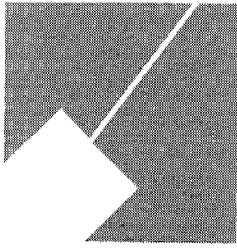


M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

MCPB
Item # 9
6/8/06



MEMORANDUM

DATE: May 26, 2006

TO: Montgomery County Planning Board

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

Catherine Conlon, Supervisor *CC*
Development Review

FROM: Richard A. Weaver, Coordinator (301) 495-4544 *RAW*
Development Review Division

REVIEW TYPE: Preliminary Plan Review

APPLYING FOR: Subdivision of Eight Lots and One Outlot

PROJECT NAME: Hilltop Farm

CASE #: 120050740 (formerly 1-05074)

REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: RDT

LOCATION: Located on the south side of West Old Baltimore Road, the west side of Slidell Road, the north side of Barnesville Road and the east side of Peach Tree Road

MASTER PLAN: Agricultural and Rural Open Space (AROS)

APPLICANT: Hilltop Farm, Ltd.

ENGINEER: Macris, Hendricks and Glascock

FILING DATE: February 23, 2005

HEARING DATE: June 8, 2006

STAFF RECOMMENDATION: Approval, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to eight lots for eight one-family residential dwelling units.
- 2) Record plat to include a note as follows: "The lots shown hereon are being created under Montgomery County Agricultural Easement Program for the use of the property owner and children of the owner."
- 3) The record plat shall assign ownership of Lots 1 through 7, as shown on the preliminary plan, to a specific individual child of the property owner and Lot 8 to the owner/parent of the property/family.
- 4) Record plat to include a note as follows: "The initial building permit for construction of a one family residence on Lots 1 through 7 (*or as numbered by the record plat*) must be issued only in the name of the owner of that lot as identified by this plat."
- 5) The deed, conveying ownership of each lot, shall be only in the name of the child/owner as detailed in Condition #3.
- 6) Prior to recordation of the plat(s), the owner and children must obtain a release from the Montgomery County Department of Economic Development. Said release shall include a copy of the plat drawing.
- 7) Compliance with the conditions of approval of the preliminary forest conservation plan, including development and implementation of an invasive management control plan for all areas within the proposed forest conservation easement prior to using any forest bank credits. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits, as applicable.
- 8) Septic line to serve Lot 7 shall be directionally bored under stream invert at the location shown on the approved preliminary plan.
- 9) Compliance with the conditions of the MCDPS stormwater management approval dated March 30, 2005.
- 10) Compliance with conditions of MCDPWT letter dated May 8, 2006, unless otherwise amended.
- 11) The applicant shall dedicate all road rights-of-way shown on the approved preliminary plan to the full width mandated by the AROS Master Plan, unless otherwise designated on the preliminary plan.
- 12) Record plat to reflect a Category I easement over all areas of stream valley buffers and forest conservation areas.
- 13) Compliance with conditions of MCDPS (Health Dept.) septic approval dated May 11, 2005.
- 14) Record plat to reflect common ingress/egress and utility easements over all shared driveways.
- 15) Record plat to reflect a note stating that a TDR was available and has been reserved for each of the lots being created by the preliminary plan.
- 16) Other necessary easements.

SITE DESCRIPTION:

The subject property is comprised of two parcels totaling 232.7 acres of land in the RDT zone. The property is located in the center of the area defined by the intersections of West Old Baltimore Road which is an Exceptional Rustic Road, Slidell Road, a Rustic Road, Barnesville Road, a Rustic road and Reach Tree Road. A house and a number of agricultural outbuildings currently occupy the site. The property is rolling in nature and is almost exclusively in agricultural uses, including crops and livestock. Those areas that are unsuitable for agriculture are mostly forested. A tributary to Little Seneca Creek, the Bucklodge Branch, a Use I stream, traverses the site and flows generally from north to south to Little Seneca Lake.

