

EVERGREEN STABLES FARM, LLC \* BEFORE THE  
PETITIONER \* PLANNING BOARD OF  
PLANNING BOARD CASE NO. 429 \* HOWARD COUNTY, MARYLAND

\* \* \* \* \*

**DECISION AND ORDER**

In accordance with State Senate Bill 236, Section 5-104 of the Land Use Article of the Maryland Annotated Code, the Planning Board of Howard County, Maryland, held a public hearing on June 1, 2017, to consider the petition of Evergreen Stables Farm, LLC., Petitioner, to approve a Preliminary Equivalent Sketch Plan, SP-17-001, for 8 single-family cluster lots and 1 buildable preservation parcel. The 19.71 acre Preserve at Evergreen Farm subdivision, located at 8250 Old Columbia Road and identified as Parcel 337 on Tax Map 46, in the Fifth Election District of Howard County, Maryland, is in the Growth Tier III residential land use category and is zoned RR-DEO (Rural Residential – Density Exchange Option).

The notice of hearing, which is required by Section 5-104(d)(1) of the Land Use Article of the Maryland Annotated Code, was published and the subject property was posted in accordance with the Planning Board’s requirements, as evidenced by certificates of publication and posting, all of which were made a part of the record of the case. Pursuant to the Planning Board’s Rules of Procedure, the reports and official documents pertaining to the petition, including the Technical Staff Report of the Department of Planning and Zoning, the Howard County Subdivision and Land Development Regulations, the Howard County Zoning Map and Regulations, the Howard County Design Manuals, the Howard County Landscape and Forest Conservation Manuals, and the Adequate Public Facilities Ordinance were made part of the record in this case.

Mr. Thomas Coale and Mr. Richard Talkin represented the petitioner, Evergreen Stables, Farm, LLC.

Based on all the information presented, the Planning Board makes the following findings of fact and conclusions of law:

**DEPARTMENT OF PLANNING AND ZONING’S TECHNICAL STAFF REPORT**

Kent Sheubrooks presented the Technical Staff Report for the Department of Planning and Zoning, which recommended approval of Preliminary Equivalent Sketch Plan, SP-17-001, subject to comments from reviewing agencies and any conditions of approval by the Planning Board. The Technical Staff Report found that there are two criteria for the Planning Board to review, pursuant to Section 5-104(e) of the Land Use Article of the Maryland Annotated Code for a proposed major subdivision on a Tier III property; only the second of which is applicable:

1. The cost of providing local government services to the residential major subdivision unless a local government's adequate public facilities law already requires a review of government services; and
2. The potential environmental issues or a natural resources inventory related to the proposed subdivision.

The Department of Planning and Zoning found that criterion 1 above did not apply because Howard County has an adequate public facilities law, which already requires a review of government services and, therefore, this requirement has been met.

As to criterion 2 above, the Department of Planning and Zoning found that while the property contains environmental features, those features will be preserved with no impact, including a small area of wetlands, wetland buffers, and a stream buffer.

Based on the Petitioner's presentation that no environmental resources would be disturbed, the Department of Planning and Zoning recommended approval of Preliminary Equivalent Sketch Plan, SP-17-001 because it met the requirements of Section 5-104(e) of the Land Use Article of the Maryland Annotated Code.

Mrs. Alice Miller, an engineer with Benchmark Engineering, Inc. testified on behalf of the petitioner that she concurred with the information contained within the Technical Staff Report that the project complied with the criteria for Planning Board approval.

### **FINDINGS OF FACT**

1. The proposed Preliminary Equivalent Sketch Plan, SP-17-001, creates 8 single-family cluster lots and 1 buildable preservation parcel on 19.71 acres of Tier III land, zoned RR-DEO (Rural Residential – Density Exchange Option).
2. The Planning Board has the authority to review the Preliminary Equivalent Sketch Plan in accordance with the criteria set forth in State Senate Bill 236.
3. Howard County's Adequate Public Facilities Ordinance (APFO) requires certain government services to be reviewed. Therefore, Howard County's APFO fulfills the requirements of the first Planning Board review criterion under Section 5-104(e)(1) of the Land Use Article, as indicated in the Department of Planning and Zoning's Technical Staff Report. Review by the Planning Board of the cost of providing local government services to the residential subdivision does not apply to a major subdivision in Tier III designated property, such as the proposed development, because Howard County has an APFO law. The Board agrees with and adopts the Department of Planning and Zoning's analysis, with which the petitioner concurred, that the Planning Board's review of public facility costs, based on the language of Section 5-104(e)(1) of the Land Use Article of the Maryland Annotated Code, does not apply. Consequently, the Board did not consider

any testimony regarding the adequacy or cost of public facilities related to this subdivision.

