



**Pre-Preliminary Plan No. 720110100: Club Hollow Property**

**CM** Callum Murray, Supervisor, [callum.murray@montgomeryplanning.org](mailto:callum.murray@montgomeryplanning.org) , 301-495-4733

**JAC** John Carter, Chief, [john.carter@montgomeryplanning.org](mailto:john.carter@montgomeryplanning.org), 301-495-4575

**Staff Report Date: 02-08-13**

**Description**

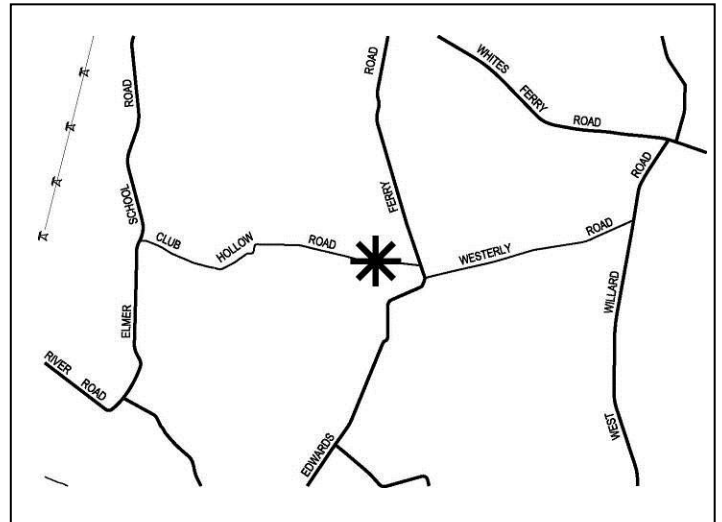
**Pre-Preliminary Plan No. 720110100: Club Hollow Property**

One lot requested, one-family detached residential dwelling unit, located at 21715 Club Hollow Road, 1750 feet west of Edwards Ferry Road; 13.78 acres, Rural Density Transfer Zone (RDT); Preservation of Agriculture and Rural Open Space Master Plan and Rustic Roads Functional Master Plan.

*Staff Recommendation: Approval with conditions.*

*Applicant: Robert P. & Susan S. Jamison*

*Application Date: June 20, 2011*



**Summary**

- The application was submitted requesting Planning Board approval of a lot greater than 5.0 acres in size in the RDT zone using the “minor subdivision” provision of Section 50-35A(8)d of the Montgomery County Code.
- During review of the Pre-Preliminary Plan, the applicant and the Agricultural Advisory Committee challenged the staff interpretation of Forest Conservation regulations. After review of the issue, an alternative solution was proposed by staff, to which the applicant agreed.

**RECOMMENDATION:** Approval, subject to the following conditions:

1. This Pre-Preliminary Plan is limited to one lot for one dwelling unit.
2. The certified Pre-Preliminary Plan must contain the following note:

Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprint and site circulation shown on the Pre-Preliminary Plan are illustrative. The final locations of the building will be determined at the time of issuance of building permit. Please refer to the zoning data table for development standards such as setbacks and building restriction lines for the lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval.

3. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated September 22, 2011, and does hereby incorporate them as conditions of the Pre-Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Pre-Preliminary Plan approval.
4. The Planning Board has accepted the recommendations of the Montgomery County Fire Marshall in a memo dated August 27, 2012, and does hereby incorporate them as conditions of the Pre-Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the memo, which may be amended by the Fire Marshall provided that the amendments do not conflict with other conditions of the Pre-Preliminary Plan approval.
5. The Planning Board has accepted the recommendation of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept memo dated July 19, 2011, and does hereby incorporate it as a condition of the Pre-Preliminary Plan approval. Therefore, the Applicant must comply with the recommendation set forth in the memo, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Pre-Preliminary Plan approval.
6. The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Well and Septic Section in its memo dated June 19, 2012, and does hereby incorporate them as conditions of the Pre-Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the memo, which may be amended by MCDPS – Well and Septic Section provided that the amendments do not conflict with other conditions of the Pre-Preliminary Plan approval.
7. The Applicant must dedicate and show on the record plat(s) the following dedication:

Thirty five (35) feet from the existing pavement centerline along the Subject Property frontage for Club Hollow Road.

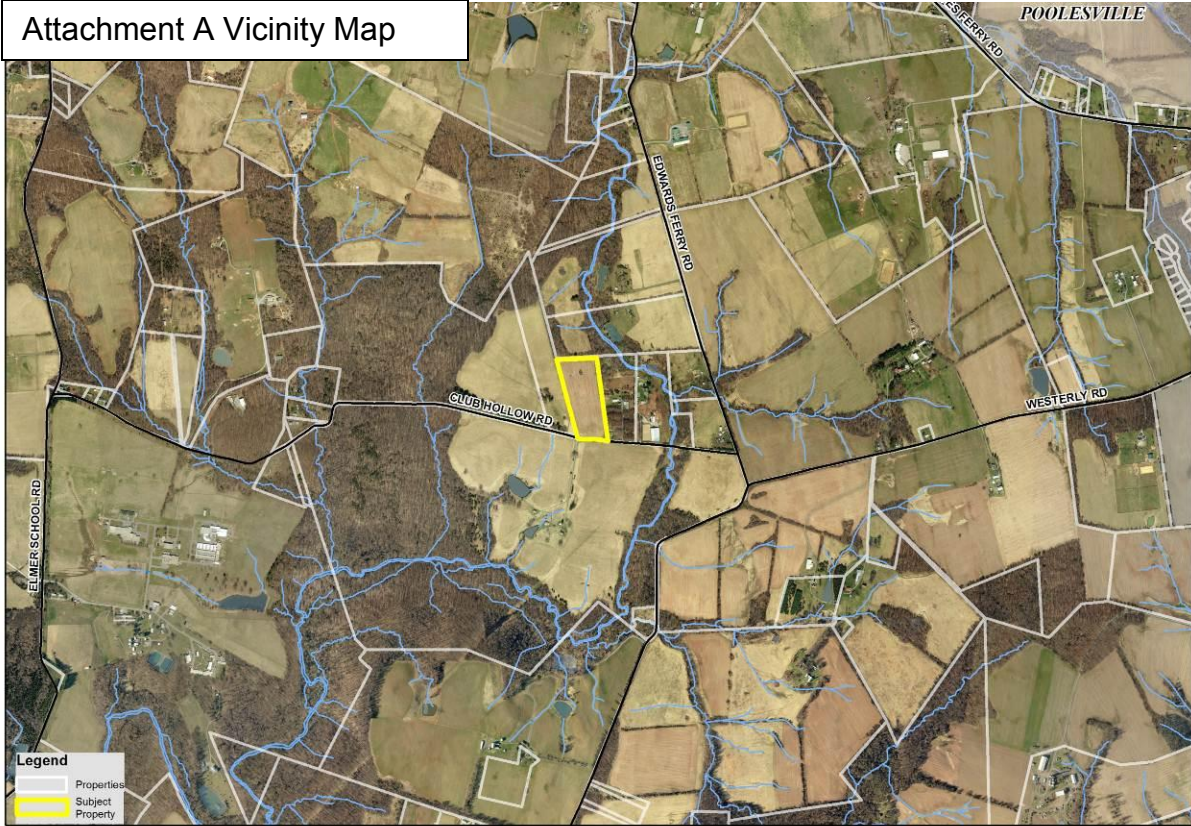
8. The Applicant must construct all road improvements within the rights-of-way shown on the approved Pre-Preliminary Plan to the full width mandated by the master plan and/or to the design standards imposed by all applicable road codes.
9. The record plat must show necessary easements.
10. A building permit for a one-family residence issued for the lot and pursuant to this Pre-Preliminary Plan must show that the building is to be built in substantially the same location and orientation as shown on the certified preliminary plan.
11. Coordinate the precise location of the driveway access point with the Rustic Roads Advisory Committee.
12. The record plat must reflect serialization and liber/folio reference for a TDR utilized by the development.
13. The Applicant must include with the submission of the record plat an affidavit to verify the availability of a TDR for the lot shown on that plat. Include a note referencing the affidavit on the record plat.
14. The record plat(s) must contain the following note:

Agriculture is the preferred use in the Rural Density Transfer Zone. All agricultural operations shall be permitted at any time, including the operation of farm machinery and no agricultural use shall be subject to restriction because it interferes with other uses permitted in the Zone.
15. The Adequate Public Facility (“APF”) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of this Planning Board Resolution.

