

## **ATTACHMENT B**





## **ATTACHMENT C**

COPY  
*Original Filed*

LAW OFFICES

**BUDOW AND NOBLE, P.C.**

SUITE 500 WEST, AIR RIGHTS CENTER  
7315 WISCONSIN AVENUE  
BETHESDA, MARYLAND 20814-3206

(301) 654-0896  
FAX (301) 907-9591  
EMAIL: [info@budownoble.com](mailto:info@budownoble.com)

HOWARD COUNTY OFFICE  
Executive Center II  
3290 North Ridge Road, Suite 210  
ELLICOTT CITY, MARYLAND 21043  
(410) 461-3322

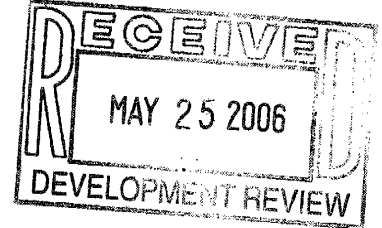
PRACTICING IN MARYLAND  
AND THE DISTRICT OF COLUMBIA

ALLAN A. NOBLE  
MICHAEL J. BUDOW  
RICHARD E. SCHIMEL  
WALTER E. GILLCRIST, JR.  
ANNE KELLEY HOWARD  
J. CHARLES SZCZESNY  
LAURA BASEM JACOBS  
\*MELISSA D. MCNAIR  
\*HOWARD R. MEINSTER  
LEA C. MEYER  
ANDREW T. REZENDES

\*MARYLAND ONLY

May 23, 2006

Mr. Derick Berlage  
Chairman of Maryland NCPPC Dept. of Park and Planning  
8787 Georgia Avenue  
Silver Spring, Maryland 20910



Re: Preliminary Plan of Subdivision 12050740  
Hilltop Farms Limited Partnership

Dear Mr. Berlage:

My wife Kathy and I are landowners in Boyds, Maryland. Our property abuts the property owned by Hilltop Farms Limited Partnership. I recently had an opportunity to meet with Richard Weaver of Development Review and inspect the file. What I saw is of great concern to me and to my neighbors. There is a substantial amount of opposition to this development plan. I would appreciate it if the Commission and the Development Review staff were to keep me fully advised as to each and every step in this application process. Moreover, I specifically request that any hearing in this matter be scheduled in the evening with ample advance notice to all concerned, including all landowners in the Boyds area.

Let me repeat that this whole process is of great concern to us and we are strongly opposed to the development of this property. I should appreciate an acknowledgment of receipt of this letter and specific confirmation that we will be kept informed of all steps in this process.

Very truly yours,

A handwritten signature in black ink, appearing to read "Allan A. Noble".  
Allan A. Noble

AAN/cle

cc: Cathy Conlon, Supervisor, Development review

Richard Weaver  
Peter Eeg

J:\AAN\Hilltop Farms\BerlageLtr(5-18-06).wpd

## **ATTACHMENT D**

*Alvin Dave Crowl  
5/16/06  
Call*



DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan  
County Executive

Robert C. Hubbard  
Director

MEMORANDUM

May 11, 2006

TO: Ms. Cathy Conlon, Development Review,  
Maryland National Capital Park and Planning Commission

FROM: Robert Hubbard, Director  
Department of Permitting Services

SUBJECT: Status of Preliminary Plan: #1-05074, Hilltop Farms, 8 lots

This is to notify you that the status of the plan received in this office on May 10, 2006, is as follows:

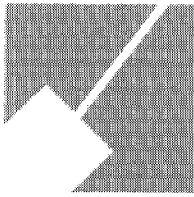
Approved with the following reservations:

1. The record plat must be at the same scale as the preliminary plan, or submit an enlargement of the plat to match the preliminary plan.
2. All septic easements must be shown on the record plat as they are shown on the preliminary plan.
3. For lot 7, the stream crossing by the septic force-main will require separate approval of the State of Maryland and MCDPS-Water Resources Section.
4. The unused hand-dug well on Lot 8 is to be properly sealed, under the direct supervision of the Well & Septic Inspector-prior to the approval of the record plat.

