



MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB

Item #

11/1 /07



MEMORANDUM

DATE: October 18, 2007

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Catherine Conlon, Subdivision Supervisor *CC*
Development Review Division

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

REVIEW TYPE: Pre-Preliminary Plan of Subdivision (Non-Binding)

APPLYING FOR: Discussion of the Planning Board Position on a Land Swap Proposal

PROJECT NAME: Harry M. Martin Tract and Parcel B, Bonifant Woods

CASE #:

REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: R-200

LOCATION: Southwest Corner of Alderton Lane and Bennett Road

MASTER PLAN: Aspen Hill

APPLICANT: Jamal Homes

ENGINEER: Maddox Inc.

FILING DATE: April 13, 2005

HEARING DATE: November 1, 2007

STAFF RECOMMENDATION: Do not support the land swap or easement proposal

Executive Summary

This application is being brought to the Planning Board at the request of the applicant for a decision on a proposal to swap land between the applicant and Parks to accommodate the resubdivision of the applicant's lot into two lots. Following is a discussion of the proposal and the recommendation of staff.

Site Description

The subject property is 1.42 acres in size, zoned R-200 and located in the southwest corner of the intersection of Alderton Lane and Bennett Road, although the two paved surfaces of these streets do not connect (Attachment A). The property is in the Aspen Hill Master Plan area and is identified as Lot 12, Harry M. Martin Tract. The lot is forested and undeveloped with frontage only on Bennett Road.

Discussion

In May, 2005, the applicant submitted the original pre-preliminary plan for resubdivision of the subject lot (Lot 12, Harry M. Martin Tract) into two long, narrow lots with their frontage on Bennett Road (Attachment B). The plan was brought before the Development Review Committee (DRC), and reviewed pursuant to Section 50-29 (b)(2) of the Montgomery County Subdivision Regulations. This section requires that lots proposed for resubdivision must be of the same character with respect to size, shape, width, area, frontage, alignment and suitability. Development Review Division staff did not support the pre-preliminary plan, and expressed concerns with the width and frontage of both lots. The shape of the parent lot simply did not lend itself to creating lots fronting to Bennett Road that would be considered in character with surrounding lots. In that review, the applicant questioned the ability to access Alderton Lane and reorient the lots. Access to Alderton Lane; however, was not possible because of an intervening strip of parkland that separated the subject property from the road.

In a letter dated May 10, 2005 (Attachment C), the applicant made a request for staff to review two alternative proposals that might provide a potential solution to the width and frontage issues raised with the initial plan review. The first option, a land swap, requested that the Planning Board authorize conveyance of the aforementioned strip of parkland containing approximately 0.11 acres (a portion of Parcel "B", Bonifant Woods) to the applicant. This would allow the subject property to gain frontage on Alderton Road. In return, the applicant would dedicate a 0.475 acre forested portion of the subject property adjacent to Parcel "B". With frontage on Alderton Lane the lots may be able to be reconfigured to presumably meet the resubdivision criteria.

The second option is similar to the first; the applicant requested an easement across the strip of parkland separating the subject property from Alderton Lane. The applicant would still dedicate the 0.475 acres to the Parks Department in return for the easement. This option would not require the Planning Board to relinquish park property, but also would not give the subject property the necessary frontage on Alderton Lane.

In response to the land swap request, Bill Gries, Land Acquisition Specialist, issued a letter dated May 22, 2005 (Attachment D) declining to support the proposal. Mr. Gries's opinion was that when land has been conveyed and held in public trust for the benefit of all residents, it should be "protected at all cost and should only be considered for alternate non-park use when the resulting benefit rises to the level where it is clearly in the public interest." The letter goes on to suggest that there is no demonstrated public benefit to justify the proposal.

Similarly, staff did not support the second option to allow an access and utility easement across the strip of parkland. The use of public property and the ensuing clearing of vegetation are not in the best interest of the general public and cannot be justified in this instance.

Contrary to these staff positions the applicant proceeded to submit a new pre-preliminary plan (Attachment E) based on the belief that the proposal has merit. The latest pre-preliminary plan was taken before the DRC where staff again expressed their opposition to the proposal. The revised plan shows two lots with frontage on Alderton Lane utilizing the land that would be acquired from Park and Planning and showing dedication of the 0.475 acres. The alternative, in the lower left hand corner of the plan, shows an easement only, across the strip of parkland but still shows the 0.475 acres of dedication. The applicant then requested that the Planning Board review the proposed land swap and give their final recommendation.

Staff continues to be opposed to both options based on the principle that the use of public lands to accommodate private development interests should be strictly avoided except where a direct and overriding benefit to the public good is gained and fully vetted. Once land is held in the public trust, the use of such lands to provide a benefit to private developers should not be allowed without a substantial showing for public benefit or need.

To fully investigate the question of public benefit, staff considered the environmental resources on the land to be dedicated to determine if there was any overriding benefit to securing that land in public ownership with respect to protection of those resources. The 0.475 acres has no streams or wetlands but is forested and contains 4 specimen trees (3 poplar and 1 oak). This would be adjacent to Parcel "B", which is also forested. Parcel "B" appears to have been orphaned from the forested parkland across the street by construction of Alderton Lane. It was accepted for park purposes, seemingly, because it provided some continuity of green space. While the addition of 0.475 acres of forest to the existing forest on Parcel "B" may be desirable, the additional forest is not of such priority or quality as to alter the staff recommendation.