#### **SITE DESCRIPTION**

This pre-preliminary plan pertains to a deed parcel (P560) of 13.78 acres, (“Property” or “Subject Property”) located at 21715 Club Hollow Road, on the north side, and 1750 feet west of Edward’s Ferry Road. (Attachment A – Vicinity Map). Club Hollow Road is a Rustic Road with a 70 feet minimum right-of-way. The parcel, depicted below, is zoned Rural Density Transfer (RDT) and was created by deed prior to the application of the RDT zone to the Property in 1981. The Property has been continuously farmed since at least 1951 and is currently being used as a horse pasture. (Attachment B – Prime Agricultural Soils). The Property is not improved, and is surrounded by farmland in the RDT Zone.

Attachment A Vicinity Map

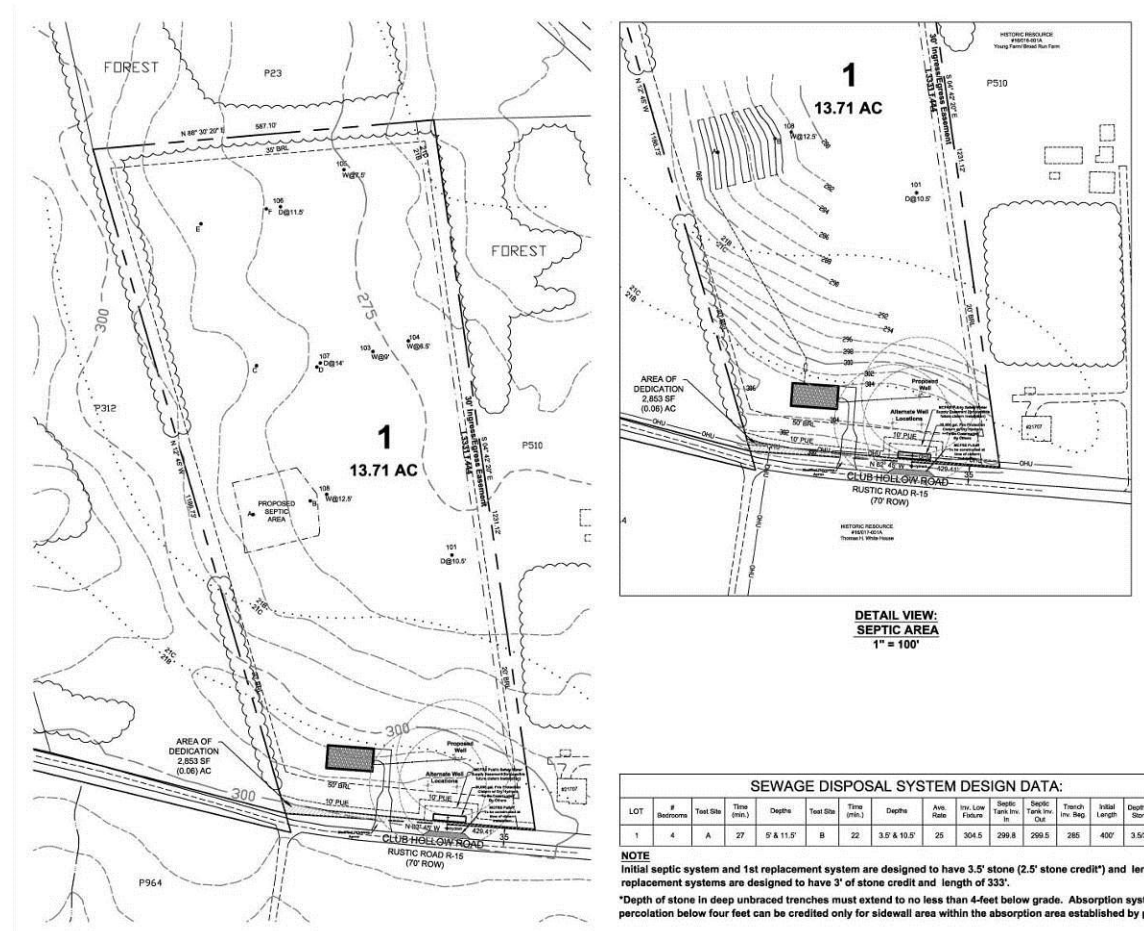


Attachment B Prime Soils



**PROJECT DESCRIPTION**

This Applicant requests approval to create a 13.71-acre lot to accommodate a one-family detached dwelling unit via the minor subdivision process outlined in Section 50-35A(a)(8) of the Subdivision Regulations. (Attachment C – Proposed Pre-Preliminary Plan). This Section permits the creation of up to 5 lots in the RDT zone "if a pre-preliminary plan is submitted and approved by either the Planning Board or Planning Board staff." In this case, because the size of the proposed lot exceeds the maximum average of 5 acres permitted by Section 50-35A(8)d, Planning Board review of the pre-preliminary plan is required. The Applicant has configured the plan to minimize the impact on prime soils and the area available for farmland, and intends to submit a "declaration of intent to farm" for the property upon submission of a forest conservation plan for the project. (Attachment D – Applicant’s Statement of Justification).



Attachment C Pre-Preliminary Plan

## ANALYSIS AND FINDINGS – Chapter 50

### Conformance to the Master Plan

The pre-preliminary plan is required to be in compliance with two Functional Master Plans – Preservation of Agriculture and Rural Open Space (AROS), and Rustic Roads.

The Master Plan for the Preservation of Agriculture and Rural Open Space (AROS) contains goals and objectives for the preservation of critical masses of farmland and rural open space in the county. The plan contains the following language:

The Foreword, reads, in part: “[t]his plan focuses on the preservation of farmland but it also tries to establish a policy framework that will contribute to the continuation of farming in the County” (emphasis added).

“The critical land use issue in this Plan is the loss of productive farmland; the focus is the identification and application of land use regulations and incentives to help retain agricultural land in farming” (emphasis added). (pg. 8)

“Farmland and open space are irreplaceable and valuable natural resources, and should be protected” (emphasis added). (pg. 25)

“It is in the public interest to preserve farmland. Farmland preservation not only involves the preservation of individual farms, productive soils and a way of life, but it meets a variety of national, regional, state, and local objectives. The need to protect farming in a County that already provides for a balanced series of growth alternatives can be justified in seven broad public purpose areas:

- A. Control of Public Costs and Prevention of Urban Sprawl
- B. Adherence to County Growth Management Systems
- C. Preservation of Regional Food Supplies
- D. Energy conservation
- E. Protection of the Environment
- F. Maintenance of Open Space
- G. Preservation of Rural Life-Styles” (pg.27)

“Since farmland preservation serves a series of public purposes, Montgomery County must commit itself to the preservation of farmland...In the absence of a specific preservation effort, farmland will continue to be converted to residential, commercial, and industrial uses.” (pg. 31)

The property falls within the Agricultural Reserve area described in the AROS plan. The plan describes the Reserve as an area that “includes the majority of the remaining working farms, as well as other land uses that will serve to define and support those working farms” (p. 38), and as areas that “contain a critical mass of productive farmland worthy of protection, as well as other non-farmland uses which serve to support and define the critical mass” (p. 41). The plan recommends RDT zoning and transfer of development density to help preserve farmland and agricultural uses in these areas. The purpose clause of the RDT zone also speaks to this intent:

“The intent of this zone is to promote agriculture as the primary land use \* \* \*. This is to be accomplished by providing large areas of generally contiguous properties suitable for agricultural and related uses and permitting the transfer of development rights from properties in this zone to designated receiving areas. \* \* \* Agriculture is the preferred use in the Rural Density Transfer zone.”

At 13.71 overall acres, the Property is smaller than the minimum acreage typically considered suitable for a working farm, but aerial photographs indicate that the Property has been in agricultural use from at least 1951. There is also evidence that demand for small farms or lots suitable for horses is on the increase. This includes the current lease as a horse pasture, previous applications on Bucklodge Road and Brink Road, and testimony on various agricultural matters submitted by the Montgomery Countryside Alliance. The applicant’s Statement of Justification for this application indicates that the intent is to retain a small farm and that approval of the proposed lot with the proposed dwelling location will allow the agricultural use to continue.

