



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #
01/11/07

MEMORANDUM

DATE: December 27, 2006

TO: Montgomery County Planning Board

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

SUBJECT: Informational Maps and Summary of Record Plats for the Planning Board
Agenda for January 11, 2007

The following record plat is recommended for APPROVAL, subject to the appropriate conditions of approval of the preliminary plan and site plan, 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 plat. The following plat is included:

220062300 Solomon Simpson 1783 Plantation (1)

PLAT No. 220062300

Solomon Simpson 1783 Plantation

Located on West Hunter Rd, approximately 3200 feet southwest of Darnestown Road

RDT Zone; 2 Lots

Private Well, Private Septic

Master Plan Area: Agricultural & Rural Open Space

John R. & Janes S. Hunter, Jr., Applicant

This record plat has been reviewed by MNCPPC staff and other applicable agencies as documented on the attached Record Plat Review Sheet. Staff has determined that the plat complies with Preliminary Plan No. 120050440, as approved by the Board; and that any minor modifications reflected on the plat do not alter the intent of the Board's previous approval of the preliminary plan.

RECORD PLAT REVIEW SHEET

Plan Name: Hunter Property
Solomon Simpson 1783 Plan Number: 120050440
 Plat Name: Solomon Simpson 1783 Plat Number: 220062300
 Plat Submission Date: 6/21/06
 DRD Plat Reviewer: TA/PW
 DRD Prelim Plan Reviewer: R Weaver

Initial DRD Review:

Signed Preliminary Plan - Date 10/26/05 Checked: Initial RW Date 7/10/06
 Planning Board Opinion - Date 2/27/05 Checked: Initial PW Date 7/10/06
 Site Plan Req'd for Development? Yes No Verified By: PW (initial)
 Site Plan Name: N/A Site Plan Number:
 Planning Board Opinion - Date Checked: Initial Date
 Site Plan Signature Set - Date Checked: Initial Date
 Site Plan Reviewer Plat Approval: Checked: Initial Date

Review Items: Lot # & 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 Child Lot note Surveyor Cert Owner Cert Tax Map

Agency Reviews Req'd	Reviewer	Date Sent	Due Date	Date Rec'd	Comments
Environment		<u>6/21/06</u>	<u>7/7/06</u>	<u>NC</u>	<u>NC</u>
Research	Bobby Fleury	<u> </u>	<u> </u>	<u>6/22/06</u>	<u>OK</u>
SHA	Doug Mills	<u> </u>	<u> </u>	<u>NC</u>	<u>NC</u>
PEPCO	Jose Washington	<u> </u>	<u> </u>	<u>NC</u>	<u>OK</u>
Parks	Doug Powell	<u> </u>	<u> </u>	<u>NC</u>	<u>NC</u>
DRD	Steve Smith	<u> </u>	<u> </u>	<u>7/3/06</u>	<u>OK</u>

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:

Initial

Date

PW
PW
TA

8/23/06
8/23/06
12/21/06

Board Approval of Plat:

Plat Agenda:
 Planning Board Approval:
 Chairman's Signature:

TA

12/11/06

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:

No.

OWNER'S CERTIFICATION

The undersigned, owners of the property shown hereon, hereby adopt this plan of subdivision, dedicate the area shown hereon adjacent to West Hunter Road to public use and establish and grant a slope easement parallel and adjacent to West Hunter Road, to the front building restriction line or as shown. Said slope easement shall be automatically extinguished after all public improvements have been lawfully completed and accepted for maintenance by Montgomery County, Maryland or other acceptable public agency. The undersigned also grants a Public Utility Easement (10' P.U.E.) as shown hereon to the parties named in a document entitled "Terms and Provisions of Public Utility Easements" as recorded in Liber 3834 at Folio 457 and further establishes and grants a 40 foot wide Ingress - Egress and Utility Easement, as shown hereon to the owner(s) of Lots 15 and 16 on this plat, their heirs and assigns subject to all applicable regulations of all federal, state, and local governing agencies. The owner will cause all property corner markers and any other required monumentation to be set by a registered Maryland Land Surveyor, in accordance with Section 50-24(e) of the Montgomery County Code.

