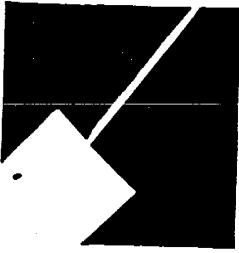






M-NCPPC



**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4500, [www.mncppc.org](http://www.mncppc.org)

**Date Mailed:** JUL 27 2005  
**Hearing Date:** April 21, 2005  
**Action:** Approved Staff  
Recommendation  
**Motion of Commissioner Bryant,**  
seconded by Commissioner Robinson  
with a vote of 3 - 1;  
Commissioners Berlage, Bryant, and  
Robinson voting in favor; Commissioner  
Wellington voting against;  
Commissioner Perdue absent.

**MONTGOMERY COUNTY PLANNING BOARD**

**OPINION**

Pre-Preliminary Plan: 7-05041  
NAME OF PLAN: Gawlik Property

The date of this written opinion is JUL 27 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).

On 1/24/05, Andrew Gawlik submitted an application for the approval of a pre-preliminary plan. The application proposed to create 1 lot on 6 acres of land in the RDT zone located on the north side of White's Ferry Road, approximately 2000 feet west of the intersection with Sugarland Road ("Subject Property"). The application was designated Pre-Preliminary Plan 7-05041 ("Pro-Preliminary Plan"). On 4/21/05, the Pre-preliminary Plan was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the 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 Pre-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 at the conclusion of the public hearing, 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; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the public hearing.

The Pre-Preliminary Plan was brought before the Planning Board as a request to allow the lot to be platted under the minor subdivision process. Pursuant to Section 50-35A(a)(8) of the Subdivision Regulations, up to five (5) lots may be platted in the RDT zone through the minor subdivision process after Planning Staff or Planning Board approval of a pre-preliminary plan. Pursuant to Section 50-35A(a)(8)(d), these lots must not exceed an average lot size of five (5) acres in size unless approved by the Planning Board.

### SITE DESCRIPTION

The subject property, identified as Parcel 314 (Subject Property), is located on the north side of White's Ferry Road, approximately 2000 feet west of the intersection with Sugarland Road. The Subject Property contains six (6) acres and is zoned RDT. It is currently developed with a single-family dwelling and accessory buildings, which will be removed. A stream currently exists on the property.

### PROJECT DESCRIPTION

This is an application to record the Subject Property under the Minor Subdivision provisions as one (1) lot for the reconstruction of one (1) single-family detached dwelling. The proposed lot will have direct access from Whites Ferry Road (MD 107). Determination of adequate private water and septic facilities must be made by the Department of Permitting Services (DPS), prior to record plat.

The property was part of a tract of land that originally contained 117.58 acres. In 1960, the property was created by deed in its current configuration. Subsequently, in 1980 the RDT Zone was adopted. Pursuant to Section 59-C-9.74 (b)(2) of the Zoning Ordinance the Subject Property is exempt from the current area and dimensional requirements of the RDT, which states:

- (b) The following lots are exempt from the area dimensional requirements of Section 59-C-9.4 but must meet the requirements of the zone applicable to them prior to their classification in the Rural Density Transfer Zone.

\* \* \* \*

- (2) A lot created by deed executed on or before the approval date of the sectional map amendment, which initially zoned the property to the Rural Density Transfer Zone.

### **STAFF'S RECOMMENDATION**

Staff found that the Pre-Preliminary Plan conforms to the recommendations of the 1980 Functional Master Plan for Agriculture and Rural Open Space ("Agricultural Preservation Master Plan") to maintain the area's rural residential character, and complies with the requirements of Section 50-35A(8) of Subdivision Regulations. As such, Staff recommended that the Board approve the proposed lot for platting under the minor subdivision regulations, subject to the above conditions.

### **PLANNING BOARD HEARING**

Staff presented testimony and graphic exhibits at the hearing and distributed revised proposed conditions to the Board for its consideration. Staff informed the Board that the Applicant proposed to replace an existing home and failing in-ground septic system with a new home and a sand mound septic system. The Applicant appeared represented by its engineer and presented testimony to the Board. No other testimony was received on the application.

The Planning Board deliberated the question of approval of an application that proposed a sand mound septic system on property located within the area covered by the Agricultural Preservation Master Plan. Commissioner Bryant requested that the record clearly reflect the fact that the existing septic system is failing, as the Staff Report did not make this fact evident. Commissioner Wellington stated that she would not support Staff's recommendation of approval because it proposed the use of a sand mound system on property covered by the recommendations of the Agricultural Preservation Master Plan. Commissioner Wellington cited to the Agricultural Preservation Master Plan in support of her position that sand mound septic systems, if approved without limitation, would undermine the intent and purpose of the Agricultural Preservation Master Plan of limiting population density. Commissioners speaking in support of the staff recommendation noted that the subject property existed within the boundaries of the proposed lot before the adoption of the Agricultural Preservation Master Plan; approval of the application will not increase density; and the sand mound system would be used to replace a failing existing septic system, which would serve to relieve a public health hazard.