Staff finds that the proposed subdivision substantially conforms with the recommendations adopted in the AROS Master Plan in that the proposed lot will not significantly reduce the area available for farming. The plan is designed to minimize fragmentation of the property and maximize the viable farmland. There are 11 acres of prime agricultural soils on this 13.71-acre property, of which 10.16 will be retained.

The approved and adopted Functional Master Plan for Rustic Roads classifies Club Hollow Road as a rustic road because the road has historic value and outstanding natural features including a wooded section near Trundle Road, a picturesque hollow on the north side across from the National Institute of Health property, and changes in elevation, and right angle turns as the road fits the short, steep hills. The road, surveyed in 1871, connected the Oak Hill schoolhouse, nearby farmsteads, and a saw and grist mill with River Road and Edwards Ferry Road. Historically, the road was known as Oak Hill Road, after the local community. The Master Plan identifies a scenic view from Club Hollow Road in this vicinity, but it is towards the south, the opposite direction from the proposed lot.

Staff finds that the pre-preliminary plan is in compliance with the Rustic Roads Functional Master Plan. It will not impinge on any forests, trees, natural features, or scenic views. Rustic roads are frequently bordered by hedgerows, but in this instance, this section of Club Hollow Road has no extant hedgerow.

### **Public Facilities**

#### Roads and Transportation Facilities

The proposed lot does not generate 30 or more vehicle trips during the morning or evening peak-hours. Therefore, the application is not subject to Local Area Transportation Review. Additional right-of-way dedication is required measured 35 feet from the center of Club Hollow Road. As this is a rustic road, a sidewalk is not required along the property frontage. Access to the new dwelling unit is proposed from Club Hollow Road and additional access points are not proposed. Proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed public improvements.

#### **Other Public Facilities and Services**

Other public facilities and services are available and will be adequate to serve the proposed lot. Private well and on-site septic systems are proposed to serve the new dwelling unit, and were approved by the Department of Permitting Services Well and Septic Section on June 19, 2012. Gas, electrical and telecommunications services are available to serve the Property. The application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities and services, such as schools, police stations, firehouses and health services are currently operating within the standards set by the



Subdivision Staging Policy Resolution currently in effect. The Subject Property is within the Poolesville School cluster area which is operating at acceptable levels. The application is not subject to a School Facilities Payment.

## **ENVIRONMENT**

### **Environmental Guidelines**

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420112020 for this site was approved on June 30, 2011. The NRI/FSD identifies the environmental constraints and forest resources on the subject property. There are no forest, wetlands, or streams on the property, and the project has very limited environmental impacts. The site is in the Broad Run Watershed, a Use I-P watershed. The Countywide Stream Protection Strategy (CSPS) rates streams in this watershed as in generally good condition. The Application adequately protects environmental features.

### **Forest Conservation (Chapter 22A)**

The Forest Conservation Plan (FCP), SC2012020, covers 0.89 acres of net tract area. A total of 12.86 acres is being deducted as agricultural and not being developed as part of this project. The FCP will clear no forest, and development of the lot generates a 0.18 acre afforestation planting requirement. The Applicant proposes to meet the planting requirement off site via credits in a forest conservation bank. The FCP is recommended for approval by staff and will be approved if the Planning Board approves the Application.

On August 3, 2012, the Applicant wrote to the Planning Board, challenging a specific interpretation of Chapter 22A, the Montgomery County Forest Conservation Law. (Attachment E). This was followed on August 21, 2012, by a letter from the Agricultural Advisory Committee (AAC) supporting the Applicant's position. (Attachment F). The Applicant and the AAC argued that "It is unjust to impose forest mitigation on conventional septic areas being used for farmland."

### **Background:**

Section 22A-5(b) stipulates that an agricultural exception from the requirement to file a forest conservation plan is only valid for:

“an agricultural activity that is exempt from both platting requirements under Section 50-9 and requirements to obtain a sediment control permit under Section 19-2(c)(2). Agricultural support buildings and related activities are exempt only if built using best management practices.”

Under a very strict reading of the exemption provisions in the Forest Conservation Law, no area on the Club Hollow property meets the required definition for an exemption because the project is subject to both platting requirements under Chapter 50 and requirements to obtain a sediment control permit under Section 19-2(c)(2). The Applicant and the AAC argued that many such properties remain agriculturally viable. Staff did not debate this, and it has been a long standing practice to exclude those portions where the primary use remains agriculture from the gross tract area of the forest conservation plan. The net tract area includes portions where the primary usage is residential, including a reasonable yard area around individual dwellings. The septic system, including the initial and reserve field areas, are a required element of the residential use and not the agricultural use. As such, the septic system, including the reserve areas, has historically been included in the forest conservation plan net tract calculation.

Staff recognized that viable agricultural uses can be maintained on parts of lots subject to platting requirements under Section 50-20, and did not debate that cultivation is commonplace over deep trench septic systems. The staff practice has been a compromise to help promote agriculture within the County by not subjecting the entirety of a platted property(s) to the requirements of Chapter 22A, Article II.

Staff practice has been to accept a hypothetical line drawn by the applicant’s engineer, often conservatively, around a proposed dwelling location, as part of a forest conservation plan. After considerable discussion, staff advised that the Limit of Disturbance (LOD) depicted on a sediment control permit application, including the area of the dwelling, driveway, appurtenances, well location, septic line and initial septic field (but not the reserve fields) would be a more definitive and logical basis for the delineation of the net tract area.

On September 28, 2013, the Applicant agreed to this alternative proposal.

Staff finds that the plan meets all applicable requirements of the Montgomery County Forest Conservation Law.

**Stormwater management**

If the application is approved and proceeds to the building permit stage, the applicant will be required to address storm water management at the sediment and erosion control permit stage.

**Compliance with the Subdivision Regulations and Zoning Ordinance**

**Preliminary Plan Data Table**

| <b>PLAN DATA</b>                   | <b>Zoning Ordinance<br/>Development Standard</b> | <b>Proposed for Approval by the<br/>Preliminary Plan</b> |
|------------------------------------|--|--|
| Minimum Lot Area                   | 40,000 sq. ft.                                   | 597,207 sq. ft.  |
| Lot Width @ Building Line          | 150 ft.  | 442 ft.  |
| Lot Frontage                       | 25 ft.   | 429 ft.  |
| Setbacks                           |  |  |
| Front                              | 50 ft. Min.                                      | Must meet minimum <sup>1</sup>                           |
| Side                               | 20 ft. Min./40 ft. total                         | Must meet minimum <sup>1</sup>                           |
| Rear                               | 35 ft. Min.                                      | Must meet minimum <sup>1</sup>                           |
| Maximum Residential Dwelling Units | One  | One  |
| TDRs                               |  |  |

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

**Section 50-35(8) requirements**

The proposed lot is to be platted pursuant to Section 50-35A(a)(8) of the Subdivision Regulations. This section 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. Applications for minor subdivision under Section 50-35A(a)(8) must meet 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 a TDR have been utilized for the new lot. Reference to this easement must be reflected in the record plat for the lot;
- 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.

With regards to provision (a), the well and septic facilities were approved by the Department of Permitting Services Well and Septic Section on January 12, 2012. For provision (b), additional right-of-way dedication is required for Club Hollow Road along the property frontage. Item (c) is a condition of approval. Item (d) is the subject of the current staff report. Finally, for (e), the submitted forest conservation plan, SC2012020, is recommended for approval by Staff and will be approved if the Planning Board approves the minor subdivision.

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections. The proposed lot size, width, shape and orientation are appropriate for the location.

The lot was reviewed for compliance with the dimensional requirements for the RDT 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 the Preliminary Plan Data Table. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

### **CORRESPONDENCE AND ISSUES**

The applicant notified adjacent and confronting property owners of the pre-preliminary plan submission, as required. To date, staff has not received any response.