There are no suits, mortgages, leases, liens or trust affecting the subject property.

Witness Donald J. Hoffacker Date 12-13-06 John R. Hunter, Jr.
William F. Hoffacker Date 12-13-06 Jane S. Hunter

SURVEYOR'S CERTIFICATION

I hereby certify that the plat shown hereon is correct; that it is a subdivision of part of the land described in a deed from John R. Hunter, Jr. and Jane S. Hunter, his wife, to John R. Hunter, Jr. and Jane S. Hunter, Trustees of The John R. Hunter, Jr. Revocable Living Trust, dated August 3, 1993 and recorded in Liber 12019 at Folio 256 among the land records of Montgomery County, Maryland. I further certify that, once engaged as described in the owner's certification hereon, all monuments and all property markers and other boundary markers will be set as delineated hereon in accordance with the provisions of Section 50-24(e) of Montgomery County Code.

The total area included on this plat is 53.015 acres of land of which 0.210 acres is dedicated to the public use.

DATE 12/13/06 Thomas A. Maddox
 THOMAS A. MADDOX - Registered
 Professional Land Surveyor MD #10850

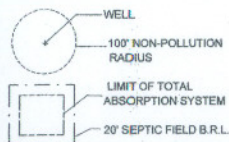
PLAT NO.



NOTES

1. PROPERTY ZONED RDT.
2. THIS PLAT LIMITED TO THE USES AND CONDITIONS AS REQUIRED BY PRELIMINARY PLAN NO. 1-05044 ENTITLED HUNTER PROPERTY DATED 7-27-05, ANY PROPOSED CHANGES IN USE WILL REQUIRE FURTHER PLANNING BOARD REVIEW AND APPROVAL.
3. THE PROPERTY SHOWN HEREON IS NOT SUBJECT TO THE REQUIREMENTS OF CHAPTER 22A, MONTGOMERY COUNTY FOREST CONSERVATION LAW PURSUANT TO AN EXEMPTION LETTER ISSUED JANUARY 27, 2005 BY THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION, ENVIRONMENTAL PLANNING SECTION. 4-04387E.
4. ALL TERMS, CONDITIONS, AGREEMENTS, LIMITATIONS, AND REQUIREMENTS ASSOCIATED WITH ANY PRELIMINARY PLAN, SITE PLAN, PROJECT PLAN, OR OTHER PLAN, ALLOWING DEVELOPMENT OF THIS PROPERTY, APPROVED BY THE MONTGOMERY COUNTY PLANNING BOARD ARE INTENDED TO SURVIVE AND NOT BE EXTINGUISHED BY THE RECORDATION OF THIS PLAT. THE OFFICIAL PUBLIC FILES FOR ANY SUCH PLAN ARE MAINTAINED BY THE PLANNING BOARD AND ARE AVAILABLE FOR PUBLIC VIEWING DURING NORMAL BUSINESS HOURS.
5. THIS PLAT IS NOT INTENDED TO SHOW EVERY MATTER AFFECTING OR RESTRICTING THE OWNERSHIP 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 FOUND ON MONTGOMERY COUNTY TAX MAP CU11 & W.S.S.C. 227NW20.
7. LOTS 15 AND 16 ARE APPROVED FOR 6 BEDROOM HOUSES.
8. THE SEPTIC FIELD B.R.L. IS SUBJECT TO CHANGE UPON RE-APPROVAL BY THE MONTGOMERY COUNTY DEPARTMENT OF PERMITTING SERVICES, WELL AND SEPTIC SECTION.
9. THE LOTS SHOWN ON THIS PLAN ARE TO BE SERVED BY PRIVATE WELLS AND SEPTIC SYSTEMS.
10. DEED PARCEL (LIBER 32263, FOLIO 277) SHOWN HEREON AND CREATED AS AN AGRICULTURAL PARCEL HAS NO REMAINING DENSITY AS PER PRELIMINARY PLAN 1-05044.

