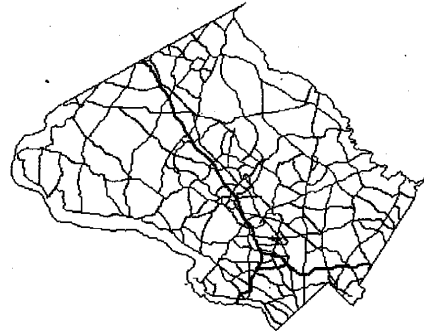




**MONTGOMERY COUNTY PLANNING DEPARTMENT**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB**  
**Item #** \_\_\_\_\_  
**2/07/08**



**MEMORANDUM**

**DATE:** January 25, 2008

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow, Chief *RK*  
Development Review Division

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

**REVIEW TYPE:** Pre-Preliminary Plan Review  
**APPLYING FOR:** Request to Proceed Under Minor Subdivision Process

**PROJECT NAME:** Hernandez Acres  
**CASE #:** 720060590  
**REVIEW BASIS:** Chapter 50-35A (a)(8), Montgomery County Subdivision Regulations

**ZONE:** RDT  
**LOCATION:** Located on the south side of White's Ferry Road (MD 107), approximately 2,500 feet east of the intersection of Partnership Road.

**MASTER PLAN:** Agriculture and Rural Open Space Master Plan

**APPLICANT:** Nelson Hernandez  
**ENGINEER:** CAS Engineering, Inc.

**FILING DATE:** May 17, 2006  
**HEARING DATE:** February 7, 2008

**STAFF RECOMMENDATION:** Approval to submit a Minor Subdivision Record Plat, pursuant to Chapter 50-35A(a)(8) of the Montgomery County Subdivision Regulations, subject to the following conditions:

- 1) The approval is limited to 1 residential lot.
- 2) The Applicant must comply with the conditions of the Final Forest Conservation Plan. The applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits, as applicable.
- 3) The Applicant must comply with the conditions of the MCDPS Well and Septic approval dated November 9, 2007.
- 4) Access and improvements as required to be approved by the State Highway Administration (SHA) prior to issuance of permits.
- 5) The Applicant must provide proof and an affidavit to verify the availability of a TDR for the proposed lot. The record plat must include a note referencing the affidavit.
- 6) The record plat must reflect a Category I conservation easement over all stream valley buffer and forest conservation areas.
- 7) Other necessary easements must be shown on the record plat.

#### **SITE DESCRIPTION**

The 14.31-acre Hernandez Acres property ("Subject Property" or "Property"), shown on the vicinity map in Attachment A, is located on the south side of Whites Ferry Road (MD 107) approximately 2,500 feet east of its intersection with Partnership Road. This Rural Density Transfer (RDT) zoned Property is within the boundary of the Functional Master Plan for Agriculture and Rural Open Space Preservation and currently contains the foundation of a one-family detached residence, a barn, grassland, tree cover and forest. The property is surrounded by large farm parcels to the north and west, stream valley parkland to the south, and large-lot residential to the east.

The Property is within the Seneca Creek watershed (Use Classification I/IP) and contains a tributary stream that flows from north to south along the eastern property boundary. A significant portion of the middle of the Property contains prime agricultural soils, although none of the Property is currently farmed.

#### **PROJECT DESCRIPTION**

The pre-preliminary plan proposes to create a lot pursuant to Section 59-C-9.74(b)(2) of the Montgomery County Code, through the minor subdivision process under Section 50-35A9A(a)(8) of the Subdivision Regulations. The lot will contain a one-family detached residence with access from Whites Ferry Road via an existing gravel driveway (Attachment B). The house will be served by private well and a sand mound septic system. Most of the existing forest and all of the stream buffer area are proposed to be preserved in a Category I conservation easement.

## **ANALYSIS AND FINDINGS**

### **Density Permitted in the RDT Zone**

In order to approve the proposed lot, the Board must find that it conforms to the requirements of the RDT zone. According to Section 59-C-9.41, the base density of the RDT zone is limited to one one-family dwelling unit per 25 acres, except that certain dwelling units are excluded from this calculation provided they are accessory uses to a farm. The Subject Property does not meet the minimum density for the RDT zone, one dwelling unit per 25 acres, however, it is exempt pursuant to Section 59-C-9.74(b)(2) of the Zoning Ordinance which states:

- (b) The following lots are exempt 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 Density Transfer zone.
  - (2). A lot created by deed executed on or before the approval date of the sectional map amendment which initially zoned the property to the Rural Density Transfer Zone.