### **CONCLUSION**

The proposed lot meets all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conform to the recommendations of the Preservation of Agriculture and Rural Open Space Master Plan and the Rustic Roads 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 whom have recommended approval of the plan. Therefore, approval of the Application with the conditions specified above is recommended.

### **Attachments**

Attachment A – Vicinity Map (within report)

Attachment B – Prime Agricultural Soils (within report)

Attachment C – Pre-Preliminary Plan

Attachment D – Applicant’s Statement of Justification

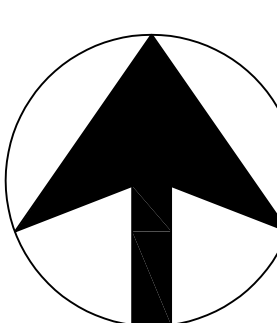
Attachment E – Applicant’s letter to Planning Board, August 3, 2012

Attachment F – Agricultural Advisory Committee letter to Planning Board, August 21, 2012

Attachment G – Email correspondence between applicant and staff

Attachment H – Agency Correspondence

|               |
|---------------|
| Rev. 07/27/11 |
| Rev. 08/03/11 |
| Rev. 06/12/12 |
|               |
|               |
|               |



date: 6/17/11  
scale: 1" = 100'

Benning & Associates, Inc.  
Land Planning Consultants  
8933 Shady Grove Court  
Gaithersburg, MD 20877  
(301)944-0240



PRE-APPLICATION PLAN  
**CLUB HOLLOW PROPERTY**  
(PARCEL 560, TAX MAP BT41)  
Montgomery County, Maryland

"MINOR SUBDIVISION"

ZONING STANDARDS\*:

| ZONE: RDT                 | Req.                | Prov.             |
|---------------------------|---------------------|-------------------|
| Lot Size                  | 40,000 sf           | 597,207 sf        |
| Lot Density               | 1 d.u. / 25 AC      | 1 d.u. / 13.71 AC |
| Front Setback             | 50'                 | 50' or more       |
| Sideyards                 | 40' min., 20' total | 20' or more       |
| Rearyard                  | 35'                 | 35' or more       |
| Building Height           | 50' Max.            | 50' or less       |
| Lot Coverage              | 10% Max.            | 10% or less       |
| Lot Width @ Building Line | 150'                | 443'              |
| Frontage                  | 25'                 | 429'              |

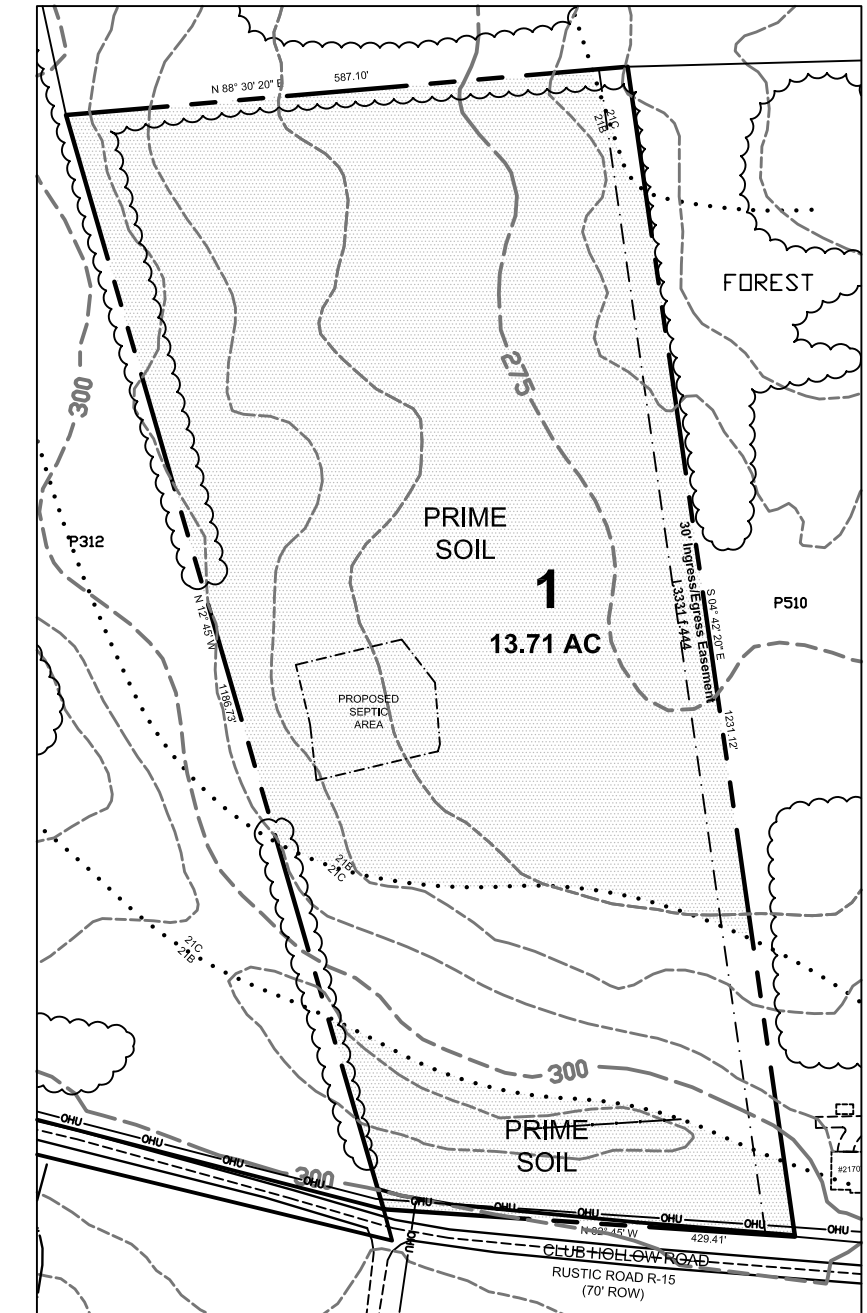
**GENERAL NOTES:**

1. AREA OF PROPERTY - 13.78 ac
2. EXISTING ZONING: RDT
3. NO. OF LOTS PERMITTED - 1
4. NO. OF LOTS SHOWN - 1
5. LOT TO BE SERVED BY PRIVATE WELLS & ON-SITE SEPTIC SYSTEMS
6. LOCATED IN *BROAD RUN WATERSHED (CLASS IP)*
7. SOILS SERIES 21B IS A PRIME AGRICULTURAL SOIL
8. THERE ARE NO PUBLIC RECORDS OF ANY WELLS OR SEPTIC SYSTEMS WITHIN 100' OF THE SUBJECT PROPERTY.

