MEMORANDUM

DATE: March 21, 2006

TO: Montgomery County Planning Board

FROM: Catherine Conlon, Supervisor
Development Review Division
(301) 495-4542

SUBJECT: Informational Maps and Summary of Record Plats for the Planning Board Agenda for May 4, 2006

The following record plats are 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. Attached are specific recommendations and copies of plat drawings for the record plats. Four of the plats depict creation of lots through the minor subdivision process. The other plat is associated with a Preliminary Plan approval and the approved plan is attached.
RECORD PLAT REVIEW SHEET

Plan Name: Bryant Nursing Ed  
Plat Name: Bryant Nursing Ed  
Plat Submission Date: 2/27/06  
DRD Plat Reviewer:  
DRD Prelim Plan Reviewer: Dolores Kinney

Initial DRD Review:
Signed Preliminary Plan – Date 1/3/06  
Planning Board Opinion – Date 1/30/06  
Site Plan Req’d for Development? Yes  
Site Plan Signature Set – Date  
Site Plan Reviewer Plat Approval: Checked: Initial  
Review Items: Lot # & Layout  
Coordinates  
Lot Area  
Zoning  
Plan #  
Road/Alley Widths  
Bearsings & Distances  
Easements  
Open Space  
Non-standard BRLS  
Adjoining Land  
Vicinity Map  
Septic/Wells  
TDR note  
Child Lot note  
Surveyor Cert  
Owner Cert  
Tax Map  

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Final DRD Review:
DRD Review Complete:  
(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:
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:  
Sent to Courthouse for Recordation:  

Initial Date  
Final Date  

PLAT NO. 22006175

Mytsak Manor
Located on the south side of Norbeck Road approximately 100 feet east of Old Orchard Road
RE-2 Zone, 2 Lots
Private Well, Private Septic
Master Plan Area: Cloverly
Vasyl Mytsak, Applicant

The record plats have been reviewed by MNCPPC staff and other applicable agencies as documented on the attached Plat Review Checklist. Staff has determined that the plats comply with Preliminary Plan No. 120050760, formerly 1-05076, 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.
MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 120050760 (formerly 1-05076)
NAME OF PLAN: Bryants Nursery Road

The date of this written opinion is JAN 27 2006 (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 3/07/05, Vasyl Mystak ("Applicant") submitted an application for the approval of a preliminary plan of subdivision of property in the RE-2 zone. The application proposed to create 2 lots on 8.05 acres of land located on the northwest side of Bryants Nursery Road, approximately 1,750 feet northeast of the intersection with Norwood Road (MD 182), in the Cloverly Master Plan Area. The application was designated Preliminary Plan 120050760 formerly 1-05076. On 11/10/05, Preliminary Plan 120050760 formerly 1-05076 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 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.

PUBLIC HEARING TESTIMONY

Staff recommended approval of the application, subject to conditions, in its memorandum dated November 4, 2005 ("Staff Report"). At the public hearing, Staff presented testimony reflecting the findings contained in the Staff Report. The Applicant appeared at the public hearing and advised the Board that he supported the Staff recommendation. No other testimony was received on the application and the record contains no correspondence or other evidence submitted in opposition to the application.

FINDINGS

Having given full consideration to the recommendations of its Staff; 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 based upon the uncontested evidence of record that:

a) The Preliminary Plan No. 120050760 formerly 1-05076 substantially conforms to the Cloverly 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 does not contain any contested issues; and, therefore, the Planning Board finds that any future objection, which may be raised concerning a substantive issue in this application, is waived.

CONDITIONS OF APPROVAL

Finding Preliminary Plan No. 120050760 formerly 1-05076 in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 120050760 formerly 1-05076, subject to the following conditions:

1) Approval under this preliminary plan is limited to two (2) residential lots for the construction of two (2) one-family detached dwelling units.

2) Compliance with the conditions of approval for 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. Final forest conservation plan to include the following:

   a. Layout of subdivision to show a shared driveway, as shown on the preliminary plan.

   b. Detailed tree protection plan to show which trees may be protected and which trees will be cleared on the southeastern portion of proposed Lot 1.

   c. SHA reservation areas to include a Category I Conservation Easement. If SHA acquires either of the reservation areas, the conservation easement on that area will be extinguished.

