

NO.	REVISION	DATE
1	ISSUED FOR CONSTRUCTION	06/16/05
2	REVISED TO REFLECT PERMITS	07/17/05
3	REVISED TO REFLECT PERMITS	08/18/05

1. SHEET NO. 1 OF 10 SHEETS
 2. SHEET NO. 2 OF 10 SHEETS
 3. SHEET NO. 3 OF 10 SHEETS
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 8. SHEET NO. 8 OF 10 SHEETS
 9. SHEET NO. 9 OF 10 SHEETS
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STATE OF MD
 LIBERTY ROAD FOLIO 52
 DIME 2074

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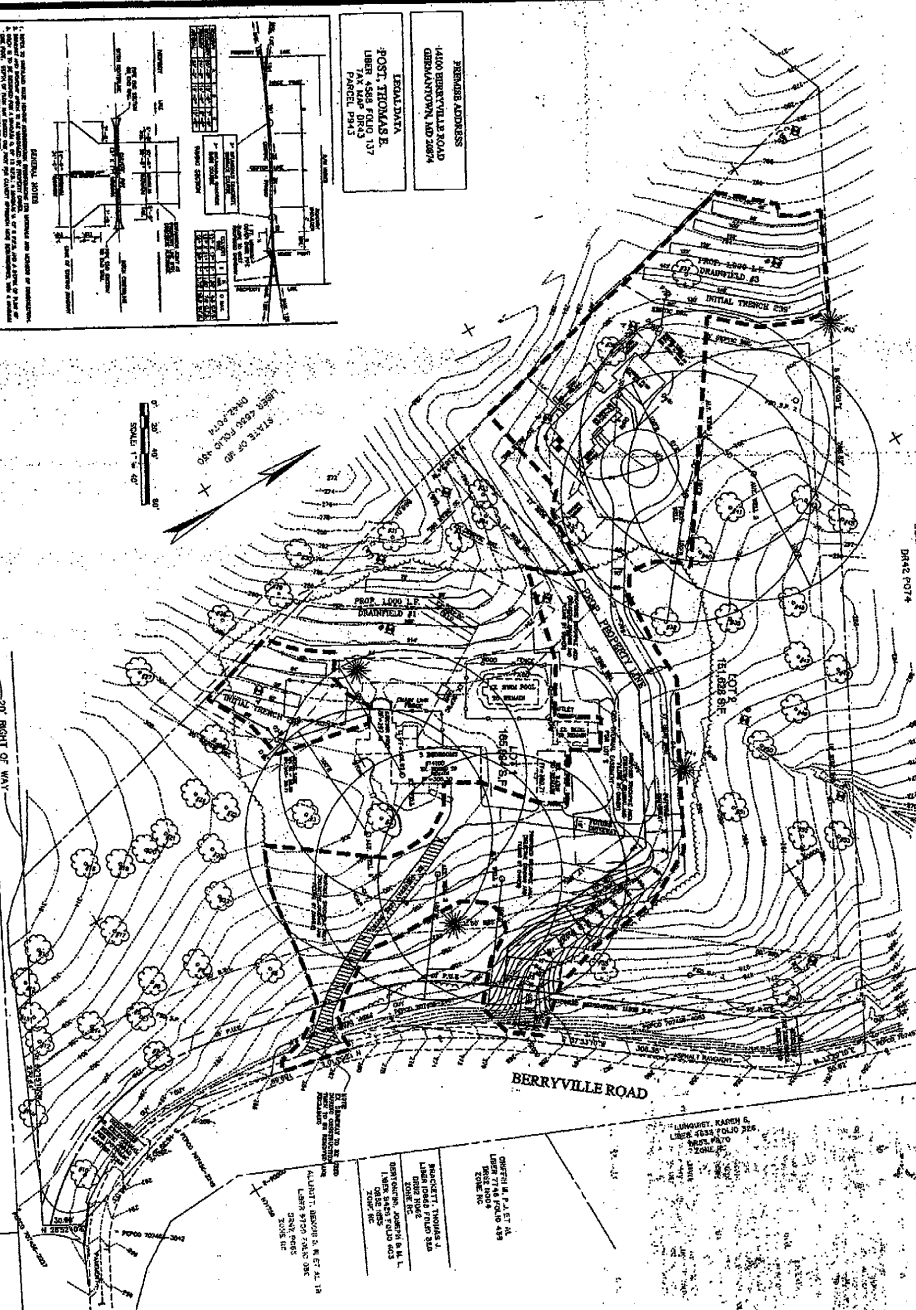
STATE OF MD
 LIBERTY ROAD FOLIO 52
 DIME 2074

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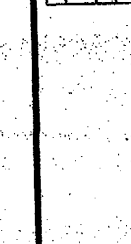
STATE OF MD
 LIBERTY ROAD FOLIO 52
 DIME 2074