If you have any questions, contact Gene von Gunten at (240) 777-6319.

cc: Owner  
Surveyor  
File





**THE MARYLAND-NATIONAL CAPITAL PARK AND  
PLANNING COMMISSION**

Department of Park & Planning, Montgomery County, Maryland  
8787 Georgia Avenue, Silver Spring, Maryland 20910

**MEMORANDUM**

TO: Cathy Conlon, Supervisor, Development Review

FROM: Mark Pfefferle, Planner Coordinator, Environmental Planning Division *MP*

DATE: March 8, 2006  
May 16, 2006 (Revised)

SUBJECT: Preliminary Plan of Subdivision 12050740  
Hilltop Farm

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The Environmental Planning staff has reviewed the preliminary plan referenced above. Staff recommends approval of the preliminary plan of subdivision with the following conditions:

1. Compliance with the conditions of approval of the preliminary forest conservation plan dated February 28, 2006.
2. Applicant to develop and begin implementing an invasive management control program for all areas included in the proposed forest conservation easement before any forest conservation bank credits can be used.
3. Applicant to directional bore the septic line under the stream between lot 7 and the lot 7 septic areas.

**BACKGROUND**

The 232-acre site is east of Barnesville and located between Peach Tree, West Old Baltimore, Slidell and Barnesville Roads. The majority of the subject property is farmland. Areas not farmed are unsuitable for crops. The property includes 44.2 acres of environmental buffer. Included in the environmental buffer is 15 acres of forest, 30 acres of floodplains, and 12 acres of wetlands. There is 55 acres of existing forest on-site. Currently, there is one residence and associated farm buildings on the subject property. The plan submitted retains the existing structures and farming operations. The property is currently accessed through 21800 Slidell Road. The Bucklodge Branch, part of the Little Seneca Creek watershed crosses through the subject site. The entire property is classified as a Use I stream by the State of Maryland. The property is zoned RDT.

**Environmental Buffers**

The applicant submitted a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) for the subject property. The NRI/FSD identifies and characterizes the existing environmental conditions on the subject property. NRI/FSD 4-05155 was approved on February 15, 2005. The site includes 44.2 acres of environmental buffers, 30 acres of flood plain and 12 acres of wetlands. These



environmental sensitive are associated with the Bucklodge Branch, which traverses the property. The preliminary plan of subdivision shows one encroachment into an environmental buffer. This encroachment is necessary to run a septic line from proposed lot 7 to the designated septic area that is across the stream and outside of the stream buffer. Environmental Planning requested the applicant to relocate the septic area for proposed lot 7 so that a stream crossing would not be necessary. The applicant contracted with an individual that conducts many percolation tests in Montgomery County to conduct three preliminary percolation tests on the land near lot 7. The results of these preliminary tests indicate rock from 6-14 feet at the first test location, rock from 3-10 feet at the second test location, and rock from 1-10 feet at the third location. In addition, the individual indicates that the area is too steep for sand mound testing. Based on slopes, soils data, and failed septic percolation tests a suitable septic area could not be found on the same side of the stream as lot 7. Environmental Planning concluded that the septic on the opposite side of the stream would be appropriate only if the septic line was put under the stream and no disruption of the stream occurs. Installation of the stream crossing would not involve any forest removal since the area in which the septic line is shown on the plans does not include forest and is overgrown with invasive plants.

### **Forest Conservation**

The applicant submitted a preliminary forest conservation plan as part of the preliminary plan of subdivision. Under section 22A-12(f) of the Montgomery County code properties in agricultural resource areas must plant or retain a certain percentage of the forest onsite. Section 22A-5(b) of the Montgomery County Code allows exemptions from the forest conservation requirements for properties that commit to continue commercial agriculture. All but 26 acres of the 232-acre site is exempt from forest conservation. On the remaining 26 acres of property there are no existing forest or environmental buffers. The applicant will meet the afforestation threshold by preserving 10.4 acres of existing forest on the "exempt" portion of the property.

