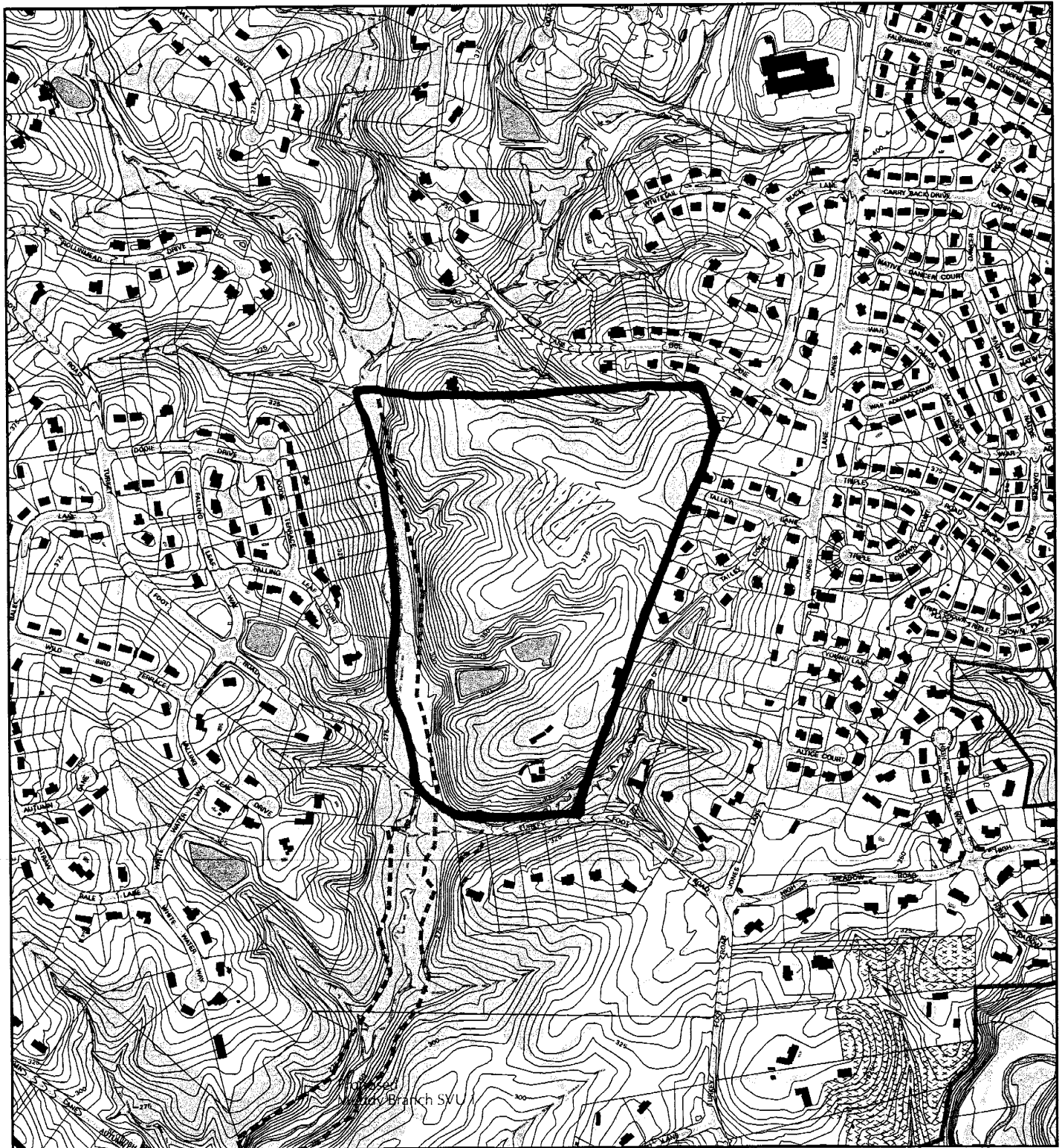


ROBERTS LANDING (12004105A, FORMERLY 1-04105A)



Map compiled on October 05, 2005 at 1:13 PM | Site located on base sheet no - 219NW13