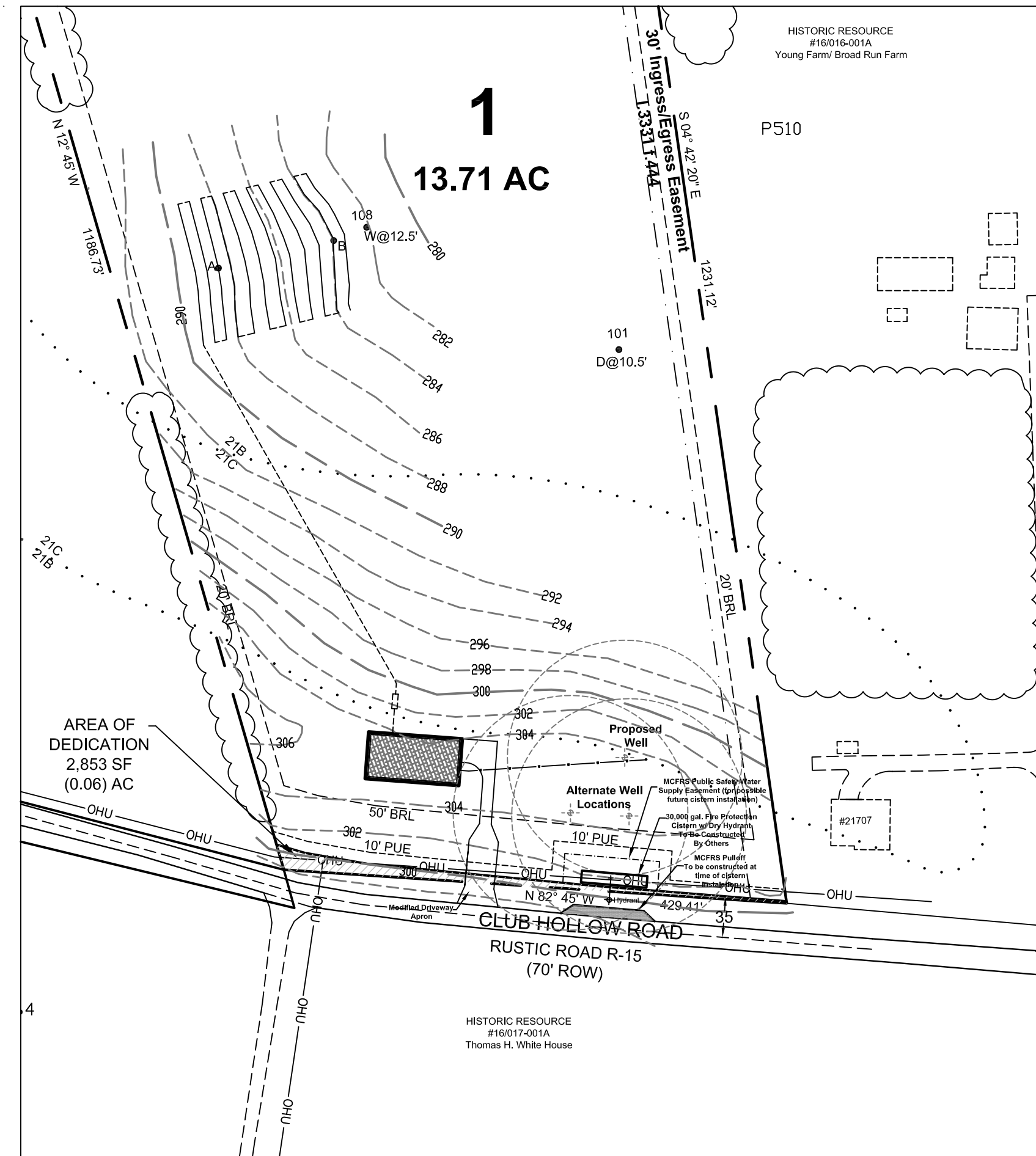
\*The proposed lot is exempt from area and dimensional requirements of the rural-density-transfer zone in accordance with section 59-C-9.74(b)(2) of the County Code.

**LEGEND:**

- Proposed House
- Proposed Well
- Proposed Septic Area
- Prime Ag Soils
- Area of Dedication
- Property Line
- Canopy/Forest Coverage
- Soil Series
- Water Table/Percolation Test Site
- Ingress/Egress easement



DETAIL VIEW: PRIME SOILS MAP  
1" = 200'

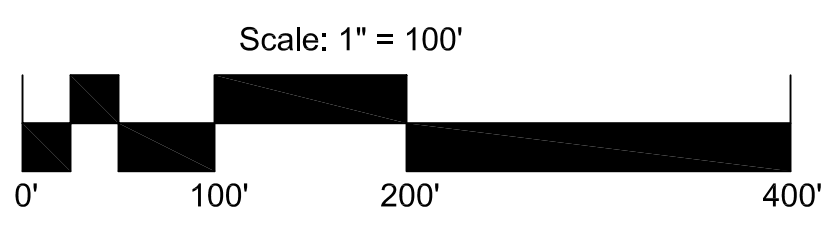
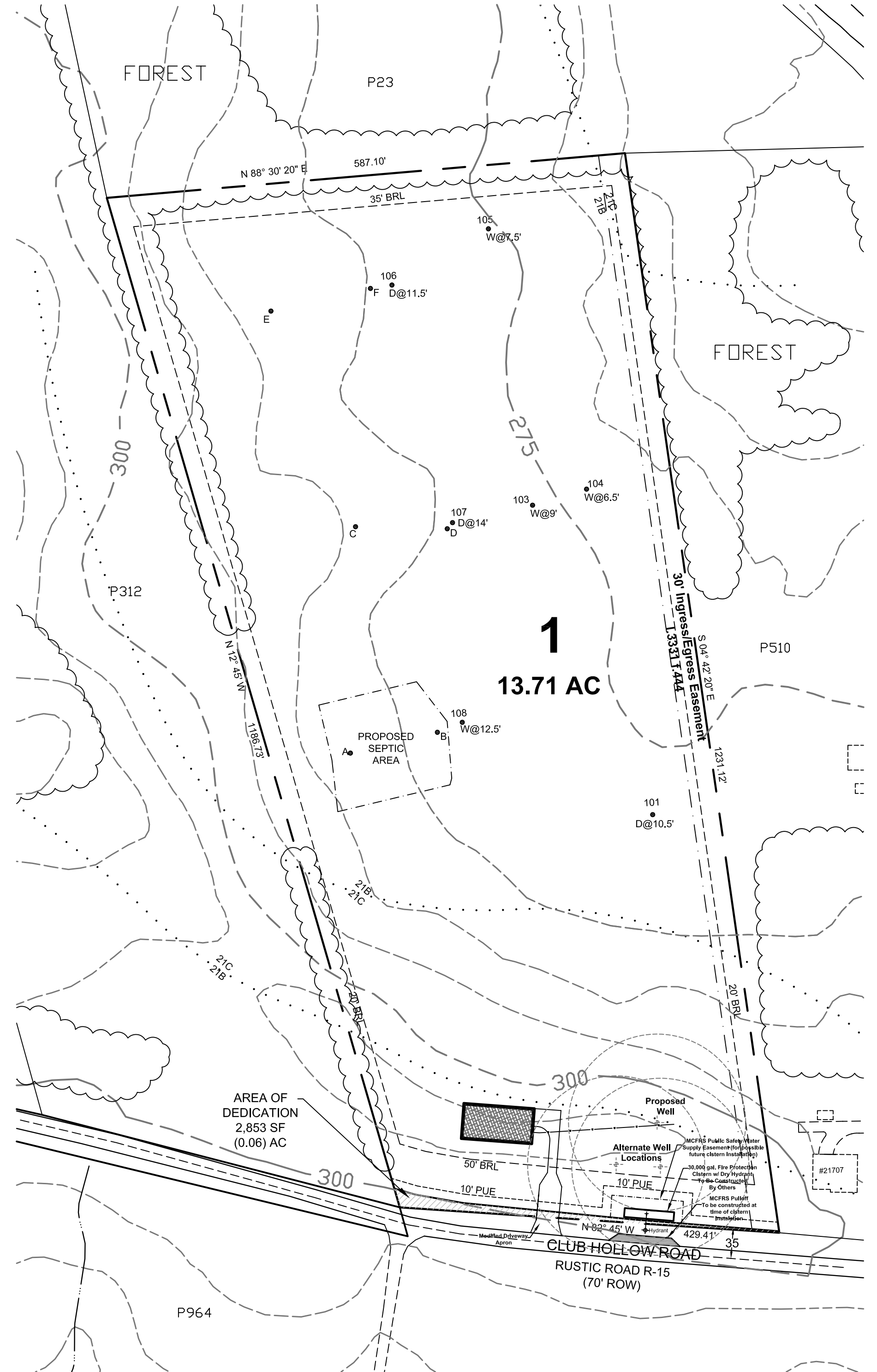


DETAIL VIEW: SEPTIC AREA  
1" = 100'

SEWAGE DISPOSAL SYSTEM DESIGN DATA:

| LOT | # Bedrooms | Test Site | Time (min.) | Depths     | Test Site | Time (min.) | Depths       | Ave. Rate | Inv. Low Fixture | Septic Tank Inv. In | Septic Tank Inv. Out | Trench Inv. Beg. | Initial Length | Depth of Stone | Total Length |
|-----|------------|-----------|-------------|------------|-----------|-------------|--------------|-----------|------------------|---------------------|----------------------|------------------|----------------|----------------|--------------|
| 1   | 4          | A         | 27          | 5' & 11.5' | B         | 22          | 3.5' & 10.5' | 25        | 304.5            | 299.8               | 299.5                | 285              | 400'           | 3.5/3'         | 1,466'       |

**NOTE**  
Initial septic system and 1st replacement system are designed to have 3.5' stone (2.5' stone credit\*) and length of 400'. 2nd and 3rd replacement systems are designed to have 3' of stone credit and length of 333'.  
\*Depth of stone in deep unbraced trenches must extend to no less than 4-feet below grade. Absorption systems that have approved percolation below four feet can be credited only for sidewall area within the absorption area established by percolation tests.