3) Record plat to reflect a Category I easement over all areas of environmental buffers and forest conservation.
4) Record plat to reflect common ingress/egress and utility easements over all shared driveways.

5) Access and improvements as required to be approved by MDSHA prior to issuance of access permits.

6) Record plat to indicate that access is denied from Norbeck Road.

7) As requested per attached Maryland State Highway Administration (SHA) letter dated May 27, 2005 (see Attachment No. 1):
   a. Intercounty Connector (ICC) Corridor 2 Alignment - The applicant shall place in reservation the area shown on Attachment No. 2 ("Reservation Area A") until earlier of (a) February 1, 2006; or (b) a final Record of Decision that is issued by the Federal Highway Administration (FHWA) for the ICC and that Record of Decision does not include Reservation Area A, or any portions thereof within the final ICC alignment.
   b. Norbeck Road Extended - The applicant shall place in reservation the area shown on Attachment No. 2 ("Reservation Area B") until a final Record of Decision for the MD 28/MD 198 Corridor Improvement Study is issued by the FHWA, and that Record of Decision does not include Reservation Area B, or any portions thereof within the final Norbeck Road Extended/MD 28/MD 198 alignment.

8) At least 90 days prior to submission of any building construction permit for the subject development, the applicant shall provide a certified written notice to the SHA, Engineering Access Permits, Division Office of Highway Development of applicant's intent to proceed forward with the proposed development on the site. The applicant shall concurrently send a copy of this letter to Maryland-National Capital Park and Planning Commission. C/o Chief, Transportation Planning.

9) The applicant shall locate all site improvements outside of Reservation Areas A and B until the ICC and/or Norbeck Road Extended/MD 28/MD 198 reservation requirements (per condition above) are met.

10) If applicable, the final record plat shall delineate both Reservation Area A and Reservation Area B. The extent of respective reservation shown on the final record plat shall conform to those limits requested/identified by SHA per Attachment No. and Attachment No. 2.

11) Consistent with the 1997 Approved and Adopted Cloverly Master Plan, dedicate and show on the final record plat right-of-way along Bryants Nursery Road that
provides for a minimum of either 35 feet from the roadway centerline, or 70 feet from the opposite roadway right-of-way line.

12) The development shall be served by a single shared access driveway off Bryants Nursery Road.

13) The applicant shall resolve all outstanding issues and satisfy all conditions/comments pertaining to SHA and Montgomery County Department of Public Works and Transportation (DPWT) review of this preliminary plan prior to the final record plat, and shall provide written notification to both the Development Review Division and the Transportation Planning staff that all outstanding issues are resolved.

14) Compliance with conditions of MCDPWT letter dated, October 25, 2005 unless otherwise amended.

15) Compliance with the conditions of the MCDPS stormwater management approval dated April 20, 2005.

16) Compliance with conditions of the MCDPS (Health Dept.) septic approval dated October 20, 2005.

17) 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.

*   *   *   *   *   *   *   *   *   *   *   *   *   *   *

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]
CERTIFICATION OF BOARD VOTE ADOPTING OPINION

At its regular meeting, held on Thursday, January 19, 2006, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, by unanimous consent, 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 Bryants Nursery Road, Preliminary Plan 120050760 (formerly 1-05076).

[Signature]
Certification As To Vote of Adoption
Technical Writer
PLAT NO. 22006142

R.T. Schaeffer Farm
Located on the southeast of Piedmont Road approximately 1,200 feet west of Hawkes Road
RC Zone, 2 Lots
Community Water, Private Septic
Master Plan Area: Clarksburg & Vicinity
Kembridge LC, Applicant

Staff recommends approval of this minor subdivision plat pursuant to section 50-35A (a)(2) of the Subdivision Regulations, which states:

Conversion of an Outlot into a Lot. An outlot may be converted into a lot under the minor subdivision procedures provide:

a. The outlot is not required open space or otherwise constrained so as to prevent it being converted into a building lot;
b. There is adequate sewerage and water service to the property, which may be either public service and/or approved private septic system/private well;
c. All applicable requirements and/or agreements that may be relevant, in accordance with provisions for adequate public facilities, as contained in Section 50-35(k) and the Annual Growth Policy, are satisfied prior to recordation of the plat;
d. All applicable conditions and/or agreements applicable to the original subdivision approval creating the outlot will also apply to the new lot. The conditions and agreements may include, but are not limited to, any adequate public facilities agreement or building restriction lines; and
e. If the outlot is located within a special protection area, as shown on an approved and adopted master plan, all applicable special protection area requirements and guidelines, including the approval of a water quality plan, are satisfied prior to recordation of the plat.