The applicant provided documentation that the property was created prior to the establishment of the RDT zone at which time it was zoned Rural and permitted to have a minimum size of five acres. The proposed lot meets the area and dimensional requirements of the Rural zone.

### **Minor Subdivision Requirements**

The proposed lot is requested pursuant to Section 50-35A(a) of the Subdivision Regulations. Section 50-35A(a)(8) establishes the ability to plat up to five (5) lots in the RDT zone through the minor subdivision process after Planning Staff or Planning Board approval of a pre-preliminary plan, and if the application meets the following criteria:

- a. Written approval for a proposed septic area must be received from the Montgomery County Department of Permitting Services, Well and Septic Section prior to recordation of the plat;
- b. Any required street dedications along the frontage of the proposed lot(s) must be shown on the record plat;
- c. An easement must be recorded for the balance of the property noting that density and TDRs have been utilized for the new lots. Reference to this easement must be reflected in the record plat for the lots;
- d. Lots created in the RDT zone through the minor subdivision procedure must not exceed an average lot size of five (5) acres in size unless approved by the Planning Board in the review of a pre-preliminary plan of subdivision; and
- e. Forest conservation requirements must be satisfied prior to recording of the plat.

The proposed application satisfies all the requirements for minor subdivision. MCDPS Well and Septic Section has approved a sand mound septic system and well locations for the proposed lot. The necessary road right of way for Whites Ferry Road has been previously dedicated along the property frontage. Future recordation of a plat is contingent upon the applicant providing verification of the availability of a Transfer Development Right (TDR) and a Forest Conservation Plan has been approved by Environmental Planning staff.

Since the proposed lot size exceeds five (5) acres, this pre-preliminary plan must be approved by the Planning Board, not by staff, in accordance with subparagraph (d) above. The plan proposes to plat the existing parcel as one 14.31-acre lot for the construction of a new one-family detached dwelling (Attachment B). The proposed lot will have continued access directly from Whites Ferry Road.

In staff's opinion, creation of one large lot in this instance is reasonable. The onsite stream and associated floodplain, forested slope area, and onsite soils limit where a house and associated well and septic can be located. Given the proposed house location and distribution of the sand mounds, creation of a smaller lot and farm parcel is not feasible. The proposed lot configuration is large enough, however, to allow the future homeowner to have private agricultural uses.

### **Master Plan Compliance**

The Agriculture and Rural Open Space (AROS) Master Plan does not specifically identify the Subject Property for discussion but does give general guidance and recommendations regarding preservation of farmland and rural open space. The master plan recommends that this area maintain lower densities for the protection of agriculture, environmental features, and residential use of a rural character. The pre-preliminary plan complies with the master plan goals in that it contributes to the area's low density character.

### **Sand Mound Septic Systems**

Chapter VI of the AROS plan includes recommended Water and Sewer Guidelines to be applied in areas designated for agricultural preservation. On page 62 the guidelines state: "Deny private use of alternative individual and community systems in all areas designated for the Rural Density Transfer Zone (RDT)". The question has been raised during the review of other cases as to whether use of sand mound septic systems violates this guideline.

In staff's opinion, changes in the County's policy toward sand mounds since this guideline was written address this concern. The Montgomery County Code, Chapter 27A describes innovative and alternative on-site sewage disposal systems as, "an experimental system and/or innovative technology not currently described in these Regulations but described in State of Maryland Regulations or policy letters." Mound systems are described in the county regulations and are routinely approved. In the State of Maryland

Regulations, “mound systems” are included in the definition of “conventional on-site sewage disposal systems”, and “non-conventional on-site sewage disposal systems” are separately defined.

### **Environmental Review**

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) describing the environmental features of the property was approved by Environmental Planning staff that indicates the site includes a stream, wetland pond, floodplain, and 1.66 acres of forested area. The proposed lot is subject to the requirements of the Forest Conservation Law, and a Forest Conservation Plan has been approved by staff.

### **Environmental Guidelines**

Most of the stream valley and associated environmentally sensitive areas are proposed to be protected within a Category I conservation easement. Unavoidable encroachments include the existing gravel driveway and the pond, which is required to have a cleared edge for future maintenance. The plan proposes mitigation for these existing encroachments by providing afforestation planting within the currently unforested stream valley. The proposed easement and mitigation measures fully satisfy the Planning Board’s *Environmental Guidelines for Development*.