LEGEND



PLAT NUMBER

DATE

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

APPROVED

DATE

CHAIRMAN

ASST.-SECRETARY-TREASURER

MONTGOMERY COUNTY
 DEPARTMENT OF PERMITTING SERVICES

APPROVED

DATE

DIRECTOR

PLAT TOTALS	
NUMBER OF LOTS	2
AREA OF PARCEL & LOTS	52.805 ACS
AREA OF DEDICATION	0.210 ACS
TOTAL AREA SHOWN ON PLAT	53.015 ACS

200230

D/W EASEMENT LINE TABLE

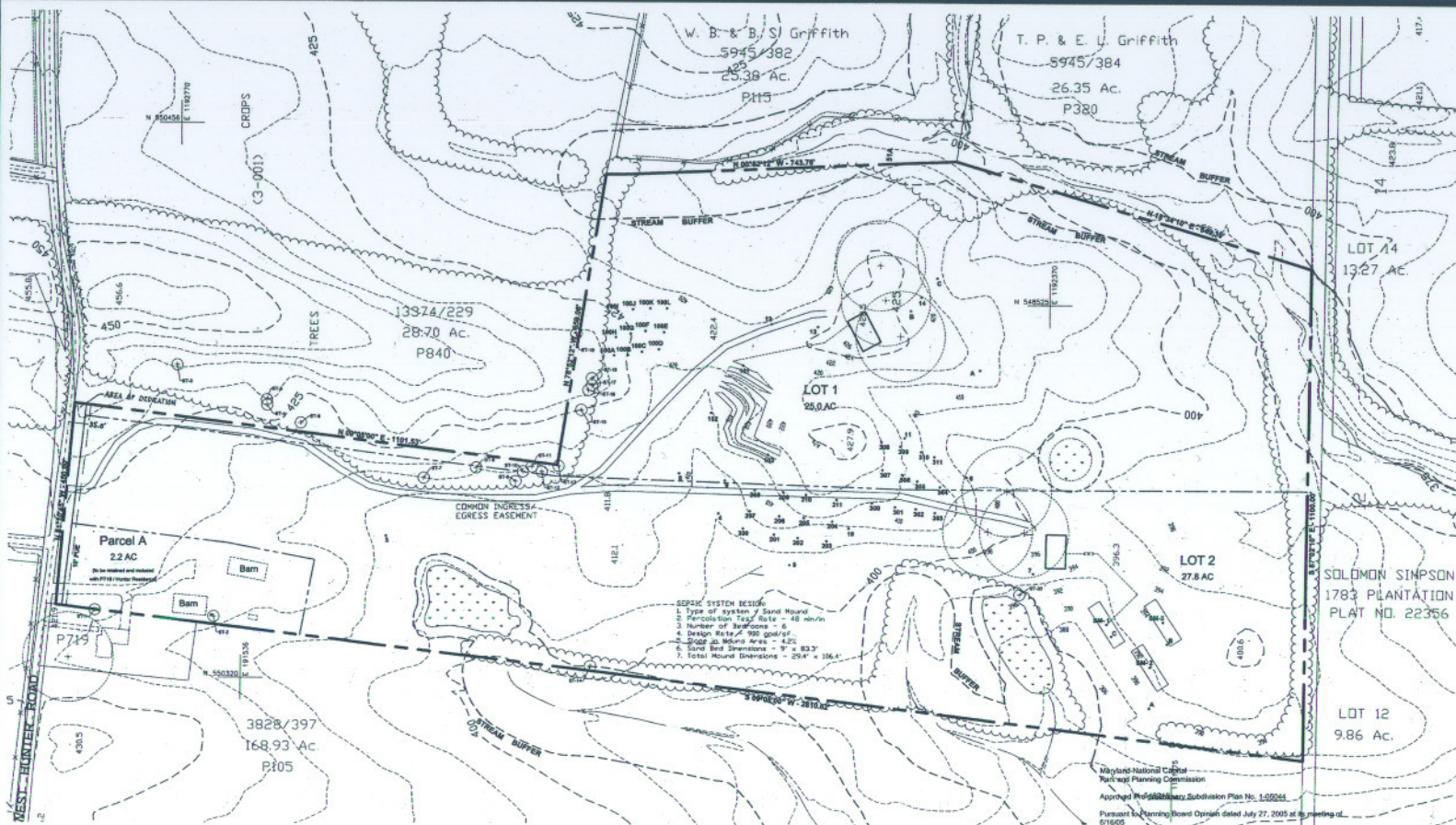
LINE	BEARING	HORIZ DIST
L1	S6°38'47"W	19.000'
L2	S40°05'00"E	24.000'
L3	S59°32'00"E	105.000'
L4	S36°53'00"E	58.000'
L5	S17°51'00"E	52.044'
L6	S6°48'58"W	250.000'
L7	S14°22'00"W	81.000'
L8	S38°29'00"W	101.000'
L9	S27°29'00"W	70.000'
L10	S7°50'00"W	66.000'
L11	S5°41'00"W	102.000'
L12	S0°19'00"E	207.000'
L13	S12°34'00"E	75.000'
L14	S30°08'34"E	53.311'