NOTICE

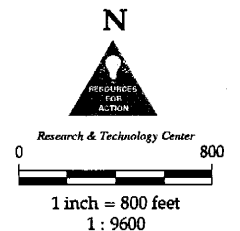
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Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

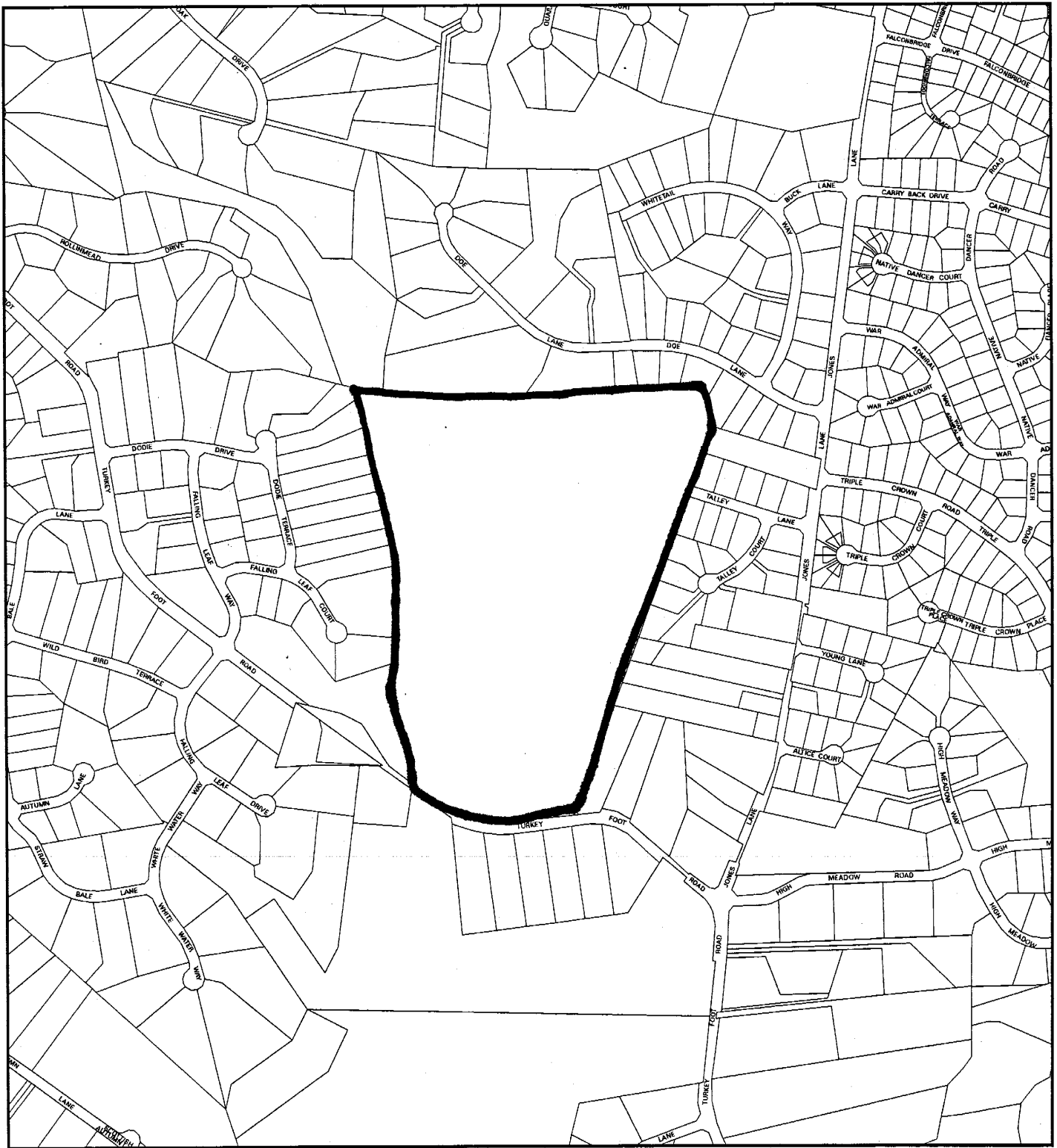
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M-NCPPC
MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
 8787 Georgia Avenue - Silver Spring, Maryland 20910-3760