PROJECT DESCRIPTION:

The application proposes to create eight (8) lots from the entirety of the two parcels, again totaling 232.7 acres and zoned RDT. Seven of the lots are clustered for the most part in the northern portion of the site on approximately 25 acres. The remaining 207 acres, with the existing house and agricultural buildings, will also become a lot. The clustered lots range in size from 2.0 acres to 5.9 acres and have been reduced in size to maximize the agricultural opportunities. Approvals for standard subsurface septic systems have been secured for all 8 lots, including the existing house on Lot 8. On Lot 7, the drainage line from the septic tank to the septic drain field will need to cross a stream and be located on the large agricultural lot. As such, staff has evaluated this crossing and has made specific recommendations for how this can be done in the most environmentally sensitive manner. (See Environmental Discussion)

The subject property is encumbered by a County Agricultural Easement Program (AEP) easement, which the owners of the property, Hilltop Partnership, entered into some years ago. The AEP easement established for this property included the ability to create lots for the owner of the property and the children with approval from the Agricultural Preservation Advisory Board. While these lots are being created under the AEP for the owner of the property and their children, they are not the typical child (kiddie) lots that staff and the Planning Board have reviewed to date. These lots are established under the AEP and not pursuant to Section 59-C-9.74(b) of the Zoning Ordinance. Under the AEP there is no residency requirement (length of residency) for the children's' lots at this time.

By letter dated January 30, 2006, the Montgomery County Agricultural Preservation Advisory Board (APAB) has approved the location and size of the lots as shown on the preliminary plan finding that they conform to the established AEP and that the location of the lots "will have a minimal impact on the agricultural operation." Although APAB strives to create only 1-acre lots under AEP, the applicant has demonstrated to the APAB that 1-acre lots are not possible while meeting the spatial requirements for the wells and septic systems. If the Planning Board review of the proposed lots results in any significant changes in size or location, the APAB reserves the right to re-review the plan. The APAB also notes that the crossing of the stream with the aforementioned septic line is allowed by the agricultural easement. Agricultural operations can continue on top of approved septic reserve areas.

COUNTYWIDE PARK TRAIL PLAN

The Resource Analysis section has requested that the applicant show equestrian easements on the property in a north to south direction. Lot 8, the large agricultural lot, will continue to operate as a commercial equestrian facility. The individual leasing the land has stated some opposition to creating easements across the site citing issues with liability. The applicant has demonstrated that on the adjacent Henley Hall Subdivision, immediately abutting the subject property to the east, there is an existing platted equestrian easement that can be used by those on the subject property to move north and south. Therefore, an easement on the subject property has not been recommended.

RELATIONSHIP TO THE MASTER PLAN

Agricultural and Open Space Master Plan

The Agricultural and Rural Open Space (AROS) Master Plan establishes agriculture as the preferred use for land in the Rural Density Transfer (RDT) zone. Staff believes that preliminary plan lot configurations in the RDT zone should promote the continued use of the property for agricultural purposes. For this plan, a 207-acre farm operation will be maintained on proposed Lot 8. The seven clustered lots are as small as practical and located in an area that, while capable of being farmed, is well removed from the operating farm on Lot 8 and further buffered from the ongoing agricultural activity on Lot 8 by an existing hedgerow. Staff believes the proposed preliminary plan conforms to the recommendations for preservation of agricultural uses, which are included in the Agricultural and Rural Open Space Master Plan.

Functional Master Plan for Rustic Roads

The Functional Master Plan for Rustic Roads (1996) identifies three of the four previously described boundary roads as Rustic, with West Old Baltimore defined as Exceptional Rustic. The Rustic Roads Plan contains specific language that includes the following statement, "The rustic roads designation is not intended to affect the use of adjoining land except in the design of access to subdivisions." Access was reviewed by MCDPS who coordinates that access permits on County road including Rustic Roads. For this plan there will be three (3) access points to West Old Baltimore and one access on Slidell Road.