**BOUNDARY & TEST SITE CERTIFICATION:**  
I hereby certify that the boundary and test site locations shown hereon are correct to my best knowledge based upon available records and visual observations. Test site locations shown were field surveyed.

Thomas A. Maddox  
Professional Land Surveyor, MD #10850  
Expiration Date: 4/3/2014



Prepared for:  
**Robert P. & Susan S. Jamison**  
P.O. Box 621  
Poolesville, MD 20837  
(301) 407-0337



**Benning & Associates, Inc.**  
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(301) 948-0240

June 16, 2011

Mr. John Carter, Area 3 Chief  
Montgomery County Planning Department  
M-NCPPC  
8787 Georgia Avenue  
Silver Spring, MD 20910

Re: Statement of Justification for Club Hollow Property

Dear Mr. Carter,

Attached herewith is an application for Pre-Application review for the subject property. The Club Hollow Property consists of a deed parcel of 13.78 acres which is zoned Rural Density Transfer (RDT). The property is mostly open farmland and is not currently improved. The property owner wishes to convert the parcel into one building lot so that a residence can be built on the small farm in the future.

The application is being submitted for approval of the lot using the "minor subdivision" provision of Section 50-35A(8) of the Montgomery County Code. Section 50-36A(8) permits the creation of up to 5 lots in the RDT zone "provided that a pre-preliminary plan is submitted and approved by either the Planning Board or Planning Board staff". In this case, because the size of the lot exceeds the maximum average of 5 acres permitted by 50-35A(8)d, Planning Board review of the Pre-Application Plan is required for a waiver of the lot size limitation.

In addition to the information shown on the attached Pre-Application Plan and supporting documents, please note the following:

1. The subject property is located within the Agricultural Reserve as identified in the Agricultural Resource and Open Space (AROS) Master Plan. The property is zoned RDT. The proposed plan maintains compliance with the Master Plan by retaining agriculture as the primary land use. The property owner intends to submit a "declaration of intent to farm" for the property upon submission of a forest conservation plan for the project.
2. The property will be adequately served by public facilities including existing roads and available utilities. Private wells and on-site septic systems will be utilized for the lot.

3. The proposed lots meet the requirements of the RDT zone with respect to lot size and other development standards. The property is exempt from area and dimensional requirements of the zone in accordance with Section 59-C-9.74(b)(2) of the Zoning Ordinance. The parcel was created by deed prior to the application of the RDT zone to the property.
4. No waivers from any zoning, subdivision, or road code requirements are being requested with this application.

Based upon all of the above and the additional information shown on plans which accompany the application, we respectfully request approval of this application. Please let us know if anything further is needed at this time.

Sincerely,



David W. McKee



*Robert P. Jamison  
16200 Edwards Ferry Road  
Poolesville MD 20837*

August 3, 2012

Montgomery County MD Planning Board  
8787 Georgia Ave.  
Silver Spring, MD 20910

Ms. Rose Krasanow, Chief, Area 1  
Montgomery County Planning Department  
8787 Georgia Avenue  
Silver Spring Md 20910

Greetings,

As you know, land in the Rural Density Transfer Zone that is being subdivided and taken out of agriculture is subject to forest mitigation and its attendant fees. This applies to land which will be taken out of agriculture and used for the placement of a dwelling and has also been applied (we contend erroneously) to ground where a septic system is located. We bring this to your attention because forest mitigation is being applied to septic system areas even though the ground above a conventional septic system is still fully suitable for normal agriculture after the septic system is installed. Indeed, this area of land is actually improved for farming by the septic system. Clearly such ground is not being taken out of agriculture simply because a septic system is being installed underneath its surface. Therefore it does not fairly come within the language, intent or purpose of the forest mitigation law. Hence it is unjust to impose forest mitigation on conventional septic areas being used for farmland.

We attach for your review an email from Mr. Gene Von Gunten of the Health Department which supports that farming is fully compatible with a conventional septic system. He mentions that there could be a problem if deep tilling is done on a shallow trench system (my system will be the normal deep trench) but in fact no deep working of the soil is ever necessary with modern farming practices and equipment (i.e. no-till farming, etc.). I farm 2,000 acres, more or less, and I assure you that septic systems are routinely farmed-over in every instance known to me. I know of no reason why any farmer would take such an area out of agriculture.

We currently have a plan coming in front of the board in connection with our parcel on Club Hollow Road, Poolesville Maryland (Plan No.720110100) which is facing this unjust forest mitigation. This particular parcel of land is rented out by us for equestrian pursuits and the septic system area will continue to be used for agriculture (horses), after the septic system is

installed. We ask you now for a policy change in accordance with the reality that the land is not being taken out of agriculture. The clear language of the law imposes forest mitigation only on land which is being taken out of agriculture and no such reduction is occurring in the normal case of a contemporary septic systems on working farms. The forest mitigation fee (or mitigation) must be paid before the subdivision hearing so we are asking you to change your policy before we have our hearing. In this way we can avoid the forest mitigation on the septic area which we consider unjust, arbitrary and capricious when it is applied to a conventional septic area on a working farm such as ours where farming is clearly intended to continue after construction of a residence.

I am sure that the Agriculture Advisory Board will not only verify my position but support a change in policy to conform to the language of the law. I appreciate your reviewing the policy on this matter. While I understand it has been in effect for some years, I may have been the first real farmer to notice that I was being required to pay a forest mitigation for taking land out of agriculture which is not actually being taken out of agriculture at all.

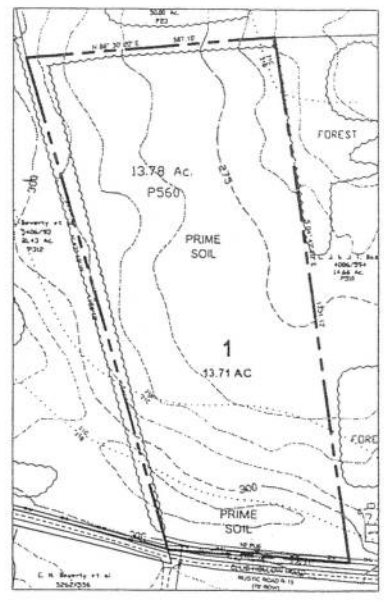
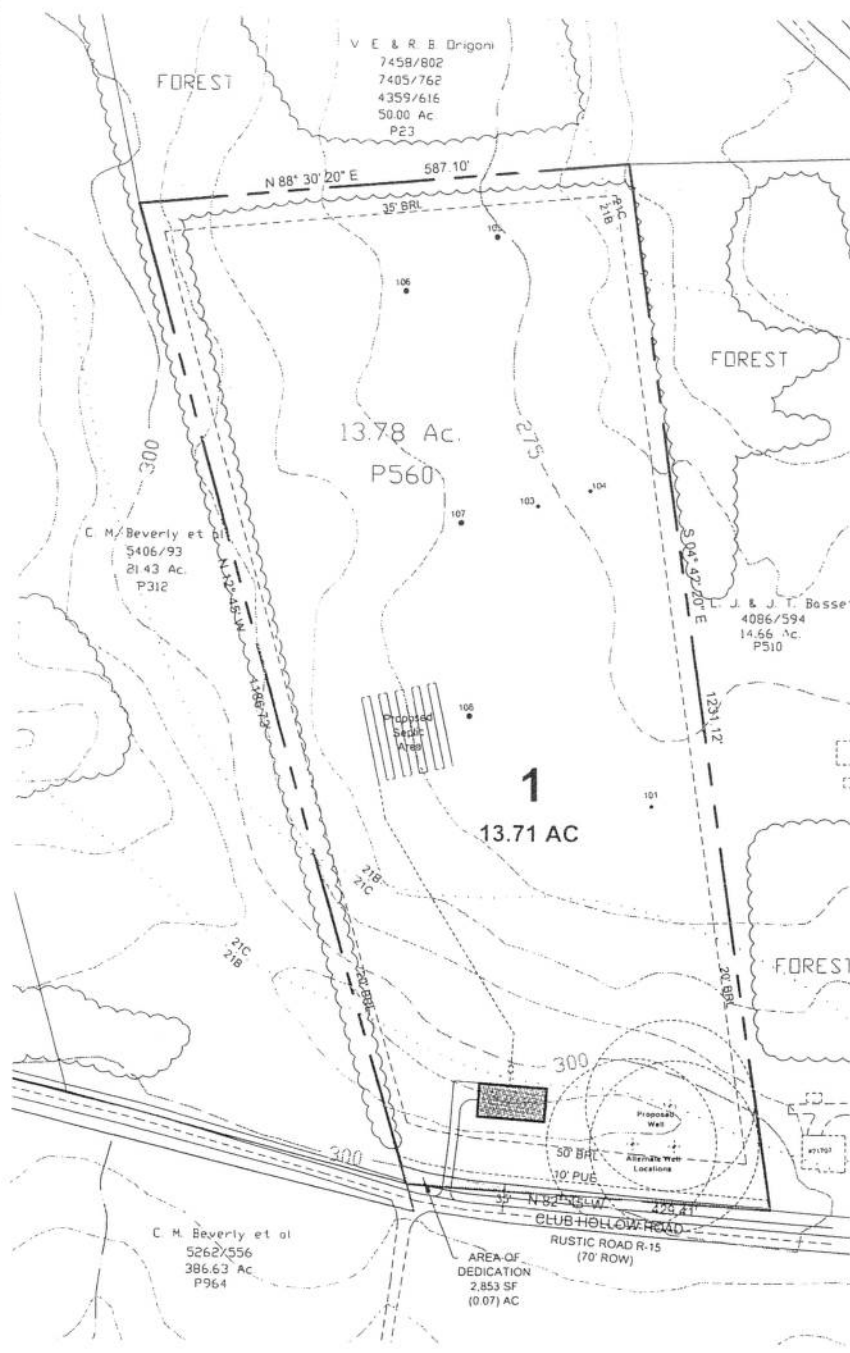
Thank you,