The applicant's preliminary forest conservation plan shows 58.18 acres of land on proposed lot 8 to be included into a category I forest conservation easement. This area includes existing forests within and outside the approved environmental buffers and unforested portions of environmental buffers. It is the applicant's intent to create a forest conservation bank within this easement area. The area included in the forest conservation bank includes 53.35 acres of existing forest and 4.83 acres of unforested areas. Environmental Planning acknowledges the presence of invasive plants in some of the forest stands identified the NRI/FSD. Environmental Planning requests a condition of approval requiring the applicant to develop and begin implementing an invasive management control plan on all areas included in the proposed forest conservation easement area before any forest conservation bank credits can be used.

### **STAFF RECOMMENDATION**

Environmental Planning recommends approval of the preliminary plan of subdivision with the conditions stated above. Encroachments into the environmental buffers are minimized and limited to the installation of an underground septic line that is directionally bored underneath the stream. The plan complies with Chapter 22A of the Montgomery County code and will have approximately 48 acres available for forest banking purposes.



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## FIRE MARSHAL COMMENTS

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DATE: 2-6-06  
TO: PLANNING BOARD, MONTGOMERY COUNTY  
VIA:  
FROM: CAPTAIN JOHN FEISSNER 240.777.2436  
RE: APPROVAL OF - *HILLTOP FARMS #1-05074 REVISED 1-18-06*

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1. PLAN APPROVED.

- a. Review based only upon information contained on the plan submitted 2-6-06. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
- b. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

cc: Department of Permitting Services



## DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan  
County Executive

Robert C. Hubbard  
Director

March 30, 2005

Ms. Leanna McGarvey  
Macris, Hendricks and Glascock, P.A.  
9220 Wightman Road, Suite 120  
Montgomery Village, MD 20886-1279

Re: Stormwater Management **CONCEPT** Request  
for Hilltop Farm  
Preliminary Plan #: 1-05074  
SM File #: 216405  
Tract Size/Zone: 232.7 acres/RDT  
Total Concept Area: 10.7 acres  
Lots/Block: lots 1-7  
Parcel(s): 400 & 115  
Watershed: Little Seneca Creek

Dear Ms. McGarvey:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of on-site water quality control and onsite recharge via Rooftop and non-rooftop disconnect and grass channels. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cfs.

The following **items** will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. Use sheet flow wherever possible to treat runoff from the driveways.
6. An increase in imperviousness may require additional Stormwater Management requirements.

This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is not required.



This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact William Campbell at 240-777-6345.

Sincerely,



Richard R. Brush, Manager  
Water Resources Section  
Division of Land Development Services

RRB:dm

cc: R. Weaver  
S. Federline  
SM File # 216405

QN - less than 2cfs; Acres: 10.7  
QL - onsite; Acres: 10.7  
Recharge is provided



DEPARTMENT OF PUBLIC WORKS  
AND TRANSPORTATION

Douglas M. Duncan  
County Executive

Arthur Holmes, Jr.  
Director

May 8, 2006

Ms. Catherine Conlon, Subdivision Supervisor  
Development Review Division  
The Maryland-National Capital  
Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan #1-05074  
Hilltop Farms

Dear Ms. Conlon:

We have completed our review of the preliminary plan dated February 22, 2005. This plan was reviewed by the Development Review Committee at its meeting on March 28, 2005. We recommend approval of the plan subject to the following comments:

- All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to DPS in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.
1. Show all existing planimetric and topographic details (paving, storm drainage, driveways adjacent and opposite the site, sidewalks and/or bikeways, bus stops, utilities, etc.) as well as existing rights of way and easements on the preliminary plan. Remove the DPWT roadway standards from the drawing, as they are not applicable to this plan.
  2. Necessary dedication of West Old Baltimore Road, Slidell Road, and Barnesville Road in accordance with the master plan. Dedicate the necessary rights-of-way on all three road frontages, including a truncation at the intersection of West Old Baltimore and Slidell Roads.
  3. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.