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 LIBERTY ROAD FOLIO 52
 DIME 2074



PROPERTY ADDRESS:
 1400 BERRYVILLE ROAD
 CERMANTOWN, MD 20874

DESIGNER:
 POST THOMAS E.
 1400 BERRYVILLE ROAD
 CERMANTOWN, MD 20874



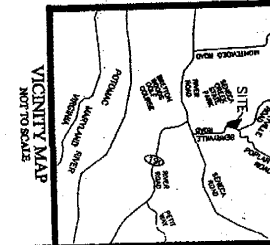
30' RIGHT OF WAY
 ABERCROMBIE OLLI & ANNA BEMOND
 LIBERTY ROAD FOLIO 52B
 ZONE RC

WALTER DAVID ET AL
 LIBERTY ROAD FOLIO 502
 ZONE RC

JACKSON WYNONA ET AL
 LIBERTY ROAD FOLIO 746
 DIME 2074
 ZONE RC

SHANNON BRADY & K.A.
 LIBERTY ROAD FOLIO 680
 DIME 2074
 ZONE RC

THESE NOTES SHALL BE READ IN CONJUNCTION WITH THE PRELIMINARY PLAN AND THE RECORD DRAWINGS FOR THIS PROJECT. THE NOTES SHALL BE READ IN CONJUNCTION WITH THE PRELIMINARY PLAN AND THE RECORD DRAWINGS FOR THIS PROJECT. THE NOTES SHALL BE READ IN CONJUNCTION WITH THE PRELIMINARY PLAN AND THE RECORD DRAWINGS FOR THIS PROJECT.



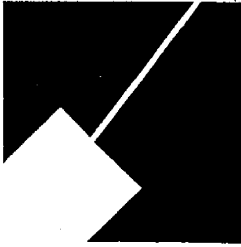
PRELIMINARY PLAN
THOMAS E. POST PROPERTY
 DARNESTOWN (6TH) ELECTION DISTRICT

OWNER:
 THOMAS E. POST
 1400 BERRYVILLE ROAD
 CERMANTOWN MD 20874

DATE: 1/11/2004
 SCALE: 1"=40'
 ZONE: RC

Dewberry
 203 Perry Parkway, Suite 1
 Gaithersburg, MD 20877-2169
 301.948.8346 FAX 301.258.7607
 www.dewberry.com

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

Board Approval Date: July 07, 2005

Date Mailed: AUG 12 2005

**Action: Approved Staff
Recommendation**

**Motion of Commissioner Bryant,
seconded by Commissioner Robinson,
with a vote of 4-0-1;
Chairman Berlage and Commissioners
Bryant, Perdue, and Robinson voting in
favor. Commissioner Wellington, who
was not present until the end of
deliberations, abstained.**

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-05091

NAME OF PLAN: Post Subdivision

The date of this written opinion is **AUG 12 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).

On 4/22/05, the applicant, Thomas E. Post (“Applicant”), submitted an application for the approval of a preliminary plan of subdivision of property in the RC zone. The application proposed to create 2 lots on 7.29 acres of land located at on the west side of Berryville Road, approximately 300 feet south of the intersection with Poplar Hill Road, in the Potomac master plan area. The application was designated Preliminary Plan 1-05091.

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 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, prior to the Board's action following the public hearing; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the public hearing.

THE SUBJECT PROPERTY

Parcel 943 ("Subject Property") is located on the west side of Berryville Road, approximately 300 feet south of the intersection with Poplar Hill Road. A one-family detached dwelling, pool and accessory structures currently exist on the Subject Property and will remain. Seneca Creek State Park abuts the Subject Site on the north and west. The site is zoned Rural Cluster (RC) and contains 7.29 acres.

PROJECT DESCRIPTION

Applicant proposed to create two (2) lots, one of which will be conveyed to a child of the property owner. Generally, the lots in the RC zone require a minimum of 5 acres. However, under Section 59-C-9.73 (b)(4) of the Zoning Ordinance, certain lots may be exempted from the minimum area and dimensional requirements provided that they are conveyed to a child of the property owner and meet the requirements of the zone applicable to them prior to their classification in the Rural Cluster zone. The provision reads as follows:

- b) The following lots are exempted from the area and 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 Cluster Zone or Low Density Rural Cluster Zone:
 - 4) A lot created for use for a one-family residence by a child, or the spouse of a child, of the property owner, provided that the following conditions are met:
 - i. The property owner can establish that he had legal title on or before the approval date of the most recent sectional map amendment that included the lot; and
 - ii. This provision applies to only one such lot for each child of the property owner

Prior to its reclassification to RC zone, the Subject Property was zoned RE-2, which requires a minimum lot size of 2 acres. The proposed Lot 1 contains 3.81 ac. (165,994 s.f.) and the proposed Lot 2 contains 3.48 ac. (151,628 s.f.). Additionally, an affidavit attesting to the child as the recipient of the proposed Lot 2 and a copy of the deed

documenting that the property owner had legal title prior to the establishment of the RC Zone were provided as part of the application. As such, the preliminary plan complies with Section 59-C-9.73 (b)(4).