### **Forest Conservation**

The Environmental Planning staff have reviewed and approved the submitted Forest Conservation Plan which includes 1.54 acres of forest retention, 0.12 acres of clearing, and 2.22 acres of afforestation planting. The planting will take place within the existing onsite stream valley. The forest retention area is separate from the stream valley, but will also be protected by a Category I conservation easement. The proposed forest conservation plan meets the requirements of the Forest Conservation Law.

### **Conformance to the Subdivision Regulations and Zoning Ordinance**

Staff’s review of Pre-Preliminary Plan 720060590, Hernandez Acres, indicates that the plan conforms to the recommendations of the Agricultural and Rural Open Space Master Plan. The proposed application is consistent with the master plan goal to maintain the area’s low density and agricultural character, and it protects the environmentally sensitive areas. Staff also finds that the proposed plan complies with Chapter 50 of the Montgomery County Code, Subdivision Regulations, in that facilities will be adequate to support and service the proposed subdivision. Staff further finds that the size, width, shape, and orientation of the proposed lot are appropriate for the location of the subdivision.

The lot was reviewed for compliance with the dimensional requirements for the Rural zone as specified in the Zoning Ordinance. The lot as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. A

summary of this review is included in Table 1. The application has been reviewed by other applicable county agencies, all of whom have either recommended approval of the plan, or will complete their review prior to issuance of a building permit.

**Community Outreach**

Written notice of the application and the date of the public hearing were given for this pre-preliminary plan. As of the date of this staff memorandum, no citizen correspondence has been received.

**CONCLUSION:**

The proposed lot meets all requirements established in the Subdivision Regulations and the Zoning Ordinance, and complies with the recommendations of the Master Plan. Access and public facilities will be adequate to serve the proposed lot, and the application has been reviewed by other applicable county agencies, all of which have recommended approval of the plan. Therefore, approval of the application with the conditions specified above is recommended.

**ATTACHMENTS:**

Attachment A	Vicinity Map
Attachment B	Pre-Preliminary Plan
Attachment C	Agency Correspondence

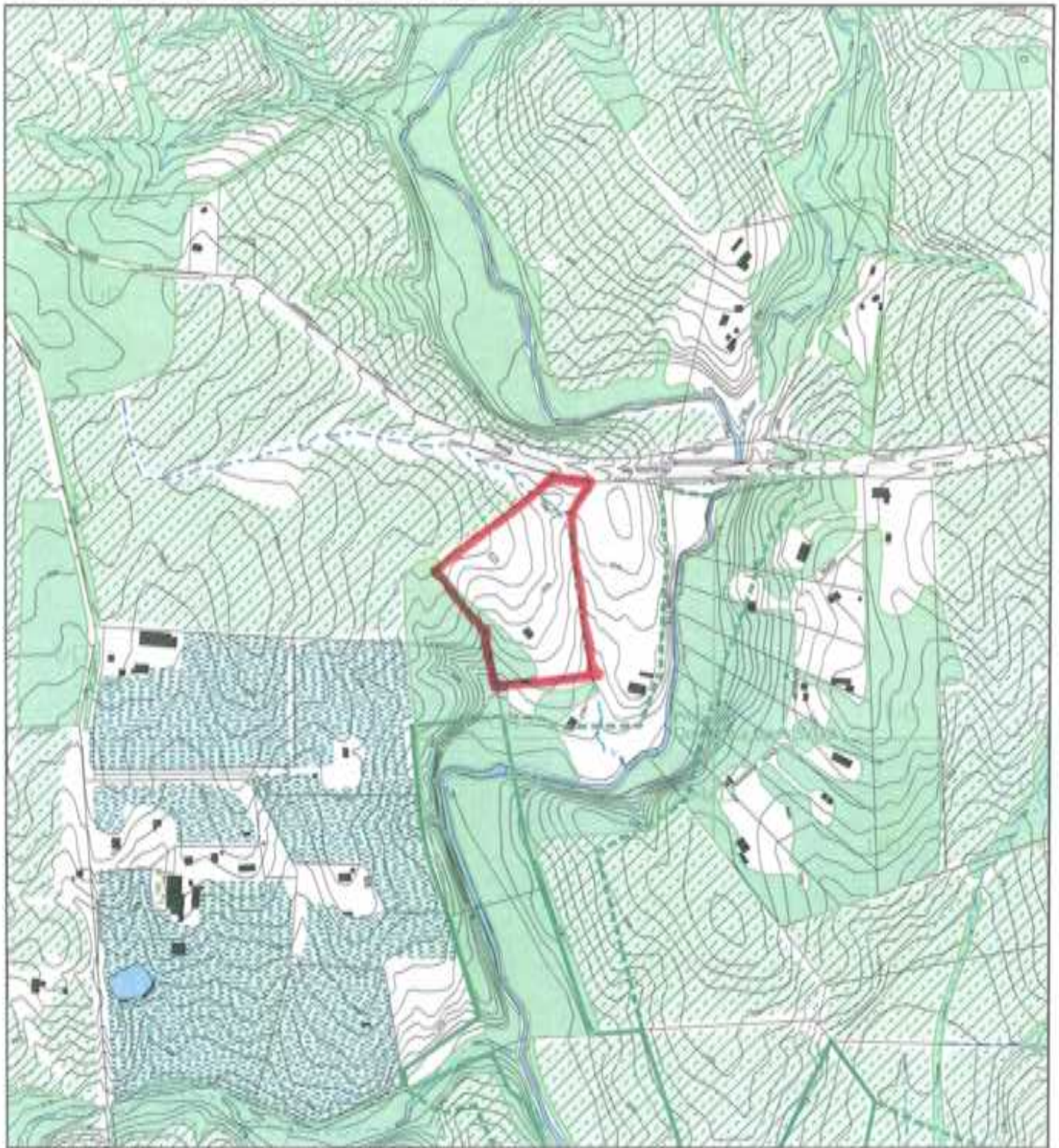
Table 1: Preliminary Plan Data Table and Checklist