SUBDIVISION RECORD PLAT
 LOTS 15 and 16
 SOLOMON SIMPSON
 1783 PLANTATION

ELECTION DISTRICT 3
 MONTGOMERY COUNTY, MARYLAND
 SCALE 1" = 200' JUNE 2006

THOMAS A. MADDOX
 PROFESSIONAL LAND SURVEYOR
 8933 SHADY GROVE COURT
 GAITHERSBURG, MARYLAND 20877
 (301) 984-5804

40143RPLT



SEWAGE DISPOSAL SYSTEM - DESIGN DATA:

LOT	# Bed-rooms	Test Site	Time (min.)	Depth of Tests	Test Site	Time (min.)	Depth of Tests	Test Site	Time (min.)	Depth of Tests	Ave. Inv. Low	Inv. In	Inv. Out	Inv. Beg.	Length of Initial System	Depth of Stone	Length of Entire System
1	6	101	20	5' & 12 1/2"	103	25	2 1/2' & 10 1/2"	102	19	3' & 11 1/2"	427.8	422.8	422.5	416.9	392	3 1/2' & 4"	1,472'
2	6	SM-1	24	17 1/2"	SM-2	14	19"	SM-3	46	18 1/2"	396.2	392.4	392.4				

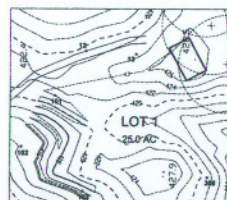
*Length of entire system based upon 3 1/2' of stone for initial and first reserve system and 4' of stone for remainder of reserve area.

NOTES:

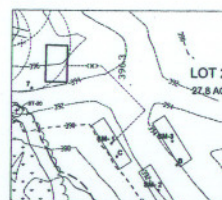
1. AREA OF PROPERTY - 55.28 ACRES
2. EXISTING ZONING - RDT
3. NUMBER OF LOTS PERMITTED IN RDT (@ 1 lot per 25 AC) = 2
4. NUMBER OF LOTS SHOWN - 2
5. SITE TO BE SERVED BY INDIVIDUAL WELL & ON-SITE SEPTIC SYSTEMS
6. EXISTING SEWER & WATER SERVICE CATEGORIES: S-6, W-6
7. LOCATED IN BROAD RUN WATERSHED
8. DEVELOPMENT STANDARDS (RDT):
Frontyards - 50'
Sidelands - 20' min; 40' total
Rearyards - 30'
9. AREA DEDICATED TO STREETS - 0.21 AC
10. UTILITIES TO BE PROVIDED BY: Verizon, Potomac Edison

Boundary Certificate:

I hereby certify that the boundary shown herein is correct to my best knowledge and belief based upon existing records and other observations.