An outlot may be incorporated into an adjoining lot resulting in a larger lot without having to satisfy Subsections (a) and (b) above.

Staff applied the above-noted minor subdivision criteria for these Outlots (previously known as Outlot A and Outlot B) and concludes that the proposed minor subdivision complies with the criteria of Section 50-35A (a)(2) of the subdivision regulations and supports this minor subdivision record plat.
SURVEYOR'S CERTIFICATION

I hereby certify that the plat shown herein is correct, that it is a subdivision of part of the land described in a deed from Carl Boyd Mullins to Kensington LC, a Virginia Limited Liability Company, dated December 17, 2003, and recorded in Liber 5500, page 730, and is being a subdivision of Lots 22 & 25 as shown on plat entitled R.T. Schaeffer Farm and recorded at plat 23279 among the land records of Montgomery County, Maryland. Further, I certify that, once executed as described in the owner's certification herein, all measurements and all property lines and other boundaries herein will be set as delineated herein in accordance with the provisions of Section 50-24(a) of Montgomery County Code.

The total area included on this plat is 4.702 acres of land of which there is no dedication.

DATE
THOMAS A. MADDOX - Registered Professional Land Surveyor MD #105059

OWNER'S CERTIFICATION

The undersigned, owner of the property shown herein, hereby certifies that all measurements and property lines and other boundaries herein will be set as delineated herein in accordance with the provisions of Section 50-24(a) of Montgomery County Code.

KENSINGTON LC, A Virginia Limited Liability Company

Witness
John M. Clark - Manager

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NOTES
1. PROPERTY ZONED R.
2. THIS PLAT SUBJECT TO BYE, CONDITIONS AS REQUIRED BY PRELIMINARY PLAN, NO. X-263, ENTITLED R.T. SCHAEFFER FARM, APPROVED ON 10/04. ENTITLED R.T. SCHAEFFER PROPERTY ANY PROPOSED CHANGES IN USE WILL REQUIRE FURTHER PLAN K B OARD REVIEW AND APPROVAL.
3. THIS PROPERTY SUBJECT TO THE REQUIREMENTS OF THE MONTGOMERY COUNTY FOREST CONSERVATION LAW OF 1986, INCLUDING APPROVAL OF A FINAL FOREST CONSERVATION PLAN AND APPROPRIATE AGREEMENTS PRIOR TO BEGIVEN OF A SEASONAL CONTROL PERMIT.
4. ALL TERMS, CONDITIONS, AGREEMENTS, LIMITATIONS, AND REQUIREMENTS ASSOCIATED WITH ANY PRELIMINARY PLAN, SITE PLAN, PROJECT PLAN, OR OTHER PLAN ALLOWING DEVELOPMENT OF THE PROPERTY, APPROVED BY THE MONTGOMERY COUNTY PLANNING BOARD ARE INCLUDED TO BE IN FORCE AND EFFECT AT THE TIME OF THE PLAN APPROVAL AND ARE AVAILABLE FOR PUBLIC VIEWING DURING NORMAL BUSINESS HOURS.
5. THIS PLAT IS NOT INTENDED TO SHOW EVERY MATTER AFFECTING OR RESTRICTING THE CHAIN OF TITLE AND USE OF THE PROPERTY. THIS PLAT IS NOT INTENDED TO REPLACE AN EXAMINATION OF TITLE OR TO DEPICT OR NOTE ALL MATTERS AFFECTING TITLE.
6. PROPERTY FORMED ON MONTGOMERY COUNTY TAX MAP PAGES 187334 & 18733367.
7. DATE OF THIS PLAN IS 10/04.
8. THIS PLAN IS PREPARED BASED ON THE ACCURACY AND AVAILABILITY OF PUBLIC WATER AND PRIVATE SEPTIC.
9. LOTS 24 & 25 ARE APPROVED FOR A BEDROOM HOME.
10. THIS PROPERTY SUBJECT TO A COVENANT BETWEEN THE OWNER AND MONTGOMERY COUNTY, MARYLAND FOR THE OPERATION AND MAINTENANCE OF PRIVATE STORM DRAIN SYSTEMS ARISING OUT OF THE USE OF THE SITE.
11. SEPTIC BUILDING RESTRICTION LINES ARE SUBJECT TO CHANGE WITH MONTGOMERY COUNTY DEPARTMENT OF PERMITTING SERVICES APPROVAL.