Division of Operations

101 Orchard Ridge Drive, 2nd Floor • Gaithersburg, Maryland 20878  
240/777-6000, TTY 240/777-6013, FAX 240/777-6030

Ms. Catherine Conlon  
Preliminary Plan No. 1-05074  
May 8, 2006  
Page 2

4. Wells and septic systems cannot be located within the right of way nor slope or drainage easements.
5. West Old Baltimore Road is classified as an "Exceptional Rustic Road" under Section 49-78 of the Montgomery County Code. As such, every effort must be made to preserve the significant features within the right of way of that roadway.
6. Barnesville and Slidell Roads are classified as "Rustic Roads" under Section 49-78 of the Montgomery County Code. As such, every effort must be made to preserve the significant features within the right of way of that roadway.
7. Although we support conceptual approval of this plan, the locations of the proposed driveway aprons have not been approved at this time. Prior to approval of the record plat by the Department of Permitting Services, the applicant's consultant will need to stake out and pavement mark the proposed entrances – and – coordinate approval of the driveway locations with the Manager of the County's Rustic Roads Program, Ms. Sarah Navid of DPS. As a result, the number of entrances, their locations, and the limits of the proposed private common driveway easements are subject to adjustment at the record plat stage. The Sight Distances Evaluation Certification form may also need to be adjusted; it should be approved as part of that review.

The proposed private common driveway near the intersection of Slidell and West Old Baltimore Roads should be moved farther away from the intersection; it is too close to the intersection.

8. Record plat to reflect a reciprocal ingress, egress, and public utilities easement to serve the lots accessed by each common driveway.  
  
Private common driveways and private streets shall be determined through the subdivision process as part of the Planning Board's approval of a preliminary plan. The composition, typical section, horizontal alignment, profile, and drainage characteristics of private common driveways and private streets, beyond the public right-of-way, shall be approved by the Planning Board during their review of the preliminary plan.
9. Any relocation of existing utilities to accommodate the proposed development shall be the responsibility of the applicant.
10. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Fred Lees of our Traffic Control and Lighting Engineering Team at (240) 777-6000 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.

Ms. Catherine Conlon  
Preliminary Plan No. 1-05074  
May 8, 2006  
Page 3

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Sam Farhadi at (240) 777-6000 or [sam.farhadi@montgomerycountymd.gov](mailto:sam.farhadi@montgomerycountymd.gov).

Sincerely,



Gregory M. Leck, Manager  
Development Review Group  
Traffic Engineering and Operations Section

m:/subd/AST/1-05074 Hilltop Farms. gml revs

Enclosure

cc: Chuck Faller; Hilltop Farms Lt'd Partnership  
Dave Crowe; Macris, Hendricks & Glascock  
Richard Weaver; M-NCPPC DRD  
Shahriar Etemadi; M-NCPPC TP  
Joseph Y. Cheung; DPS RWPPR  
Christina Contreras; DPS RWPPR  
Sarah Navid; DPS RWPPR



AGRICULTURAL PRESERVATION ADVISORY BOARD

January 30, 2006

Mr. Charles Faller  
Hilltop Farms Ltd Partnership  
5307 Randolph Road  
Rockville, Maryland 20852

Re: Request for Owners and Child lots – Hilltop Farms

Dear Mr. <sup>Chel</sup>Faller:

As you are aware, as Grantors of the Agricultural Preservation easement, the partnership has reserved the personal rights for an owner's lot as well as grant lots for the children of the partnership (the "Lots"). Under the terms of the recorded easement, you may only request a 1 acre lot; however if the Maryland National Capital Park and Planning Commission (MNCPPC) and the County's Department of Permitting Services (DPS) require a larger lot size to meet well and septic regulations, then a larger lot can be approved.