INSERT LOT ONE
SCALE: 1" = 100'



INSERT LOT TWO
SCALE: 1" = 100'

- Approval, subject to the following condition
- 1) Approval under this preliminary plan is limited to two (2) one-family detached dwelling units.
 - 2) Prior to recordation of plat, Applicant shall record a Deed for the parcel being created from the parent parcel stipulating that no additional density may be taken from the parcel. Record Plat to reference the recorded deed.
 - 3) At the time of record plat application, applicant to submit a notated affidavit indicating that two TDR's are available for the two lots. Record Plat to contain a note indicating that two TDR's were available on the parent parcel and have been retained to create the two lots.
 - 4) Compliance with the conditions of approval of the MCDPS stormwater management approval dated October 25, 2004.
 - 5) Compliance with conditions of MCDPWT letter dated April 4, 2005 unless otherwise amended.
 - 6) Record Plat shall reflect dedication of the right-of-way for West Hunter Road along the property frontage to the lot with mandated by the Agricultural and Rural Open Space Master Plan.
 - 7) Record plat to reflect common ingress/egress and utility easements over all shared driveways.
 - 8) Compliance with conditions of MCDPS (Health Dept.) septic approval dated March 17, 2005.
 - 9) Other necessary easements.

This Preliminary Plan will remain valid for 36 months from its Issuance Date (as defined in Montgomery County Code Section 50-35(a)), as amended. Prior to the expiration of the 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.

John R. & Jane S. Hunter, Jr.
Development Review Division

OWNER:
JOHN R. & JANE S. HUNTER, JR.
20400 WEST HUNTER ROAD
BEALLSVILLE, MARYLAND 20839
301-348-5432





THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Board Approval Date: June 16, 2005

Date Mailed: JUL 27 2005

Action: Approved Staff
Recommendation

Motion of Commissioner Robinson,
seconded by Commissioner Bryant,
with a vote of 3-2;
Commissioners Bryant, Perdue, and
Robinson voting in favor. Chairman
Berlage and Commissioner Wellington
voting against.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-05044
NAME OF PLAN: Hunter 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).

INTRODUCTION

On 10/07/04 John R. Hunter, Jr. ("Applicant") submitted an application for the approval of a preliminary plan of subdivision of property in the RDT zone. The application proposed to create 2 lots on 55.28 acres of land located on the south side of West Hunter Road, approximately 3,200 feet southwest of Darnestown Road, in the Agricultural and Rural Open Space ("AROS") Master Plan area ("Subject Property"). The application was designated Preliminary Plan 1-05044 ("Preliminary Plan"). On 6/16/05, the 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 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.

SITE DESCRIPTION

The Subject Property, identified as Parcel 142, is on the south side of West Hunter Road, approximately 3,200 feet southwest of Darnestown Road. The Subject Property contains 55.28 acres and is zoned RDT. The property also contains a stream and associated stream valley buffer.

PROJECT DESCRIPTION

This is an application to subdivide the Subject Property into two (2) lots (25 acres and 27.8 acres) for the construction of two (2) one-family detached dwellings and continued farm use. The application also includes creation of a 2.2-acre deed parcel around existing farm support buildings, which would be retained in ownership by the Applicant who also owns, and lives on an adjacent parcel of land. The new lots will have access via a shared driveway from West Hunter Road. The lots will be served by private well and septic systems. Lot 1 would use a standard trench septic system and Lot 2, a sand mound system.

The Subject Property is currently farmed by the Applicant who intends to continue using the property in this manner until such a time that the lots are sold or passed on to other family members. An agricultural exemption from forest conservation has been granted for the property based upon the Applicant's filing of an Agricultural Declaration of Intent committing to continued agricultural use for at least five years.