A handwritten signature in cursive script that reads "Robert P. Jamison". The signature is fluid and includes a large, sweeping flourish at the end.

Robert P. Jamison

Enclosure: As stated, and Plat of Property

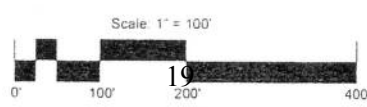
Cc: Agricultural Advisory Board, Jeremy Criss, John Zowitowski, Josh Maisel of Benning and Associates



DETAIL VIEW: PRIME SOILS MAP  
1" = 200'

**BOUNDARY CERTIFICATION:**  
I hereby certify that the boundary shown hereon is correct to my best knowledge based upon available records and visual observations.

Signature \_\_\_\_\_ Date \_\_\_\_\_



**AGRICULTURAL ADVISORY COMMITTEE**

August 21, 2012

Francoise Carrier, Chair  
Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, Maryland  
20910

Dear Madam Chair:

RE: August 3, 2012 Letter from Robert Jamison-Forest  
Conservation Mitigation on Septic Areas

On August 21, 2012, the Agricultural Advisory Committee discussed the above mentioned letter surrounding the application of Forest Conservation Mitigation on Septic Areas. On behalf of the Montgomery County Agricultural Advisory Committee, AAC please accept this letter as our recommendation surrounding this issue and our request for the Planning Board to adopt a change in policy for how Forest Conservation Mitigation-Calculation is applied to septic areas governed by a Declaration of Intent to farm.

It is our understanding the Planning Board will be reviewing Plan No. 720110100 that is located on Club Hollow Road in Poolesville and the applicant is Robert Jamison. Mr. Jamison copied the Agricultural Advisory Committee on his August 3, 2012 outlining the issue. Mr. Jamison said that the Forest Mitigation calculation for meeting the requirements for Forest Conservation has been applied to the septic area in addition to the location of the proposed dwelling. The copy of the plat provided shows the septic area that was approved by the County Department of Permitting Services as a deep trench septic system. Mr. Jamison said the Declaration of Intent to farm the property includes the septic area because normal agronomy practices can be conducted on the farmland above a deep trench septic system. The AAC questions your policy of treating septic areas for the purposes of Forest Mitigation when the septic area will continue in farming. We believe a sand mound septic system should be included within the calculation for Forest Mitigation because a sand mound septic system prohibits future agricultural activities. However, the AAC further believes that a deep trench septic system where the land can continue to be farmed in accordance with the Declaration of Intent should not be included in the Forest Mitigation calculation.

Thank you for considering the views of the Montgomery County Agricultural Advisory Committee.

Sincerely,

David Weitzer

David Weitzer, Chairman

Cc: Robert Jamison

Attachment G

**From:** Bob and Susan Jamison [<mailto:susansfo@msn.com>]  
**Sent:** Friday, September 28, 2012 4:27 PM  
**To:** Murray, Callum  
**Cc:** Weaver, Richard; Penn, Joshua; Rubin, Carol; Weiss, Piera; Holt, Katherine; [pperry@benninglandplan.com](mailto:pperry@benninglandplan.com)  
**Subject:** RE: Club Hollow Property (720110100) Forest Conservation Law

Dear Mr. Murray,

We talked to our land planner Patrick Perry who told us that your proposal was a fair approach. We just want to thank you and let you know that we are going to let the Ag Advisory Board know that you and the other staff members of Park and Planning are supportive of the farm community. Thank you. Bob and Susan

---

From: [Callum.Murray@montgomeryplanning.org](mailto:Callum.Murray@montgomeryplanning.org)  
 To: [susansfo@msn.com](mailto:susansfo@msn.com)  
 CC: [Richard.Weaver@montgomeryplanning.org](mailto:Richard.Weaver@montgomeryplanning.org); [Joshua.Penn@montgomeryplanning.org](mailto:Joshua.Penn@montgomeryplanning.org); [carol.rubin@MNCPPC.ORG](mailto:carol.rubin@MNCPPC.ORG); [Piera.Weiss@montgomeryplanning.org](mailto:Piera.Weiss@montgomeryplanning.org); [Katherine.Holt@montgomeryplanning.org](mailto:Katherine.Holt@montgomeryplanning.org)  
 Subject: Club Hollow Property (720110100) Forest Conservation Law  
 Date: Fri, 28 Sep 2012 13:08:02 +0000

Hello Mr. and Mrs. Jamison:

I refer to my telephone conversation yesterday with Mrs. Jamison. I had hoped to arrange a meeting with you to discuss your letter to the Planning Board together with the letter of support from the Agricultural Advisory Committee.

I fully appreciate that that you will be extremely busy during harvest time, and I hope it will be productive.

As an alternative to a meeting, perhaps you can consider the following informal proposal and respond back to me by email.

#### Background

You are both familiar with Chapter 22A, otherwise known as the Montgomery County Forest Conservation Law. Section 22A-5(b) stipulates that an agricultural exception from the requirement to file a forest conservation plan is only valid for:

"an agricultural activity that is exempt from both platting requirements under Section 50-9 and requirements to obtain a sediment control permit under Section 19-2(c)(2).  
 Agricultural support buildings and related activities are exempt only if built using best management practices."

Under a strict reading of the exemption provisions in the Forest Conservation Law, no area on the Club Hollow property meets the required definition for an exemption because the project is subject to both platting requirements under Chapter 50 and requirements to obtain a sediment control permit under Section 19-2(c)(2). We do not debate that many such properties remain agriculturally viable, and staff's long standing practice has been to exclude those portions where the primary use remains agriculture from the gross tract area of the forest conservation plan. The net tract area includes portions where the

primary usage is residential, including a reasonable yard area around individual dwellings. The septic system, including the initial and reserve field areas, are a required element of the residential use and not the agricultural use. As such, the septic system, including the reserve areas, has historically been included in the forest conservation plan net tract calculation.

We recognize that viable agricultural uses can be maintained on parts of lots subject to platting requirements under Section 50-20, and we do not debate that cultivation is commonplace over deep trench septic systems. However, the staff practice has been a compromise to help promote agriculture within the County by not subjecting the entirety of a platted property(s) to the requirements of Chapter 22A, Article II.