The Montgomery County Agricultural Preservation Advisory Board (APAB) reviewed your request to create the Lots on your 245 acre County Agricultural Easement property.

This letter acknowledges the approval from the APAB regarding the proposed location of the Lots as shown on your plan titled "Preliminary Plan of Subdivision Parcels 400 & 115 HILLTOP FARMS" drawn by Macris Hendricks & Glascock, P.A. dated 7/22/05 with the most current revision of 01/18/06. The APAB was very encouraged over your efforts to cluster these lots in close proximity to the property's boundary line. It is the opinion on the APAB that the proposed Lots will have a minimal impact on the agricultural operation.

The only issue that the APAB would like to note regards lot #7. As we understand the situation in order to accommodate the septic absorption field for this lot, that a septic easement will be necessary on the agricultural remainder that is encumbered by the agricultural easement. The agricultural preservation easement does allow for this type of overlay easement and will allow the use of a septic easement is necessary to obtain a final lot approval.

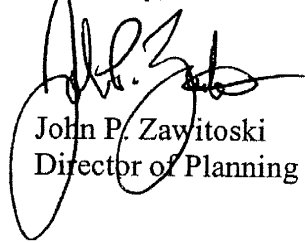


With receipt of this letter, you are hereby given permission to pursue approval of the Lots with the Department of Permitting Services (DPS) and Maryland National Capital Park and Planning Commission (MNCPPC). If these agencies require the size and or location of the Lots be changed significantly, the APAB reserves the right to reevaluate the new size and location. Attached is a copy of the lot location map provided by the landowner which shows the size and lot locations which are subject to the approval by the APAB. In addition, as part of our review of your County Easement Documents, we have determined that a sufficient number of TDRs have been retained and reserved for the Lots.

One last issue of importance, as you are aware, the Park and Planning Commission is in the process of studying the application of child lots in the agricultural reserve. It is likely there will be changes of how these lots may be approved and additional restrictions on their use may be applied. Since MNCPPC is the ultimate approving authority on subdivisions within the County, they may apply additional restrictions on these lots irrespective of the Agricultural Easement. At this time, the APAB is unsure if MNCPPC will require any additional restrictions on approval of these lots.

Thank you for your time and if you have any questions please call me at (301) 590-2831.