One issue that staff had to consider was that if a driveway is shared by two or more homes, Fire and Rescue requires a twenty (20) foot wide fire access drive, which involves more clearing along the road frontage. For a single home access, Fire and Rescue has no standards and the driveway is likely to be 10 to 12 feet wide, which involves less clearing. Staff was faced with balancing the two, somewhat conflicting, requirements and believes that one twenty foot access point and two standard driveway access points on to West Old Baltimore is the least intrusive to the natural hedgerow and rustic character of the roadway.

A single, twenty (20) foot wide access point is contemplated for Slidell Road serving three homes. Given the limited amount of frontage on Slidell Road, staff believes that a single, twenty foot wide access point is better than three smaller access points.

DENSITY CALCULATIONS - ZONING ORDINANCE

The base density in the RDT zone is one unit for every twenty-five acres. This 232-acre property is otherwise eligible for 9 residential lots. The proposal requests 8 lots, therefore, this request is in conformance with the density calculations of the Zoning Ordinance, Section 59-C-5.3. The APAB has determined that there are an adequate number of TDR's available to accommodate the 8 lots. It should be noted that all lots are served by standard septic systems; no sand mound systems are approved.

The issue as to whether these lots are Child Lots pursuant to Section 59-C-9.74 (b) of the Zoning Ordinance may be discussed. As stated above, seven of the proposed lots must be designated for the children of the property owner as specified under the Agriculture Easement Program which is separate from the Child Lot provisions of the Zoning Ordinance. The debate continues as to whether Child Lots allowed under 59-C-9.74 (b) can exceed the base density of the RDT zone. For this application, the lots do not exceed the base density, but under the terms of the AEP each of the seven lots must be assigned to an individual child of Charles S. Faller, Jr. and L. Jean Faller as provided for in condition #3. The initial building permit for Lots 1 through 7 must be issued only to the child assigned ownership of that lot as shown on the record plat.

ENVIRONMENTAL ANALYSIS

Forest Conservation

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

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

Environmental Buffers

The NRI/FSD for this property was approved on February 15, 2005. The site includes 44.2 acres of environmental buffer, 30 acres of floodplain and 12 acres of wetlands. These environmentally sensitive areas are associated with the Bucklodge Branch, which traverses the site. The preliminary plan of subdivision depicts one encroachment into the buffers, that being the septic line for Lot 7. This encroachment is necessary to connect the septic tank to the approved septic drain field and reserve area on Lot 8. Environmental Planning is supporting the encroachment based on the fact that the applicant has demonstrated that it is unavoidable. The applicant contracted with an individual who conducts septic testing and has a demonstrated proficiency with Montgomery County soils. Three additional percolation test pits revealed rock from 6-14 feet deep, 3-10 feet deep and 1-10 feet deep on Lot 7. In addition to the unsuitable soils, or lack thereof, the slopes were too steep to consider using sand mounds. Based on the test pits and slopes, it was determined that no feasible septic reserve area could be established on Lot 7 and that the closest available area for satisfactory percolation was on Lot 8.

To accomplish the crossing of the stream with the septic line, MCDPS – Well and Septic has approved pumping the effluent. To minimize impacts to the stream, staff has conditioned that this septic line be bored under the stream channel. This technique will preserve the stream and its banks. The vegetation in the stream buffer in the location of this crossing is mostly non-native, invasive shrub species. The septic line will impact no forest within the buffer.

COMMUNITY OUTREACH:

This application was received before the requirements to hold pre-submission meetings with interested property owners were in place. However, staff has responded to inquires about the project either by telephone or by meeting with those who have requested a meeting. Staff did meet with two residents, Mr. Peter Eeg and Mr. Allan Noble, to discuss their concerns regarding the proposed number and location of the lots, and the need for septic access crossing the stream. The meeting included a discussion of the overall approval process, the timing of the hearings, and the history of this plan especially with the APAB. The discussion also included staff's justification for approval of lots in the RDT zone and the specifics of the analysis for the proposed lots, as discussed above.

