



**MONTGOMERY COUNTY PLANNING BOARD**  
MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 12-29  
Pre-Preliminary Plan No. 720080060  
Byrd Farm  
Date of Hearing: March 1, 2012

**JUL 23 2012**

**RESOLUTION**

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is authorized to review preliminary plan applications; and

WHEREAS, on October 3, 2007, Edward Byrd ("Applicant") filed an application for approval of a pre-preliminary plan of subdivision of property that would create two lots via the minor subdivision process outlined in Section EC-35A(a)(8) of the Subdivision Regulations on 128.25 acres of land in the RDT zone located at 16310 Sugarland Road at the southwest quadrant of the intersection of Whites Ferry Road and Sugarland Road ("Subject Property"), in the Preservation of Agriculture and Rural Open Space master plan area ("AROS Master Plan") and subject to the Rustic Roads Functional Master Plan ("Rustic Roads Master Plan"); and

WHEREAS, Applicant's pre-preliminary plan application was designated Pre-Preliminary Plan No. 720080060 Byrd Farm ("Pre-Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated February 16, 2012, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on March 1, 2012, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on March 1, 2012, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Presley, seconded by Commissioner Anderson, with a vote of 5-0; Commissioners Anderson, Carrier, Dreyfuss, Wells-Harley, and Presley voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Pre-Preliminary Plan No. 720080060 to create two lots on the Subject Property, subject

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Approved as to  
Legal Sufficiency:

*Christina Sorensen* 6/28/12  
M-NCPPC Legal Department

to the following conditions:<sup>1</sup>

- 1) Approval under this Pre-Preliminary Plan is limited to two lots for two detached dwelling units.
- 2) The Applicant must comply with the conditions of approval for the Final Forest Conservation Plan prior to recording of plat(s) or issuance of sediment and erosion control permits. Any on lot easements must be shown on the record plat.
- 3) The Applicant must dedicate all road rights-of-way as shown on the approved Pre-Preliminary Plan. Where Sugarland Road bisects Lot 1, dedication of 80 feet is required rather than the 40 feet west of the centerline indicated by the Pre-Preliminary Plan.
- 4) The Applicant must comply with the Montgomery County Department of Public Works and Transportation (MCDPW&T) conditions of approval, as stated in the Staff letter of November 14, 2007. These conditions may later be amended by MCDPW&T, as long as they do not conflict with other conditions of the Pre-Preliminary Plan approval.
- 5) The Applicant must comply with the MCDPS conditions of approval for well and septic, as stated in the Staff memo of February 11, 2011. These conditions may later be amended by MCDPS, as long as they do not conflict with other conditions of the Pre-Preliminary Plan approval.
- 6) The term "denied access" must be shown on the final record plat along MD 107.
- 7) The Applicant must address stormwater management at the sediment control stage, as per the MCDPS approval of November 8, 2007.
- 8) An easement must be recorded for the balance of the Property noting that density and TDR's have been utilized for the new lots. Reference to this easement must be reflected in the record plat for the lots.

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff as presented at the Hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified

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<sup>1</sup> For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

*1. The Pre-Preliminary Plan substantially conforms to the Master Plans.*

The Pre-Preliminary Plan is designed to minimize lot size to the extent feasible, minimize fragmentation of the Property, and maximize the viable farmland. With the exception of the two approved lots, virtually all of the remaining farmland is encumbered by an agricultural easement to maintain a viable agricultural operation. Since the Pre-Preliminary Plan preserves and promotes agriculture, it substantially conforms to the AROS Master Plan.

In addition, the existing driveways and points of access to Sugarland Road, an exceptional rustic road, will remain the same for the approved lots. As conditioned, the Pre-Preliminary Plan will dedicate a full 80 feet where Sugarland Road bisects Lot 1 due to Sugarland Road's designation as an exceptional rustic road. Therefore, the Pre-Preliminary Plan is in compliance with the Rustic Roads Master Plan.

*2. Public facilities will be adequate to support and service the area of the approved subdivision.*

The approved lots and farm remainder do not generate 30 or more vehicle trips during the morning or evening peak-hours. The Application is not subject to Local Area Transportation Review. Both lots use existing points of access and a sidewalk is not required along the property frontage. Vehicle and pedestrian access for the Subject Property will be safe and adequate.

Other public facilities and services are available and will be adequate to serve the approved lot. Septic facilities have been approved by the Department of Permitting Services. Gas, electrical and telecommunications services are available to serve the Property. Other public facilities and services, such as schools, police stations, and health services are currently operating within the standards set by the Subdivision Staging Policy currently in effect.

*3. The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision.*

The approved lots are 12.92 and 10.57 acres respectively to accommodate two one-family detached dwelling units (one of which is existing). The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, and as the setting for the existing and approved dwelling units because of pre-existing boundaries and existing and approved well and septic facilities.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

A. Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

A Preliminary Forest Conservation Plan was reviewed by Staff and a Final Forest Conservation Plan will be approved by Staff prior to record plat.

5. *All stormwater management requirements shall be met as provided in Chapter 19, article II, title "storm water management", Section 19-20 through 19-35.*

When the Application proceeds to building permit, the Applicant will be required to address stormwater management at the sediment and erosion control permit stage.

6. *The Application complies with Montgomery County Code applicable subdivision requirements under Section 50-35A(a)(8).*

The Subject Property meets all the minor subdivision requirements applicable in RDT zones under Section 50-35A(a)(8) because:

- A. The MCDPS, Well and Septic Section approved the septic area on February 11, 2011;
- B. All required street dedications will be shown on the record plat;
- C. Recording an easement noting the density and utilization of TDR's on the Subject Property's plat is a condition of approval;
- D. The Planning Board approves the Subject Property's subdivided lots' size, notwithstanding the average lot size exceeds 5 acres; and
- E. A condition of approval requires that the forest conservation requirements be satisfied prior to record plat.

BE IT FURTHER RESOLVED, that this Pre-Preliminary Plan will remain valid for 60 months from its initiation date (as defined in Montgomery County Code Section 50-35(h)), and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Pre-Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; and

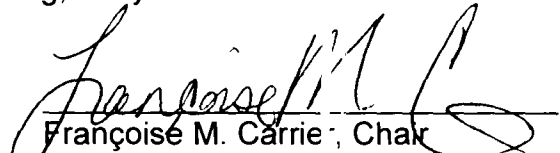
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is     JUL 23 2012     (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Dreyfuss, seconded by Commissioner Anderson, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, July 12, 2012, in Silver Spring, Maryland.

  
Françoise M. Carrier, Chair  
Montgomery County Planning Board