PRIOR PLANNING BOARD HEARING

This Preliminary Plan application was previously considered by the Planning Board at its April 14, 2005 hearing. In deliberation, members of the Planning Board expressed concern that the proposed lot configuration, and the potential locations shown for future residences on the lots did not preserve usable, agricultural portions of the property as is the priority in the RDT zone. The Applicant was not present at the hearing, but was represented by an engineer. In consideration of the Board's concerns, the Applicant's engineer requested that the hearing be deferred so that he and the Applicant could discuss possible solutions. The Board granted the request for deferral.

ANALYSIS OF CURRENT PRELIMINARY PLAN

Since the previous public hearing, the Applicant has revised the configuration of the two proposed lots. The revised configuration now proposes one panhandle lot with minimum frontage on West Hunter Road. The new configuration results in two lots, which are rectangular in shape and contain wider, more contiguous field areas. The Applicant continues to propose a lot layout that maximizes the size of each lot (25 acres and 27.8 acres, respectively). The large lot configuration leaves open the possibility for future houses located in the middle of the lots. The Applicant has specifically requested the ability to maintain this flexibility for house location because it would allow more flexibility in the types of agricultural uses that could be placed on the lots. By way of example, the Applicant pointed out to Staff in a field visit to farms on smaller properties adjacent to the Subject Property that equestrian facilities are more typically designed with a house in the middle of pastures to maintain views and enhance security.

Although the proposed plan does not cluster lots or limit the locations of houses, Staff agrees with the Applicant that the proposed lots can be used for agricultural purposes, as many 10-40 acre properties adjacent to the Subject Property currently are used. Staff determined that, with the appropriate taxation assessment, each lot can qualify as a farm under the definitions found in the Zoning Ordinance and the Subdivision Regulations. The AROS Master Plan recognizes the economic viability of 25-acre lots. The Applicant anticipates continuation of agriculture on these lots and suggests that family members may live in the proposed homes. The Applicant does have the ability to request child lots on the subject property, but has not done so. Child lots allowed under Section 59-C-9.74 would be in addition to any lots that could be achieved under the standard one unit per twenty-five acres allowed under the RDT zone. With this subdivision and the resulting change to the parent parcel, the Applicant is relinquishing all rights to child lots.

Staff found that the proposed Preliminary Plan conforms to the recommendations for preservation of agricultural uses, which are included in the AROS Master Plan. Both proposed lots are large enough to support agricultural uses and, with the revised configuration of lot lines, provide more contiguous field area than the previous plan. The proposed density on the property is less than the Applicant might achieve if they had chosen to exercise their right to lots for their two children in addition to the one lot per twenty-five acres permitted under the zone.

STAFF RECOMMENDATION

Staff found that the Preliminary Plan conforms to the AROS Master Plan and meets all necessary requirements of the Subdivision Regulations. Staff further found that the size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision. As such, Staff recommended approval of the preliminary plan, subject to conditions.

PLANNING BOARD HEARING

Staff described the Subject Property and the proposed development including the latest revisions to the Preliminary Plan since the Planning Board's prior hearing on April 14, 2005. Staff discussed the agricultural status of the lots surrounding the Subject Property and concluded that they do operate as farms. Staff recommended approval of the Preliminary Plan with conditions. In addition, Staff handed out letters from the file to the Planning Board. There were a few letters in the file in support of the proposed subdivision and one letter indicating no opposition.

The Applicant was represented by its engineer who outlined the changes made to the Preliminary Plan in response to the Planning Board's concerns at the April 14 hearing. He further testified that the locations of the houses as set forth on the Preliminary Plan were illustrative only and that the house location would depend on the agricultural uses ultimately planned for each lot. He also noted that the County had approved septic for Lot 1 and sand mounds for Lot 2, and that both types of systems are accepted by the County. He further testified that the Applicant could have, under County law, subdivided this property as four lots—two lots by right under the RDT zone along with two child lots—but that the Applicant decided not to do so.