<b>Plan Name: Hernandez Acres</b>				
<b>Plan Number: 720060590</b>				
<b>Zoning: Rural per Section 59-C-9.74(b)(2)</b>				
<b># of Lots: 1</b>				
<b># of Outlots: N/a</b>				
<b>Dev. Type: Standard</b>				
<b>PLAN DATA</b>	<b>Zoning Ordinance Development Standard</b>	<b>Proposed for Approval by the Preliminary Plan</b>	<b>Verified</b>	<b>Date</b>
Minimum Lot Area	5 acres	14.31 acres is min. proposed	CAC	1/25/08
Lot Width	300 ft.	550 ft. is minimum proposed	CAC	1/25/08
Lot Frontage	25 ft.	210 ft. is minimum proposed	CAC	1/25/08
Setbacks				
Front	50 ft. Min.	Must meet minimum <sup>1</sup>	CAC	1/25/08
Side	20 ft. Min./40 ft. total	Must meet minimum <sup>1</sup>	CAC	1/25/08
Rear	35 ft. Min.	Must meet minimum <sup>1</sup>	CAC	1/25/08
Height	50 ft. Max.	May not exceed maximum <sup>1</sup>	CAC	1/25/08
Max Resid'l d.u. or Comm'l s.f. per Zoning	1 dwelling unit	1 dwelling units	CAC	1/25/08
Building Coverage	10% Max.	May not exceed maximum	CAC	1/25/08
TDRs	Yes	Yes	CAC	1/25/08
Site Plan Req'd?	No		CAC	1/25/08
<b><u>FINDINGS</u></b>				
<b>SUBDIVISION</b>				
Lot frontage on Public Street		Yes	CAC	1/25/08
Road dedication and frontage improvements		Yes	CAC	1/25/08
Environmental Guidelines		Yes	Staff memo	5/29/07
Forest Conservation		Yes	Staff memo	5/29/07
Master Plan Compliance		Yes	CAC	1/25/08
Other (i.e., parks, historic preservation)				
<b>ADEQUATE PUBLIC FACILITIES</b>				
Stormwater Management		N/a <sup>2</sup>	CAC	1/25/08
Water and Sewer (WSSC)		N/a	CAC	1/25/08
10-yr Water and Sewer Plan Compliance		Yes	CAC	1/25/08
Well and Septic		Yes	Agency letter	11/9/07
Local Area Traffic Review		N/a	CAC	1/25/08
Policy Area Mobility Review		N/a	CAC	1/25/08
Fire and Rescue		Yes	Agency letter	6/19/06

<sup>1</sup> As determined by MCDPS at the time of building permit.

<sup>2</sup> Stormwater management concept will be reviewed and approved prior to issuance of sediment control permit.