### **FINDINGS**

Having given full consideration to the recommendations and findings of its Staff, which the Board expressly adopts; the recommendations of the applicable public agencies<sup>1</sup>; the applicant's position; and other evidence contained in the Record, which

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<sup>1</sup> 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.

is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board finds that, with the conditions of approval:

- a) Prior to record plat, there will be written approval for a proposed septic area from the Montgomery County Department of Permitting Services, Well and Septic Section.
- b) All required street dedications along the frontage of the proposed lots will be shown on the record plat.
- c) The proposed lot encompasses the entire property and may not be further subdivided.<sup>2</sup>
- d) The width, shape, and orientation of the proposed lot are appropriate for the location of the subdivision. The Planning Board expressly finds that the size of the proposed lot, which is greater than 5 acres, is appropriate for the location of the subdivision and that the lot may be platted through the minor subdivision process set forth in § 50-35A of Chapter 50 of the Montgomery County Code ("Subdivision Regulations").
- e) The application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.
- f) The Pre-preliminary Plan No. 7-05009 substantially conforms to the Functional Master Plan for the Preservation of Agriculture and Rural Open Space in Montgomery County.
- g) The proposed lot has adequate frontage along a public road.

#### **CONDITIONS OF APPROVAL**

Finding Pre-Preliminary Plan No. 7-05052 in accordance with the purposes and all applicable regulations of the Montgomery County Code, the Planning Board approves Pre-Preliminary Plan No. 7-05052 to be platted under the provisions of Section 50-35A(a)(8) of the Montgomery County Subdivision Regulations, subject to the following conditions:

- 1) Compliance with the conditions of approval for the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat or MCDPS issuance of sediment and erosion control permits.

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<sup>2</sup> An easement pursuant to § 50-35A(a)(8)(c) is not required to be filed because there is no balance to the Subject Property.

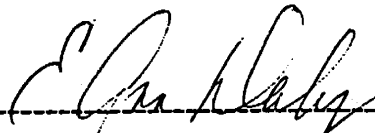
- a. The preliminary forest conservation plan must meet all requirements of Section 22A-11(b)(2) and MNCPPC Forest Conservation Regulation Section 108.
  - b. Minimum retention requirements per Section 22A-12(b) must be met through retention of all existing forest (1.24 acres) and creation of new forest onsite to meet overall retention requirement of 1.41 acres, or 25% of the net site area. The preferred approach is to convert mowed areas with existing overhead canopy into forest.
  - c. Removal of the existing house and driveway shall be done in a manner to protect nearby specimen trees. Reasonable efforts should be made to protect onsite specimen trees in good condition.
- 2) Category I forest conservation easement must be placed on all environmental buffers and preserved forest.
  - 3) Written approval for a proposed septic area must be received from the Montgomery County Department of Permitting Services, Well and Septic Section, prior to record plat.
  - 4) Applicant to receive approval of MCDPS storm water management concept at the time of sediment and erosion control permits.
  - 5) Record plat to reference a recorded easement indicating that a TDR is available and will be utilized for the new lot.
  - 6) Applicant to submit a complete record plat application for one lot to M-NCPPC within 37 months of issuance of the opinion for this pre-preliminary plan.
  - 7) Other necessary easements.

APPROVED AS TO LEGAL SUFFICIENCY  
YAB  
M-NCPPC LEGAL DEPARTMENT  
DATE 7/18/05

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

**CERTIFICATION OF BOARD ADOPTION OF OPINION**

At its regular meeting held on **Thursday, July 21, 2005**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on a motion of Commissioner Bryant, seconded by Commissioner Robinson, with Vice Chair Perdue and Commissioner Wellington absent, unanimously voted to **ADOPT** 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 **Pre-Preliminary Plan No. 7-05041, Gawlik Property.**



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Certification As To Vote of Adoption  
E. Ann Daly, Technical Writer



220051190 Briarcliff Meadows South  
North side of Thompson Road, at the western terminus of Rowland Lane  
RE-1 Zone, 8 Lots  
Community Water, Community Sewer  
Master Plan Area: Cloverly  
Winchester Homes, Inc., Applicant

The record plat has been reviewed by MNCPPC staff and other applicable agencies as documented on the attached Plat Review Checklist. Staff has determined that the plat complies with Preliminary Plan No. 1-04036, as approved by the Board; and that any minor modifications reflected on the plats do not alter the intent of the Board's previous approval of the preliminary plan.