Key Map



ROBERTS LANDING (12004105A, FORMERLY 1-04105A)



Map compiled on October 05, 2005 at 12:17 PM | Site located on base sheet no - 219NW13

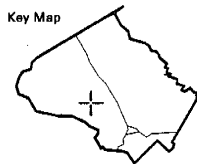
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Key Map



N



0 800

1 inch = 800 feet
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MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue - Silver Spring, Maryland 20910-3760

(2)



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Date Mailed: FEB 24 2005

Action: Approved Staff
Recommendation

Motion of Commissioner Perdue,
seconded by Commissioner Bryant,
with a vote of 5-0;
Chairman Berlage and Commissioners
Perdue, Bryant, Wellington and
Robinson voting in favor.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan: 1-04105

NAME OF PLAN: Roberts Landing (Phase One)

The date of this written opinion is FEB 24 2005 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court – State).

INTRODUCTION

On 4/14/03, Classic Community Corporation submitted an application for the approval of a preliminary plan of subdivision of property in the R-200 zone. The application proposed to create 26 lots on 78.47 acres of land located at north side of Turkey Foot Road approximately 125' west of Jones Lane, in the Potomac Master Plan area. The application was designated Preliminary Plan 1-04105. On 12/16/04, Preliminary Plan 1-04105 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application.

The record for this application ("Record") closed at the conclusion of the public hearing, upon the taking of an action by the Planning Board. The Record includes: the information on the Preliminary Plan Application Form; the Planning Board staff-

generated minutes of the Subdivision Review Committee meeting(s) on the application; all correspondence and any other written or graphic information concerning the application received by the Planning Board or its staff following submission of the application and prior to the Board's action, from the applicant, public agencies, and private individuals or entities; all correspondence and any other written or graphic information issued by Planning Board staff concerning the application, prior to the Board's action; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the public hearing.

SITE DESCRIPTION

The subject property is a 78.47-acre property located within the Potomac Master Plan boundaries ("Subject Property"). The Subject Property is located on the north side of Turkey Foot Road (designated a rustic road) approximately 125 feet west of Jones Lane. The Subject Property is zoned R-200 and is served by public water, but not sewer. The site abuts existing R-200 zoned residential development on the east and west and larger lots on the north. Existing Talley Lane will be extended into the site from the east to serve the proposed units.

The property is within the Muddy Branch watershed. A tributary stream to Muddy Branch flows along the western property boundary. The current land cover and uses include open land, forest, two existing farm ponds, and two residential structures. The existing residential structures will be removed. The site contains 27 acres of forest, minimal wetlands, and 13 acres of environmental buffer.

PROJECT DESCRIPTION

This is an application to subdivide the subject property into twenty-six (26) lots for the construction of twenty-six (26) single-family detached dwellings with a possibility that additional dwellings will be added if septic approvals are granted. The plan preserves the stream valley and environmentally sensitive areas. Safe and adequate access for vehicles and pedestrians will be provided by the proposed extension of existing Talley Lane and the internal vehicular and sidewalk system.

RELATIONSHIP TO THE POTOMAC MASTER PLAN

The subject property is located within an area identified as the Darnestown Triangle, which is formed by MD 28, Turkey Foot Road, and Jones Lane. Although the Master Plan recommended RE-1 zoning for the subject property, final action on the plan included the retention of the R-200 zone. The plan did not recommend extension of the sewer envelope to include this property. As a consequence, the proposed development, as limited by the availability of septic, is in character with an RE-1 development in that all but two lots are greater than 1 acre in size. The Master Plan also recommended acquisition, through dedication, of the western stream valley portion of this property, which the proposed plan includes.