On May 24, 2006, a letter from Mr. Noble was received that expressed great concern over what he saw after inspection of the file. The letter indicated that there was a "substantial amount of opposition" to the proposed development. The letter did not specify what the concerns were about. Staff contacted Mr. Noble via telephone to acknowledge receipt of the letter and to inform him that the plan would likely be noticed for the June 8 Planning Board hearing. Staff also informed him that his letter would be presented to the Agenda hearing so that consideration could be given to an evening hearing time.

CONCLUSION:

Staff finds that Preliminary Plan #1-05075, Hilltop Farm conforms to the Agricultural and Rural Open Space Master Plan and meets all necessary requirements of the Subdivision Regulations and Zoning Ordinance, as summarized in attached Table 1. Staff further finds that the size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision. The density calculations are found to conform to the base density requirements of the RDT zone pursuant to Section 59-C-5.3. The applicant has demonstrated the availability of sufficient Transferable Development Rights (TDR's) remaining on the property to support the requested lots, and the APAB has approved creation of the lots for children under the terms of the existing AEP easement. As such, Staff recommends approval of the preliminary plan, subject to compliance with the above conditions.

ATTACHMENTS:

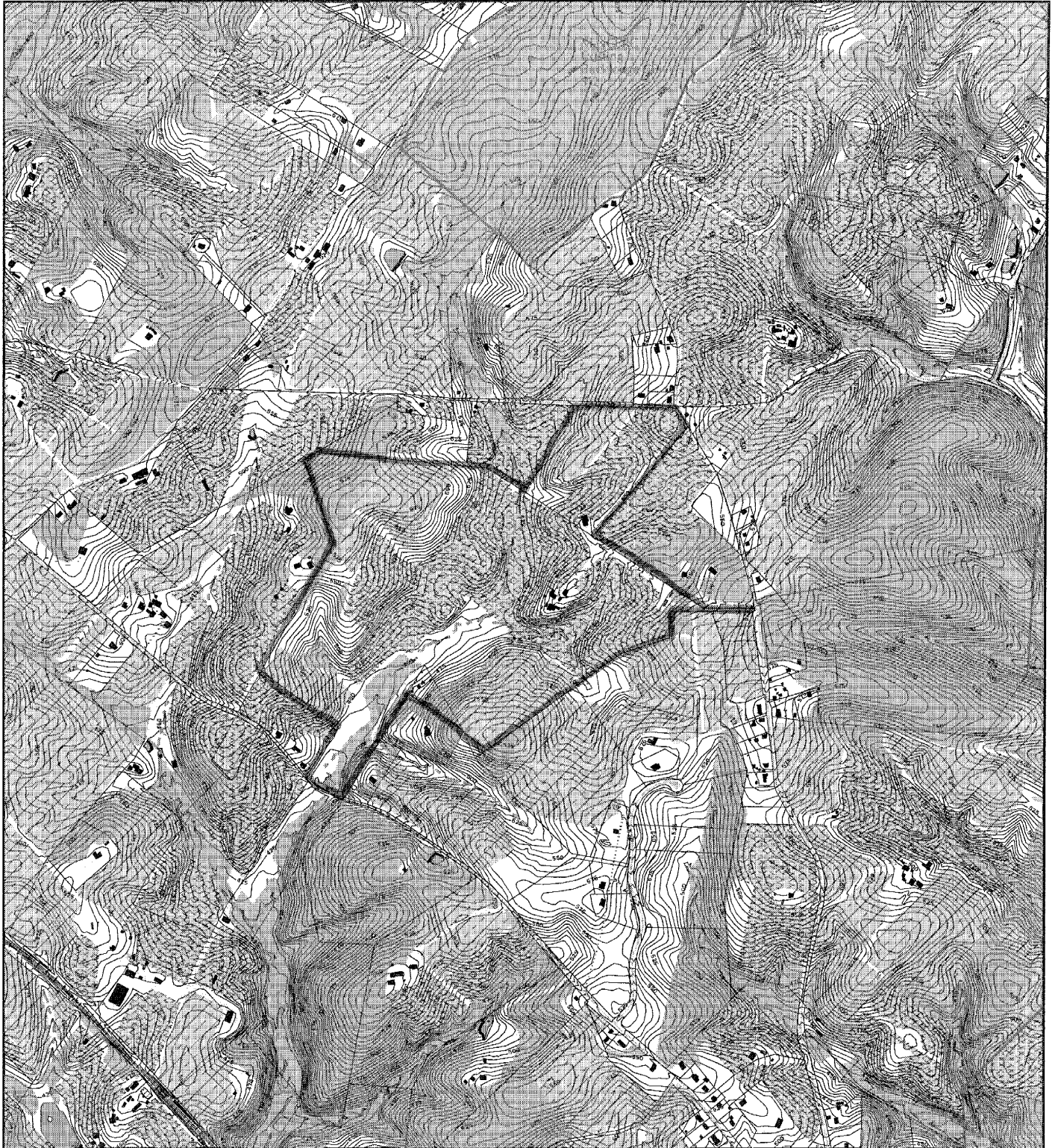
- Attachment A – Vicinity Map
- Attachment B – Preliminary Plan
- Attachment C – Citizen Letters
- Attachment D – Agency Correspondence