#### Discussion of Minor Modifications

This record plat is being brought back to the Planning Board for re-approval to acknowledge that the plat, as shown, reflects a modified open space and stormwater management parcel. The reason for this change is that subsequent to the approval of the preliminary plan for Briarcliff Meadow South (120040360) and related stormwater management concept approval, the stormwater management facilities final design, as approved by MCDPS, resulted in a change to the stormwater management layout. The final design of the stormwater design has eliminated the need for the stormwater quantity control device requiring only quality controls. This has allowed the quality control pond to be relocated closer to the new cul-de-sac and to allow a small increase in the total open space area.

The lots created as part of this plan do not change to any significant degree from what was shown on the original plat layout. The open space area that includes parcel A and Parcel C has been reconfigured. Environmental Planning supports the revision because it allows for a better forest retention area to be protected.

## RECORD PLAT REVIEW SHEET

**Plat Name:** Briarcliff Meadows **Plat File Number:** 20051190  
**Submission Date:** 1/24/05 **Due Date:** \_\_\_\_\_  
**DRD Plat Reviewer:** TA **DRD Prelim. Plan Reviewer:** Richard Weaver

**Initial DRD Review:**

**Signed Preliminary Plan:** Date 5/4/05 **Checked:** Initial TA Date 10/14/05  
**Planning Board Opinion:** Date 2/23/05 **Checked:** Initial TA Date 10/14/05  
**Site Plan Required For this Development?** Yes \_\_\_ No  **Verified By:** TA (Initial)  
**Site Plan Name:** \_\_\_\_\_ **Site Plan Number:** \_\_\_\_\_  
**Planning Board Opinion:** Date \_\_\_\_\_ **Checked:** Initial \_\_\_\_\_ Date \_\_\_\_\_  
**Site Plan Signature Set:** Date \_\_\_\_\_ **Checked:** Initial \_\_\_\_\_ Date \_\_\_\_\_  
 Lot #'s & Layout \_\_\_ Lot Area \_\_\_ Zoning \_\_\_ Bearings & Distances \_\_\_ Coordinates \_\_\_ Plan # \_\_\_  
 Road/Alley Widths \_\_\_ Easements \_\_\_ Open Space \_\_\_ Non-standard BRLs \_\_\_ Adjoining Land \_\_\_  
 Vicinity Map \_\_\_ Septic/Wells \_\_\_ TDR note \_\_\_ Surveyor Cert. \_\_\_ Owner Cert. \_\_\_ Tax Map \_\_\_  
 Child Lot Note \_\_\_  
**Site Plan Reviewer Plat Approval:** Checked \_\_\_\_\_ Initial \_\_\_\_\_ Date \_\_\_\_\_

Agency Reviews Req'd	Reviewer	Date Sent	Date DUE	Date Rec'd	Comments
Envir.	(specify by plan)			3/11/05	
Research	Bobby Fleury				
St. Hwy.	Doug Mills				
DPS	Granville Campbell				
PEPCO	Jose Washington				
Parks	Doug Powell				
DRD	Steve Smith				

**Final DRD Plat Review:**

**DRD Review Complete:** Initial R.W Date 2/15/05  
 (All comments rec'd and incorporated into mark-up)  
**Engineer Notified - (Pick up Mark-up):** \_\_\_\_\_  
**Final Mylar w/Mark-up & PDF Rec'd.:** \_\_\_\_\_  
**Board Approval of Plat:**  
**Plat Agenda** \_\_\_\_\_  
**Planning Board Approval:** \_\_\_\_\_  
**Chairman's Signature:** \_\_\_\_\_  
**DPS Approval of Plat:**  
**Engineer Pick-up for DPS Signature:** \_\_\_\_\_  
**Final Mylar for Reproduction Rec'd:** \_\_\_\_\_  
**Plat Reproduction:** Initial \_\_\_\_\_ Date \_\_\_\_\_  
**Addressing:** \_\_\_\_\_  
**File Card Update:** \_\_\_\_\_  
**Final Zoning Book Check:** \_\_\_\_\_  
**Update Address Books with Plat #:** \_\_\_\_\_  
**Update Green Books for Resubdivision:** \_\_\_\_\_  
**Notify Engineer to Seal Plats:** \_\_\_\_\_  
**Engineer Seal Complete:** \_\_\_\_\_  
**Complete Reproduction:** \_\_\_\_\_  
**Send to Courthouse for Recordation:** \_\_\_\_\_

No. \_\_\_\_\_