STAFF RECOMMENDATION

Staff recommended approval of this preliminary plan with conditions in its memorandum dated December 9, 2004 ("Staff Report"). Staff's review indicated that the preliminary plan complies with the requirements of Chapter 50, the Subdivision Regulations, and conforms to the recommendations of the Potomac Master Plan and is consistent with the Master Plan's goal of maintaining the area's residential character. Staff found that the subject preliminary plan will provide safe and adequate access for vehicles and pedestrians. Staff recommended a waiver of a sidewalk on one side of the proposed internal roads on the basis that pedestrians will be able to safely use the roadway to access the sidewalks. In addition, the reduction in sidewalks will reduce the overall level of impervious surfaces on the property. Staff found that the plan protects all environmentally sensitive areas in the proposed conservation easements and that the forest conservation requirements are met by retention of existing forest.

During Staff's review, two letters were received from area Homeowners Associations regarding the proposed plan. Concerns raised were minimizing construction impacts, maximizing lot sizes, and relocation of the proposed construction access for the site to Turkey Foot Road. In the Staff Report, Planning Board Staff stated that they and staff from other County permitting agencies believe that construction access off Turkey Foot Road is not an acceptable alternative. The road is a designated rustic road, and Staff believes the construction entrance could do irreparable damage to the existing tree line. In addition, the driveway would have to be widened and improved as it crosses an existing stream and steep slopes. Staff did not support disturbance of these environmentally sensitive areas.

With regard to impacts during construction, Staff stated that the applicant has agreed to modify the final grading plan where possible and work with Staff as part of pre-construction inspections to adjust final grades and locations of proposed homes along the northern property boundary to limit the loss of the existing row of trees. In addition, the applicant has been required by the approval conditions to apply to Montgomery County Department of Permitting Services ("MCDPS") for permission to install temporary traffic calming devices on existing Talley Lane.

PUBLIC HEARING

The applicant appeared at the hearing and testified that applicant agrees with Staff's recommendation and proposed conditions. Additionally, two citizens appeared and testified regarding their concerns with the proposed development.

Mr. John Rust, President of the Tally-Ho Homeowners Association, testified that the homeowners in the area generally concur with the proposed development plan and agree that it is consistent with the surrounding neighborhood. He reiterated, however, homeowner opposition to using existing Talley Lane as the construction access for the new development because of concern for the safety of children using the road to walk down to the school bus stop at Talley Lane and Jones Lane. He stated that installation of traffic calming measures during construction would not

address the safety concerns for children waiting at the bus stop and that the overall safety concerns should outweigh the environmental protection issues related to accessing the site from Turkey Foot Road. He also reiterated the desire for preservation of existing trees and requested that measures be taken to ensure that the new development was compatible with the existing development with regard to the addition of new sidewalks and any planned signage.

Mr. Soo Lee, who is a property owner at 12820 Doe Lane, which abuts the Subject Property on the north, expressed concerns about the impact of proposed grading on the wooded steep slopes adjacent to his driveway. He testified that he had experienced sediment runoff after septic tests were performed adjacent to his property and is concerned about major problems occurring if new houses and associated septic fields are located along the northern property boundary.

In response to questions by the Planning Board, Staff stated that the County's Department of Public Works and Transportation (DPWT) has the ultimate authority over location of construction access for the development site but, for the reasons previously stated, was unlikely to approve access from Turkey Foot Road. Staff stated on the Record that it will ensure that Mr. Rust has the contact information for the appropriate person at DPWT.

Regarding Mr. Lee's concerns, Staff stated that proposed lots abutting the property owned by the Lees are not a part of the subject approval since they have not yet obtained approval for necessary septic fields. Staff volunteered that it will work with the Lees and the applicant prior to approval of any abutting lots to address preservation of buffer and grading concerns.

The applicant stated on the Record that it was willing to work with the County's DPWT and MCDPS to provide traffic calming measures on Talley Lane during construction and make sure that the neighborhood's safety concerns are addressed.

FINDINGS

Having given full consideration to the recommendations of its Staff; the recommendations of the applicable public agencies;¹ the applicant's position; and other evidence contained in the Record, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board finds, with the conditions of approval, that:

- a) The Preliminary Plan No. 1-04105 substantially conforms to the Potomac master plan.

¹ The application was referred to outside agencies for comment and review, including the Washington Suburban Sanitary Commission, the Department of Public Works and Transportation, the Department of Permitting Services and the various public utilities. All of these agencies recommended approval of the application.

