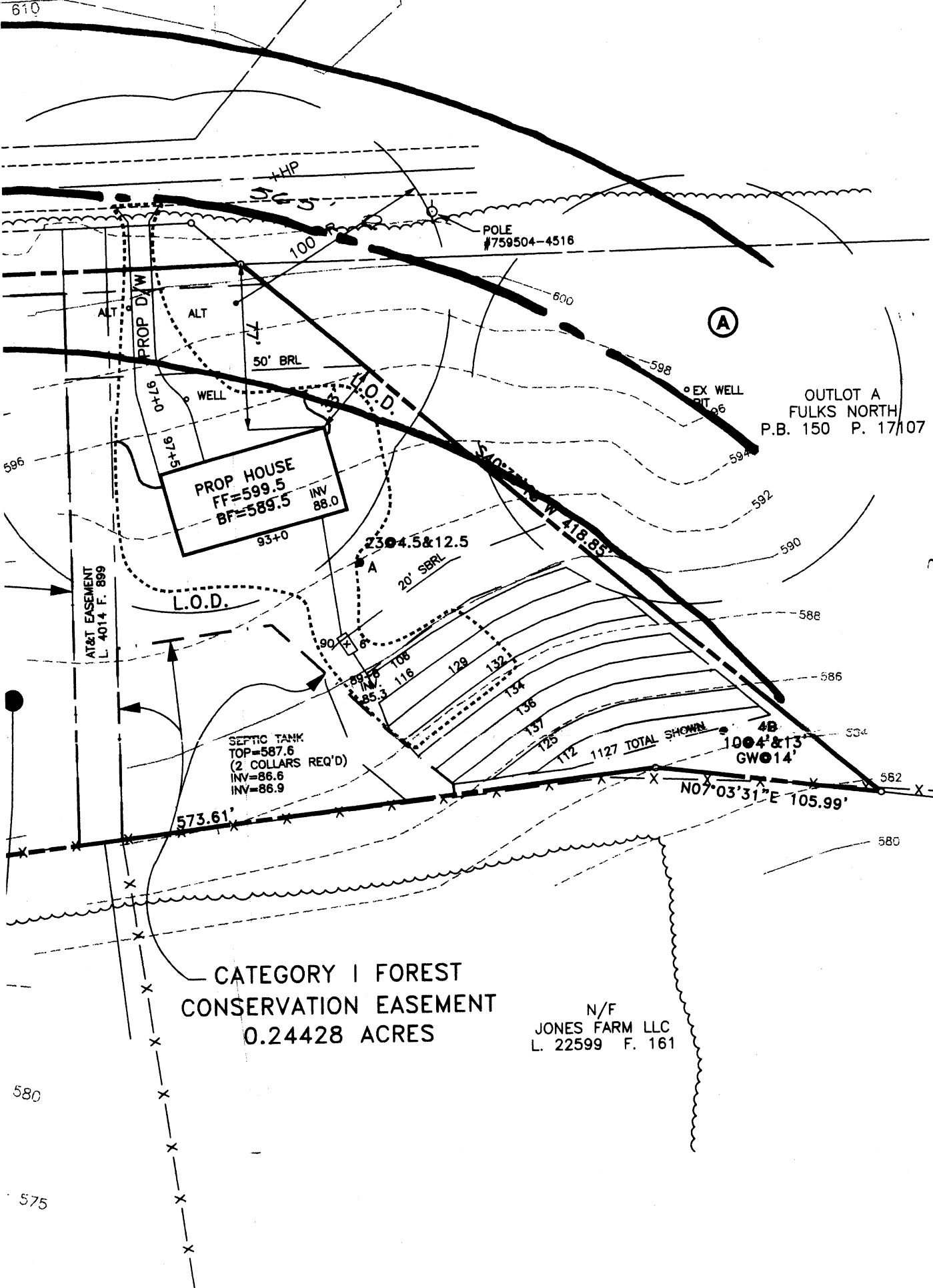
We have been working with the owners in the development of the property that is adjacent to the Stabler which is known as the Jones Property for several years. We have appeared before the Planning Board and County Council in reference to the annexation of a portion of the Jones Property in order to solve development problems, the dedication of right of way for the bypass, and the preservation of a historical resource. In this effort we have established the horizontal alignment of the bypass. This alignment will impact on on the development of the Stabler Property in a minor way. We would suggest that the engineer for the Stabler Property contact the engineer for the Jones Property which is Charles P. Johnson & Associates, Inc. for any necessary coordination for the development of the Stabler Property.

4. We have a concern about permitting three new driveways entering on to St. Rt. 108 in the manner shown. The Town has experienced a great problems with motorists traveling at excessive speeds on St. Rt. 108. The speed limit beyond the Town Limits is 40 mph and within the Town Limits is 30 mph. The police have issued numerous speeding citations within those two speed limit zones for speeds in excess of 60mph. This is truly a very dangerous highway and that is one of the major reasons why the Town is working so hard to have it by pass the Town.

We would like to thank you again for permitting us to comment on the subject preliminary plan and we hope that we can always continue to cooperate with each other in the comprehensive development of our community.

Yours truly,





CATEGORY I FOREST
CONSERVATION EASEMENT
0.24428 ACRES

N/F
JONES FARM LLC
L. 22599 F. 161

OUTLOT A
FULKS NORTH
P.B. 150 P. 17/107

PROP HOUSE
FF=599.5
BF=589.5
INV 88.0

SEPTIC TANK
TOP=587.6
(2 COLLARS REQ'D)
INV=86.6
INV=86.9

4B
100'4\" & 13'
GW@14'