4. The only applicable criterion for the Planning Board to consider in its review of this proposed major subdivision in Growth Tier III is “the potential environmental issues or a natural resources inventory related to the proposed residential subdivision”. The Petitioner presented a plan that illustrated all wetlands, wetlands buffers, stream buffers and specimen trees on the property. This inventory shows that the plan does not propose any major disturbance to the above referenced wetlands, wetlands buffers, stream buffer or specimen tree. Based on this information, which the Board finds to be persuasive, convincing and reliable, the Board agrees with and adopts the Department of Planning and Zoning’s recommendation for approval, and finds that sufficient information has been presented to show that there are no environmental issues associated with the proposed subdivision.
5. The proposed subdivision, based on the Board’s findings of fact, will effectively protect, and preserve the environmental resources by placing streams buffer, wetlands and related buffers, and the specimen tree within a buildable preservation parcel. The development plan does not disturb environmentally sensitive areas.

#### CONCLUSIONS OF LAW

1. Petitioner, as one seeking approval of a major subdivision on a property designated as a Growth Tier III area of the County, has the burden of demonstrating that it has satisfied the only criterion of Section 5-104(e)(2) of the Land Use Article of the Maryland Annotated Code which applies in Howard County - that there are no potential environmental issues related to a natural resources inventory associated with the proposed residential subdivision.
2. There is sufficient evidence in the record, as identified in the Board’s Findings of Fact above, for the Board to conclude that the Petitioner has met its burden of demonstrating that it has satisfied the above-cited criterion for approval.
3. For the reasons stated in the above Findings of Fact and the Department of Planning and Zoning’s Technical Staff Report, the Board concludes that the Petitioner has conclusively established, through the evidence in the record that the proposed Preliminary Equivalent Sketch Plan, SP-17-001, has satisfied all the approval standards for a major subdivision, according to State Senate Bill 236, Section 5-104(e)(2) of the Land Use Article of the Maryland Annotated Code.

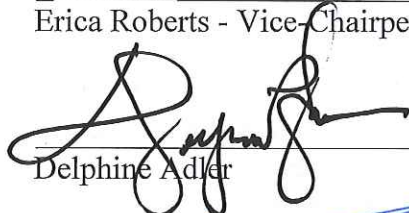
For the foregoing reasons, the petition of Evergreen Stables Farm, LLC, to approve a Preliminary Equivalent Sketch Plan, SP-17-001, to subdivide 8 single-family cluster lots and 1 buildable preservation parcel on 19.71 acres of Tier III land, zoned RR-DEO, is this 15<sup>th</sup> day of June, 2017 APPROVED by the Planning Board of Howard County, Maryland.

HOWARD COUNTY PLANNING BOARD

  
Phillips Engelke - Chairperson

ABSENT

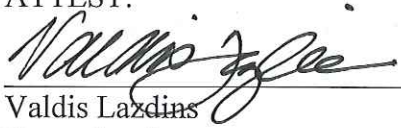
Erica Roberts - Vice-Chairperson

  
Delphine Adler

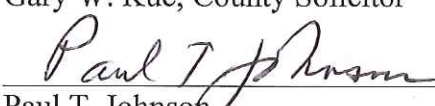
  
Ed Coleman

PB Case No. 429

ATTEST:

  
Valdis Lazdins  
Executive Secretary

REVIEWED FOR LEGAL SUFFICIENCY BY:  
HOWARD COUNTY OFFICE OF LAW  
Gary W. Kuc, County Solicitor

  
Paul T. Johnson  
Deputy County Solicitor

LIST OF APPLICANT'S EXHIBITS:  
None were introduced

LIST OF PROTESTANT'S EXHIBITS:  
None were introduced