TABLE 1. Preliminary Plan Data Table and Checklist

Plan Name: Hilltop Farm				
Plan Number: 120050740				
Zoning: RDT				
# of Lots: 8				
# of Outlots: 1				
Dev. Type: Residential/Agricultural				
PLAN DATA	Zoning Ordinance Requirements	Proposed for Approval on Preliminary Plan	Verified	Date
Minimum Lot Area	40,000 s.f.	Must meet min.	<i>RW</i>	5/27/06
Lot Width	125 ft.	Must meet min.	<i>RW</i>	5/27/06
Lot Frontage	25 ft.	Must meet min.	<i>RW</i>	5/27/06
Setbacks				5/27/06
Front	50 ft. Min.	Must meet min.	<i>RW</i>	5/27/06
Side	20 ft. Min.	Must meet min.	<i>RW</i>	5/27/06
Rear	35 ft. Min.	Must meet min.	<i>RW</i>	5/27/06
Height	50 ft. Max.	May not exceed maximum	<i>RW</i>	5/27/06
Max Resid'l d.u	9 per base zone	8 requested	<i>RW</i>	5/27/06
MPDUs	Not required	0		5/27/06
TDRs	8 must be available	8 available	<i>RW</i>	5/27/06
Site Plan Req'd?	No	No		5/27/06
FINDINGS				
SUBDIVISION				
Lot frontage on Public Street	Yes	Yes	As shown on plan	5/27/06
Road dedication and frontage improvements	Yes	Dedication has been provided	By agency Memo	5/8/06
Environmental Guidelines	Yes	Yes	By staff memo	5/16/06
Forest Conservation	Yes	Yes	By staff memo	5/16/06
Master Plan Compliance	Yes	Yes	<i>RW</i>	5/27/06
ADEQUATE PUBLIC FACILITIES				
Stormwater Management	Yes	Yes	By agency memo	3/30/05
Well and Septic	Yes	Wells and standard septic	By agency memo	5/11/06
Local Area Traffic Review	N/A	N/A		
Fire and Rescue	Yes	Yes	<i>MEMO</i>	2/6/06
State Highway	Yes	Yes	<i>MEMO</i>	7/26/05

ATTACHMENT A

HILLTOP FARMS (1-05074)



Map compiled on March 15, 2005 at 10:20 AM | Site located on base sheet no - 230NW16

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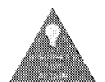
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Key Map



N



Research & Technology Center



1 inch = 1500 feet
1 : 18000