Private wells and standard private septic will serve the site. An existing driveway depicted on the preliminary plan to be used during construction is proposed to be removed upon completion of the project. One shared driveway is proposed to provide access to both of the proposed lots.

PUBLIC HEARING TESTIMONY

On 7/07/05, Preliminary Plan 1-05091 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. Staff presented the application to the Board and provided revised conditions of approval for the Board's consideration. The Applicant's engineer testified on behalf of the Applicant and advised the Board that the Applicant concurred with the Staff recommendation and all conditions of approval, as revised. No testimony was presented in opposition to the application.

FINDINGS

Having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopt and incorporate by reference; the recommendations of the applicable public agencies¹; 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 that:

- a) Preliminary Plan No. 1-05091 substantially conforms to the Potomac master plan.
- 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.

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.

- d) The application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A. This finding is subject to the applicable condition(s) of approval.
- 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) The Record of this application contains only the following contested issue:

The record of the case includes a letter dated April 27, 2005, from the Resource Planning Division of the Maryland Department of Natural Resources ("DNR") expressing DNR's concern with the proposed location of the septic drainfields. The DNR stated its view that the construction and operation of those septic fields would harm and eventually kill trees and other vegetation in the adjoining Seneca Creek State Park. The DNR requested that the septic fields be located in other areas of the planned lots. Responding to DNR's above concerns, Staff advised the Board in its Staff Report that topographical constraints of the Subject Property, including highly erodible soils and steep slopes, limited the options for locating the septic fields. Moreover, Staff advised the Board that the plans reviewed by the DNR delineated the extent of both initial and reserve septic fields. In Environmental Planning Staff's view, any initial tree impacts would be minimal and further extension of the septic fields may not be necessary for many years. The Board finds that the evidence of record supports Staff's conclusion that the options for location of the septic fields are limited by the topography and that the locations proposed are reasonable.

The Board further finds that any objection (concerning a substantive issue) that was not raised prior to the closing of the Record is waived.

CONDITIONS OF APPROVAL

Finding Preliminary Plan No. 1-05091 in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 1-05091, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to two (2) lots.
- 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 MCDPS issuance of sediment and erosion control permits.

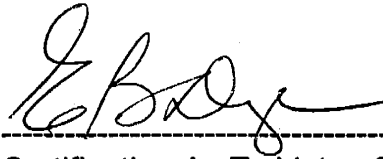
- 3) Record plat to reflect common ingress/egress and utility easements.
- 4) Compliance with the conditions of the MCDPS stormwater management approval dated January 20, 2005.
- 5) Compliance with conditions of the MCDPS (Health Dept.) septic approval letter dated June 22, 2005.
- 6) Compliance with conditions of MCDPWT letter dated, June 24, 2005 unless otherwise amended.
- 7) One shared driveway access will be provided to the property.
- 8) Record plat to reference that Lot 2 is being created under Section 59-C-9.73 for the use as a single-family residence only by the child or spouse of a child of the property owner. Applicant to provide signed "kiddie lot" affidavit with record plat application for the subject lots. Include note identifying specific child lots on record plat.
- 9) Other necessary easements.

This Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended). Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed.

APPROVED AS TO LEGAL SUFFICIENCY
LAB
M-NCPPC LEGAL DEPARTMENT
DATE 7/22/05

CERTIFICATION OF BOARD VOTE ADOPTING OPINION

At its regular meeting, held on Thursday July 28, 2005, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on the motion of Commissioner Bryant, seconded by Commissioner Robinson, with Chairman Berlage, Vice Chair Perdue, and Commissioners Bryant 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 Post Subdivision, Preliminary Plan No. 1-05091. Commissioner Wellington abstained.



Certification As To Vote of Adoption
Technical Writer

The following record plat is recommended for APPROVAL, subject to the appropriate conditions of approval of the preliminary plans and site plans if applicable, and conditioned on conformance with all requirements of Chapter 50 of the Montgomery County Code.

PLAT NO. 220060710

Boyds Farm Estates

South side of Barnesville Road (Route 117), approximately 2000 feet west of Clarksburg Road

RE-1 Zone, 1 Lot

Private Well, Private Septic

Master Plan Area: Boyds

Wolf's Cow, LLC, 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. 120050690 formerly 1-05069, 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.