**HERNANDEZ ACRES (720060590)**



Map compiled on June 08, 2006 at 4:07 PM | Site located on base sheet no.: 222NW18

**NOTICE**

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Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:12400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map other than for general planning purposes is not recommended. Copyright 1999

Site Map



N



Graphic & Printing: 0/00





# Attachment B

## GENERAL NOTES

1. THIS PLAN IS TO BE USED IN CONNECTION WITH THE SUBMITTAL OF THE SITE PLAN TO THE CITY OF CHICAGO.
2. THE CITY OF CHICAGO ENGINEERING DEPARTMENT HAS REVIEWED THIS PLAN AND HAS ISSUED THIS PERMIT TO CONSTRUCT.
3. THE CITY OF CHICAGO ENGINEERING DEPARTMENT HAS REVIEWED THIS PLAN AND HAS ISSUED THIS PERMIT TO CONSTRUCT.
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10. THE CITY OF CHICAGO ENGINEERING DEPARTMENT HAS REVIEWED THIS PLAN AND HAS ISSUED THIS PERMIT TO CONSTRUCT.

## DENSITY CALCULATIONS

USE	AREA (SQ. FT.)	DENSITY	TOTAL AREA (SQ. FT.)
RESIDENTIAL	100,000	100	100,000
COMMERCIAL	50,000	50	50,000
INDUSTRIAL	20,000	20	20,000
TOTAL	170,000		170,000

## SOILS

1. SOILS INFORMATION AND DATA
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## DEED DATA

NO.	DESCRIPTION	DATE	RECORD NO.
1	...	...	...
2	...	...	...
3	...	...	...
4	...	...	...
5	...	...	...
6	...	...	...
7	...	...	...
8	...	...	...
9	...	...	...
10	...	...	...

## SITE / ZONING DATA

NO.	DESCRIPTION	DATE	RECORD NO.
1	...	...	...
2	...	...	...
3	...	...	...
4	...	...	...
5	...	...	...
6	...	...	...
7	...	...	...
8	...	...	...
9	...	...	...
10	...	...	...

MISS UTILITY

**ENGINEER'S CERTIFICATE**

I, the undersigned, being a duly Licensed Professional Engineer in the State of Illinois, do hereby certify that the above described plan and specifications were prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer in the State of Illinois.