You have requested a change in this staff practice. Staff met internally to discuss your request and we would like to invite your views on an alternative proposal. We have not concluded that this is feasible, because of logistical timing issues, but we would like to explore it with you.

Our practice has been to accept a hypothetical line drawn by the applicant's engineer, often conservatively, around a proposed dwelling location, as part of a forest conservation plan. Our legal staff have advised us that the Limit of Disturbance (LOD) depicted on a sediment control permit application, including the area of the dwelling, driveway, appurtenances, well location, septic line and initial septic field (but not the reserve fields) would be a more definitive and logical basis for the delineation of the net tract area. The problem is that the sediment control permit application typically occurs subsequent to the forest conservation plan. If the logistics can be worked out, would this alternative be acceptable to you? We would like you to bear in mind the following:

The existing staff practice is already a compromise.

Using the LOD as a basis would result in a more accurate net area than the speculative dimensions typically depicted on a forest conservation plan.

Taking this issue to the Planning Board could result in an instruction to staff to strictly interpret Sec 22A-5(b), thereby including the entire property, regardless of use, in the forest conservation plan net tract area.

The Planning Board does not have review or approval authority over forest conservation plans submitted under Section 22A-11(d), unless the decision is appealed. In other words, the only way we can get the Club Hollow forest conservation plan before the Planning Board would be for the Planning Director to issue a denial letter and for you to appeal it. We would much prefer to come to an agreed resolution with you on the issue you have raised.

Lastly, I don't think either of us really wants to go back to the County Council with proposed changes to the Forest Conservation Law.

I would welcome your thoughts on these matters.

Best regards,

Callum

**MONTGOMERY COUNTY DEPARTMENT OF PERMITTING SERVICES**  
 255 Rockville Pike, 2nd Floor, Rockville, Maryland 20850-4153

Date: July 19, 2011

MEMO TO: Catherine Conlon, Supervisor for  
 Development Review Committee, MNCPPC

FROM: William Campbell, Senior Permitting Services Specialist  
 Division of Land Development Services, MCDPS

SUBJECT: Stormwater Management Concept Plan/Floodplain Review  
 Preliminary Plan 720110100; Club Hollow Property  
 Subdivision Review Meeting July 25, 2011 SWM File # NA

The subject plan has been reviewed to determine if it meets the requirements of Executive Regulation 7-02AM for stormwater management and Executive Regulation 108-92 AM for Floodplain. The following summarizes our findings:

**SM CONCEPT PLAN PROPOSED:**

- On-site:  CPv  WQv  Both
- CPv < 2cfs, not required
- Waiver:  CPv  WQv  Both
- On-site/Joint Use  Central (Regional): waived to  
 Existing Concept:  Approved Date,
- Other

**Type Proposed:**

- Infiltration  Retention  Surface Detention  Wetland  Sand Filter
- Separator Sand Filter  Underground Detention  Non Structural Practices  Other

**FLOODPLAIN STATUS:** 100-Year Floodplain On-Site  Yes  No  Possibly

- Provide the source of the 100-Year Floodplain Delineation for approval:
- Source of the 100-Year Floodplain is acceptable.
- Submit drainage area map to determine if a floodplain study (>or equal to 30 acres) is required.
- Dam Breach Analysis  Approved  Under Review
- 100 yr. floodplain study  Approved  Under Review

**SUBMISSION ADEQUACY COMMENTS:**

- Downstream notification is required.
- The following additional information is required for review: \_\_\_\_\_

**RECOMMENDATIONS:**

- Approve  as submitted  with conditions (see approval letter).
- Incomplete; recommend not scheduling for Planning Board at this time.
- Hold for outcome of the SWM Concept review.
- Comments/Recommendations: Address Stormwater Management at the time of Sediment Control submission.

cc: ~~Steve Federline, Environmental Planning Division, MNCPPC~~

bII:DRC.3/03





## DEPARTMENT OF TRANSPORTATION

Isiah Leggett  
County Executive

September 22, 2011

Arthur Holmes, Jr.  
Director

Mr. Richard Weaver, Senior Planner  
Area 3  
The Maryland-National Capital  
Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

RE: Pre-preliminary Plan 7-20110100  
Club Hollow Property

Dear Mr. Weaver:

We have completed our review of the above-referenced pre-preliminary plan. The following comments are tentatively set forth for the subsequent submission of a preliminary plan or record plat, whichever comes first:

1. Show all existing topographic details (paving, storm drainage, driveways adjacent and opposite the site, sidewalks and/or bikeways, utilities, rights of way and easements, etc.).
2. Necessary dedication for Club Hollow Road in accordance with the Master Plan.
3. Storm drainage and/or flood plain studies, with computations. Analyze the capacity of the existing public storm drain system and the impact of the additional runoff.
4. Necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line. Also show revertible and perpetual easements.
5. Club Hollow Road is classified as a "rustic road" under Section 49-78 of the Montgomery County Code. As such, every effort must be made to preserve the existing topographic features, including man-made improvements and vegetation.

Since access will be from a road included in the Rustic Roads Program, we will need to inspect the impact of the subdivision on the rustic road. Stake and pavement mark the proposed driveway location(s) for MCDPS field check; contact Ms. Laura Bradshaw of MCDPS to schedule the field check.

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**Division of Traffic Engineering and Operations**

100 Edison Park Drive, 4th Floor • Gaithersburg, Maryland 20878  
Main Office 240-777-2190 • TTY 240-777-6013 • FAX 240-777-2080  
trafficops@montgomerycountymd.gov

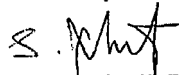


Mr. Richard Weaver  
Pre-Preliminary Plan No. 7-20110100  
Date September 22, 2011  
Page 2

6. Submit a completed, executed MCDOT Sight Distances Evaluation certification form to MCDPS for their review and approval.

Thank you for the opportunity to review this pre-preliminary plan. If you have any questions or comments regarding this letter, please contact Sam Farhadi at [sam.farhadi@montgomerycountymd.gov](mailto:sam.farhadi@montgomerycountymd.gov) or (240) 777-2197.

Sincerely,



Sam Farhadi, P.E., LEED G.A.  
Development Review Group  
Traffic Engineering and Operations Division

m:/subdivision/farhas01/pre-preliminary plans/ 1-20110100, Club Hollow Property.doc

cc: Robert & Susan Jamison  
David W. McKee, Benning & Associates  
Atiq Panjshiri; MCDPS RWPPR  
Laura Bradshaw; MCDPS  
John Carter, MNCPPC  
Cathy Conlon, MNCPPC  
Ki Kim; MNCPPC  
Greg Leck, DOT TEO



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**FIRE MARSHAL COMMENTS**

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**DATE:** 27-Aug-12  
**TO:** Joshua Maisel - benninglandplan@aol.com  
Benning and Associates  
**FROM:** Marie LaBaw  
**RE:** Club Hollow Property  
720110100

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**PLAN APPROVED**

1. Review based only upon information contained on the plan submitted **27-Aug-12**. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

ATTACHMENT H



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

Diane R. Schwartz Jones  
Director

MEMORANDUM

June 20, 2012

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

FROM: Diane R. Schwartz Jones, Director  
Department of Permitting Services *Diane R. Schwartz Jones*

SUBJECT: Status of Pre-Application Plan: Club Hollow Property

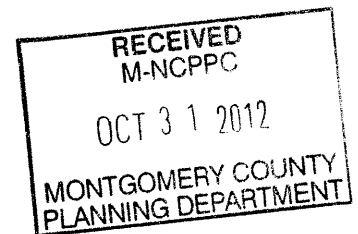
720110100

This is to notify you that the Well & Septic Section of MCDPS approved the subject plan received on June 19, 2012.

Approved with the following reservations:

1. The record plat must be at the same scale as the Pre-Application plan, or submit an enlargement of the plat to match the Pre-Application plan.
2. The record plat must show the septic reserve area as it is shown on this plan.

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



cc: Benning & Associates  
File

255 Rockville Pike, 2nd Floor • Rockville, Maryland 20850 • 240-777-6300 • 240-777-6256 TTY  
www.montgomerycountymd.gov