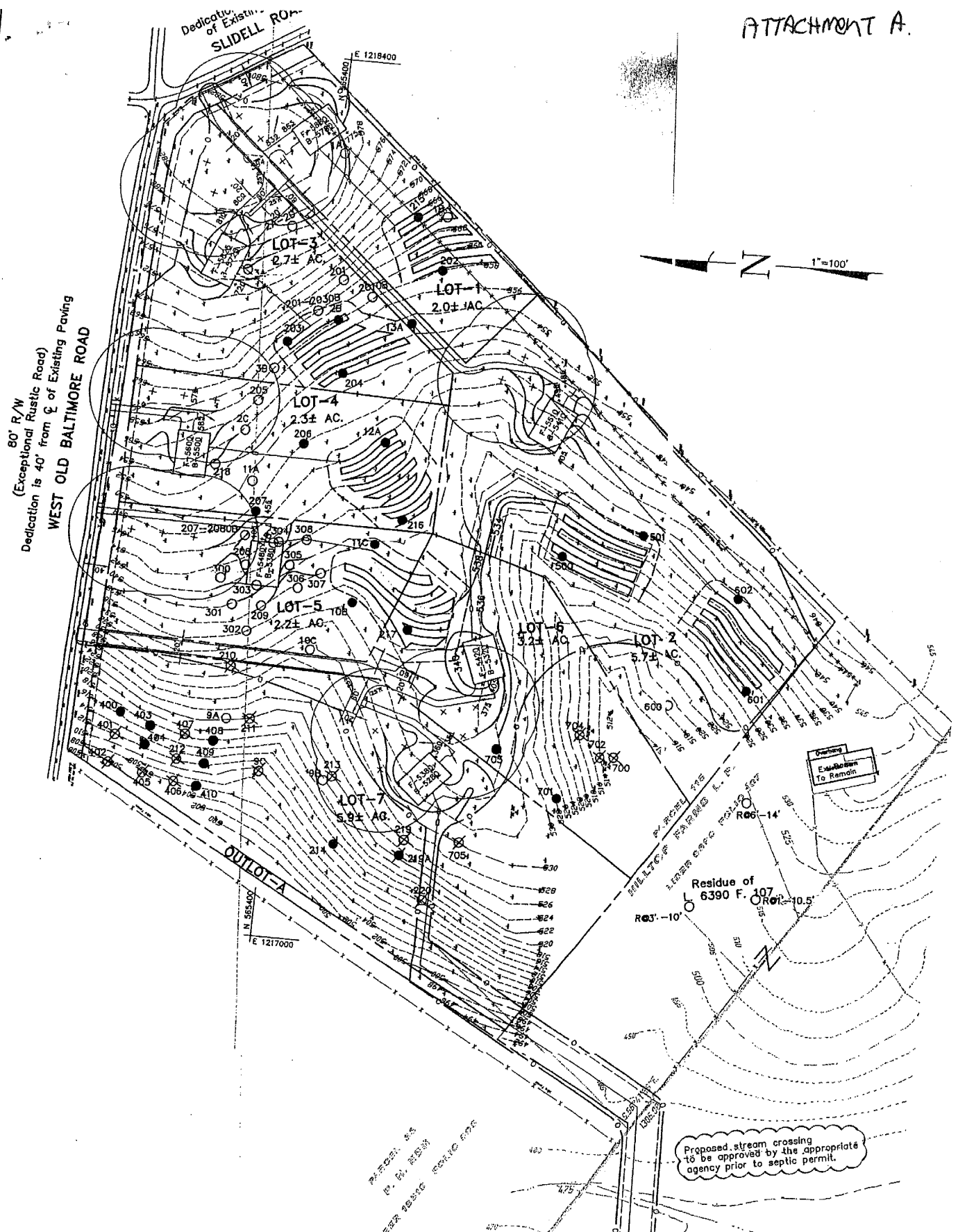
Sincerely,



John P. Zawitoski  
Director of Planning and Promotions

Attachment: Lot Size and Location Map

CC: Cathy Conlon, DRC  
Rich Weaver, DRC  
APAB File  
Landowner File



7/2/22, 25  
P. M. BISH  
LINDEN CREEK FARM L. E.



DEPARTMENT OF ECONOMIC DEVELOPMENT

Douglas M. Duncan, *County Executive* AGRICULTURAL PRESERVATION ADVISORY BOARD David W. Edgerley, *Director*

May 17, 2004

Mr. Charles Faller  
Hilltop Farms Ltd Partnership  
5307 Randolph Road  
Rockville, Maryland 20852

Re: Reserved Lots Hilltop Farm Property  
AEP File 2-92

Dear Mr. Faller:

Thank you very much for attending the Agricultural Preservation Advisory Board's (APAB) meeting on May 11, 2004. It was very helpful having you attend the meeting and providing information to the APAB regarding the Hilltop Farms Partnership's intentions for requested lot rights under its Agricultural Preservation Easement with Montgomery County.

As you know, the APAB is required by law to ensure that the lots being created will be for the exclusive use of the Partnership's owners and children. At the May 11th meeting, the APAB learned for the first time that the lot rights being requested by the Partnership are for the owners of the partnership, as well as the children of each owner. While this does not constitute a violation of the Easement, it does represent a change from the APAB's approval of February 17, 1999 which limited to the number of lots to 7 children's lots.