- b) Public facilities will be adequate to support and service the area of the proposed subdivision.
- c) The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.
- d) The application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.
- e) The application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.
- f) Pedestrians will be able to safely use the roadway to access sidewalks, which supports the Board's finding that sidewalks need only be provided on one side of the proposed public roads (extension of Talley Lane, Public Road "A" and Public Road "B").
- g) Construction access to the Subject Property is the exclusive jurisdiction of the County and is beyond the jurisdiction of the Planning Board.
- h) Besides the issues raised and addressed in this opinion, no other contested issues were raised at the Planning Board hearing concerning this application and the Planning Board finds that any future objection to any substantive issue not raised before the Board is waived.

CONDITIONS OF APPROVAL

Finding Preliminary Plan No. 1-04105 in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 1-04105 including a waiver pursuant to §50-26(h)(3) to permit a sidewalk on only one side of proposed public roads (extension of Talley Lane, Public Road "A" and Public Road "B"), subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 26 dwelling units.
- 2) The applicant shall dedicate all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Potomac Master Plan unless otherwise designated on the preliminary plan.
- 3) The applicant shall construct all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Potomac Master Plan and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the preliminary plan, "To Be Constructed By _____" are excluded from this condition.
- 4) The applicant shall extend the sidewalk offsite on one side of existing Talley Lane to Jones Lane and provide a pedestrian connection between the lots

located on the Turkey Foot Road driveway to the proposed Road "B" cul-de-sac.

- 5) Compliance with the conditions of approval for the preliminary forest conservation plan, including the requirement that permanent split rail fence be installed along the conservation easement boundary on proposed Lot 33. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits.
- 6) Compliance with the conditions of the MCDPS stormwater management approval dated October 5, 2004.
- 7) Compliance with conditions of MCDPS (Health Dept.) septic approval dated November 26, 2004.
- 8) Record plat to reflect a Category I easement over all stream valley buffers and forest conservation areas which are not dedicated to M-NCPPC as parkland.
- 9) Record plat to reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant shall provide verification to Commission staff prior to release of final building permit that Applicant's recorded HOA Documents incorporate by reference the Covenant.
- 10) Applicant to dedicate proposed Parcel F to M-NCPPC for stream valley parkland. Dedicated parkland to be transferred by time of record plat, free of trash and unnatural debris, and the boundaries and corners marked and identified to delineate between parkland and private property. Design and location of boundary markers and signs to be approved by M-NCPPC staff.
- 11) Applicant to provide adequate 15' wide Public Use Trail Easements, as indicated on the preliminary plan, for public access from the community to the dedicated parkland and natural surface trails therein. Applicant to construct within the easements, a 4' wide natural surface trail, including adequate signage to identify the trail and easement for public use.
- 12) Record plat to reflect common ingress/egress and utility easements over all shared driveways.
- 13) Record Plat to reflect all areas under Homeowners Association ownership and all stormwater management areas.
- 14) Compliance with conditions of MCDPWT letter dated, November 5, 2004 unless otherwise amended.
- 15) Applicant to install temporary traffic calming measures during the construction period at the entrance to the subject site. Applicant shall also request permission from MCDPS to install temporary traffic calming measures on existing Talley Lane during the construction period to control speed of construction vehicles.
- 16) Access and improvements as required to be approved by MCDPWT prior to recordation of plat(s).
- 17) Other necessary easements.

* * * * *

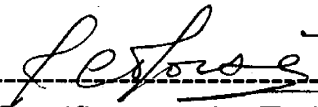
[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

APPROVED AS TO LEGAL SUFFICIENCY

My D 2/14/05
M-NCPPC LEGAL DEPARTMENT

CERTIFICATION OF BOARD VOTE ADOPTING OPINION

At its regular meeting, held on **Thursday February 17, 2005**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on the motion of **Commissioner Wellington, seconded by Commissioner Bryant, with Chairman Berlage, Vice Chair Perdue, and Commissioners Bryant, Wellington, and Robinson** voting in favor of the motion, **ADOPTED** the above Opinion which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for **Preliminary Plan 1-04105, Robert's Landing (Phase One)**.



Certification As To Vote of Adoption
M. Clara Moise, Technical Writer