SUBDIVISION RECORD PLAT
LOTS 24 & 25
R.T. SCHAEFFER FARM
A RESUBDIVISION OF
OUTLOTS A & B
ELECTION DISTRICT 2
MONTGOMERY COUNTY, MARYLAND
SCALE 1" = 100' JANUARY 2006

THOMAS A. MADDOX
REGISTERED PROFESSIONAL LAND SURVEYOR
9203 SHADY GROVE COURT
GATEWAY RD., MARYLAND 20877
(301) 994-8004
PLAT NO. 22006145

Airpark Apartments
Located on Snouffer School Road approximately 50 feet south of Centerway Road
I-4 Zone, 1 Lot
Community Water, Community Sewer
Master Plan Area: Gaithersburg & Vicinity
Airpark Apartments Limited Partnership, Applicant

Staff recommends approval of this minor subdivision plat pursuant to section 50-35A(5) of the Subdivision Regulations, which states:

Plat of Correction. A plat may be recorded under the minor subdivision procedure to correct inaccurate or incomplete information shown on a previously recorded subdivision plat. The plat may correct drafting or dimensional errors on the drawing; failure to include a required note, dedication, easement or other restriction; incorrect or omitted signatures; and/or other information normally required to be shown on a recorded plat. All owners and trustees or the land affected by the correction must sign the revised plat. In addition, the plat of correction must clearly identify the original plat that is being replaced and contain a note identifying the nature of the correction.

In this case, the plat is being corrected to add forest conservation areas to a previously recorded plat.
PLAT NO. 22006155

Fox Hill
Located on the northeast quadrant of River Road (MD 190) and US Interstate (I-495)
R-200 Zone, 1 Lot
Community Water, Community Sewer
Master Plan Area: Bethesda-Chevy Chase
Sunrise Bethesda, SL, LLC, Applicant

Staff recommends approval of this minor subdivision plat pursuant to section 50-35A (a)(5) of the Subdivision Regulations, which states:

Plat of Correction. A plat may be recorded under the minor subdivision procedure to correct inaccurate or incomplete information shown on a previously recorded subdivision plat. The plat may correct drafting or dimensional errors on the drawing; failure to include a required note, dedication, easement or other restriction; incorrect or omitted signatures; and/or other information normally required to be shown on a recorded plat. All owners and trustees or the land affected by the correction must sign the revised plat. In addition, the plat of correction must clearly identify the original plat that is being replaced and contain a note identifying the nature of the correction.

In this case, the plat is being corrected to show the accurate categories of forest conservation easements.
PLAT NO. 22006199

Wheel of Fortune
Located on the east side of Seven Locks Road, between Wootton Parkway and Montrose Road
I-3 Zone, 6 Lots
Community Water, Community Sewer
Master Plan Area: Potomac
FP Homes Associates Limited Partnership, Applicant

Staff recommends approval of this minor subdivision plat pursuant to section 50-35A (a)(5) of the Subdivision Regulations, which states:

Plat of Correction. A plat may be recorded under the minor subdivision procedure to correct inaccurate or incomplete information shown on a previously recorded subdivision plat. The plat may correct drafting or dimensional errors on the drawing; failure to include a required note, dedication, easement or other restriction; incorrect or omitted signatures; and/or other information normally required to be shown on a recorded plat. All owners and trustees or the land affected by the correction must sign the revised plat. In addition, the plat of correction must clearly identify the original plat that is being replaced and contain a note identifying the nature of the correction.

In this case, the plat is being corrected for dimensional errors and adjusts interior lot lines to be in conformance with the amended site plan.