DATE: 07/26/07

By: *Carl A. Schmitt*

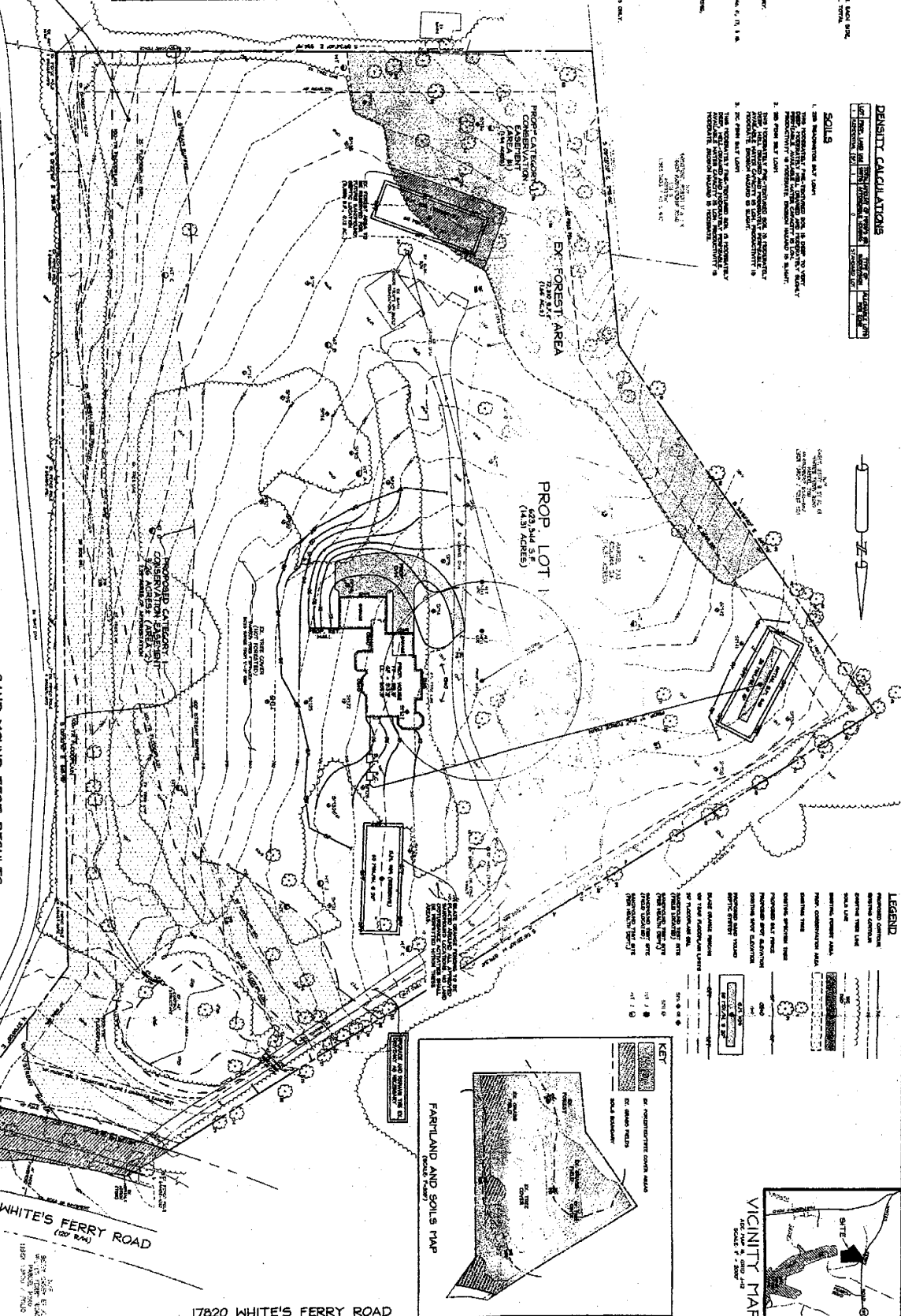
Professional Engineer No. 001234567

### WATER TABLE TEST RESULTS

TEST NO.	DATE	TIME	WATER TABLE DEPTH (FT.)
1	07/26/07	08:00	10.5
2	07/26/07	09:00	10.2
3	07/26/07	10:00	10.0
4	07/26/07	11:00	9.8
5	07/26/07	12:00	9.5
6	07/26/07	01:00	9.2
7	07/26/07	02:00	9.0
8	07/26/07	03:00	8.8
9	07/26/07	04:00	8.5
10	07/26/07	05:00	8.2

### SAND BOUND TEST RESULTS

TEST NO.	DATE	TIME	SAND BOUND (%)
1	07/26/07	08:00	15.2
2	07/26/07	09:00	14.8
3	07/26/07	10:00	14.5
4	07/26/07	11:00	14.2
5	07/26/07	12:00	14.0
6	07/26/07	01:00	13.8
7	07/26/07	02:00	13.5
8	07/26/07	03:00	13.2
9	07/26/07	04:00	13.0
10	07/26/07	05:00	12.8



17820 WHITES FERRY ROAD  
PARCEL 793



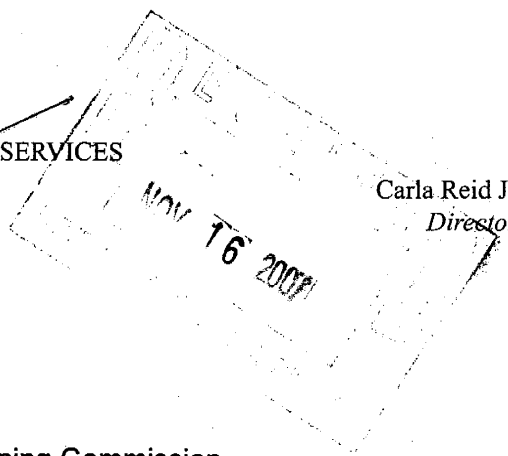
DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive


Carla Reid Joyner  
Director

MEMORANDUM

November 9, 2007



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

FROM: Carla Reid, Director  
Department of Permitting Services 

SUBJECT: Status of Pre-Application Plan: Hernandez Acres, Lot 1  
7-06059

This is to notify you that the Well & Septic Section of MCDPS approved the subject plan on November 9, 2007.

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. The approved sand mound sites must be protected from physical disturbance and compaction of the soil. Prior to the issuance of any permits, the sand mound sites must be fenced using 4-foot high "orange construction fencing".
3. Prior to record plat approval, the existing water well and septic system must be properly abandoned.

If you have any questions, contact Kim Beall at (240) 777-6315.

cc: CAS Engineering  
File