Jane Hunter testified on behalf of the Applicant that she and her husband decided to develop the Subject Property, which is contiguous to their home, for their children and grandchild. She testified that they had farmed the Subject Property for 40 years and had purchased it before the establishment of the RDT zone and, therefore, were entitled to the child lots but decided not to create the child lots. She further testified that along with their son, she and her husband derive 100% of their income from farming and intend to continue to do so. Given her background, she testified that she was qualified to speak to the location of houses on agricultural lots and noted that the location of houses in the middle of agricultural lots is historically correct for agricultural purposes in Montgomery County. She stated that farmers needed to monitor their animals closely in case of medical emergencies and that animals were less likely to be stolen when they are close to home. She also pointed out that homes located in the middle of lots were conducive to other agricultural uses such as "pick your own flowers." In conclusion, Mrs. Hunter located the lots in the surrounding area on a map and described the agricultural use for each lot.

In response to questioning from the Planning Board, Staff confirmed that the deed parcel located adjacent to the Subject Property did not have any residential potential since it was an agricultural parcel.

Chairman Berlage stated that he would not support the Preliminary Plan because of the use of sand mounds. He stated that his decision is consistent with his prior actions disapproving of sand mounds unless they are necessary for public health reasons such as a failing septic system. Commissioner Wellington agreed with the

Chairman's position and added that sand mounds are not consistent with the Master Plan recommendations.

Commissioner Robinson stated that he agrees with Staff's and Applicant's testimony that the proposed development only involves half of the density permitted on the Subject Property because of the Applicant's decision not to create child lots. He stated that the proposed use of the Subject Property is exactly what was contemplated in establishing the RDT zone—providing families that farm the opportunity to continue farming. He further stated that the density proposed does not threaten the rural nature of the surrounding area. He compared the proposed development to the development of larger tracts of land that do need to offset residential impacts by providing a large contiguous piece of property for agricultural use.

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 that, with the conditions of approval:

- a) The Preliminary Plan No. 1-05044 substantially conforms to the Agricultural and Rural Open Space Master Plan. The Board further finds that the Preliminary Plan as revised maximizes potential use of contiguous open space and increases potential for agricultural use.
- b) Public facilities will be adequate to support and service the area of the proposed subdivision. The Board further finds that the limited use of sand mounds on this site is appropriate.
- c) The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.
- d) The application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.
- 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

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.

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

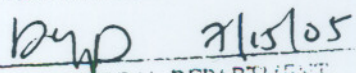
Finding Preliminary Plan No. 1-05044 in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 1-05044, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to two (2) one-family detached dwelling units.
- 2) Prior to recordation of plat, Applicant shall record a Deed for the parcel being created from the parent parcel stipulating that no additional density may be taken from the parcel. Record Plat to reference the recorded deed
- 3) At the time of record plat application, Applicant to submit a notarized affidavit indicating that two TDR's are available for the two lots. Record Plat to contain a note indicating that two TDR's were available on the parent parcel and have been retained to create the two lots.
- 4) Compliance with the conditions of approval of the MCDPS stormwater management approval dated October 25, 2004.
- 5) Compliance with conditions of MCDPWT letter dated April 4, 2005 unless otherwise amended.
- 6) Record Plat shall reflect dedication of the right-of-way for West Hunter Road along the property frontage to the full width mandated by the Agricultural and Rural Open Space Master Plan.
- 7) Record plat to reflect common ingress/egress and utility easements over all shared driveways.
- 8) Compliance with conditions of MCDPS (Health Dept.) septic approval dated March 17, 2005.
- 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.

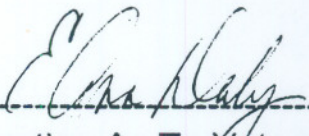
* * * * *

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]

APPROVED AS TO LEGAL SUFFICIENCY

M-NCPPC LEGAL DEPARTMENT

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 Chairman Berlage 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 **Preliminary Plan 1-05004, Hunter Property**.



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