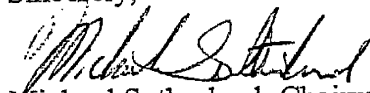
The APAB's policies and procedures provide for the review of reserved lot rights on a case by case basis. Given the new information that you provided and in light of troubling events enumerated by the APAB during the meeting, it is likely that the APAB will require that the Partnership obtain additional approvals for the lots intended for the use by the Partnership's owners.

To assist the APAB in making this determination, we request that you provide additional documentation, detailing who, among the Partnerships' children and owners, the intended lots are for. Also, as discussed at the meeting, the APAB would like the Partnership to consider, as an added assurance of its commitment to the Easement requirements, and as a matter of good faith, to agree to additional release language that would prohibit the transfer of each lot for a period of at least 5 years from the date of occupancy of any newly constructed single family dwelling, unless a short period is approved by the APAB/County; or unless a shorter period is necessary because of a transfer pursuant to a bona fide foreclosure of a mortgage or deed of trust or to a deed in lieu of foreclosure. Please discuss this issue with the Partnership and let us know what direction it is willing to take.

Mr. Charles Faller  
Hilltop Farms Ltd Partnership  
May 17, 2004  
Page 2.

Thank you once again for attending the May 11, 2004 meeting. The APAB looks forward to receiving the requested additional information in the near future.

Sincerely,



Michael Sutherland, Chairman  
Agricultural Preservation Advisory Board

cc: County Attorney's Office  
Jeremy V. Criss, DED  
APAB File



Robert L. Ehrlich, Jr., *Governor*  
Michael S. Steele, *Lt. Governor*

Robert L. Flanagan, *Secretary*  
Neil J. Pedersen, *Administrator*

Maryland Department of Transportation

March 31, 2005

Ms. Cathy Conlon  
Acting Supervisor Development Review  
Subdivision Division  
Maryland National Capital  
Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, MD 20910-3760

Re: Montgomery County  
MD 117 General  
Hilltop Farms  
File No. 1-05074

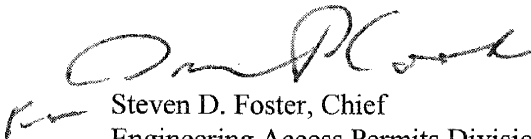
Dear Ms. Conlon:

The State Highway Administration (SHA) has reviewed the submitted preliminary plan application and offers the following comments at this time:

- Truncation and right-of-way dedication needs to be in accordance with the Master Plan of Highways. SHA will require that right-of-way dedications be platted using SHA standards. Please contact Mr. David Slavish of the Plats and Surveys Division @ 410-545-8937 for additional information. You may also e-mail Mr. Slavish at ([dslavish@sha.state.md.us](mailto:dslavish@sha.state.md.us)).
- The term "denied access" is to be placed on the final record plat along the property that abuts MD 117

If additional information is required from SHA regarding this project, please do not hesitate to contact Mr. Gregory Cooke at 410-545-5602 or Mr. John Borkowski at 410-545-5595, or by using our toll free number in Maryland only, 1-800-876-4742 (x-5602 for Greg, x-5595 for John). You may also E-mail Greg at [gcooke@sha.state.md.us](mailto:gcooke@sha.state.md.us) or John at [jborkowski@sha.state.md.us](mailto:jborkowski@sha.state.md.us). Thank you for your cooperation.

Very truly yours,

  
Steven D. Foster, Chief  
Engineering Access Permits Division

SDF/jb

cc: Mr. Darrell Mobley (Via E-mail)  
Mr. Augustine Rebish (Via E-mail)  
Mr. David Slavish (Via E-mail)  
Mr. Richard Weaver (M-NCPPC via E-mail)  
Mr. David Crowe (Macris, Hendricks & Glascock)

My telephone number/toll-free number is \_\_\_\_\_  
Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • [www.marylandroads.com](http://www.marylandroads.com)