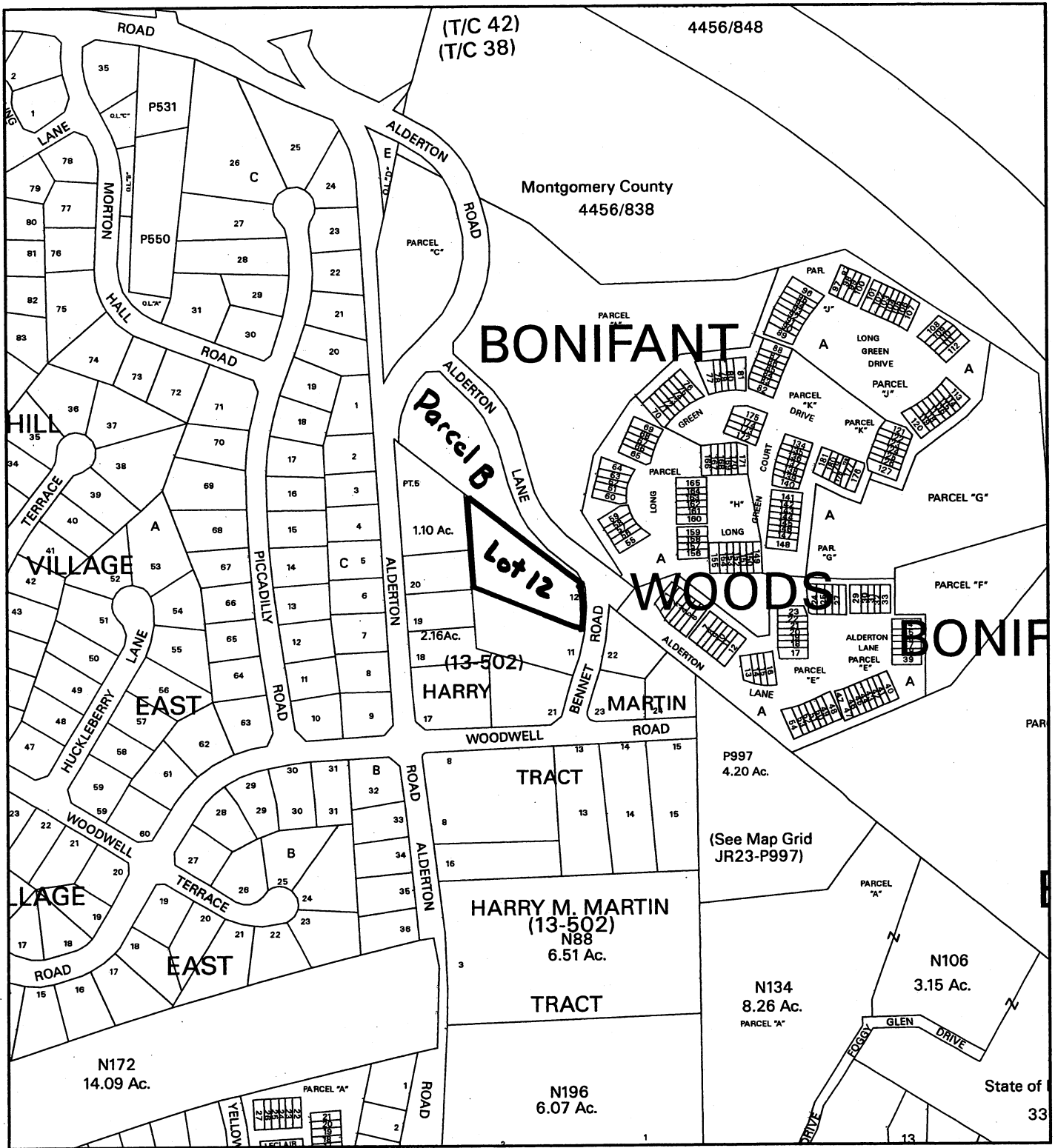
Conclusion

For the reasons cited above, staff recommends that the Planning Board not endorse either of the two options proposed by the applicant in their May 9, 2005 letter or as illustrated on the pre-preliminary plan shown as Attachment D in this report. However, should the Planning Board support the proposed land swap; it appears that two suitable lots could be created and staff would not oppose submission of a preliminary plan.

- Attachment A – Vicinity Map
- Attachment B - Original Pre-Preliminary Plan
- Attachment C - Applicant's Letter
- Attachment D - Staff Response Letter
- Attachment E - Revised Pre-Preliminary plan

HARRY M. MARTIN TRACT (7-05056)

Attachment "A"



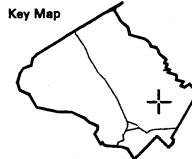
NOTICE

The planimetric, property, and topographic information shown on this map is based on copyrighted Map Products from the Montgomery County Department of Park and Planning of the Maryland-National Capital Park and Planning Commission, and may not be copied or reproduced without written permission from M-NCPPC.

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 1:14400 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 1998

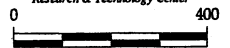
Key Map



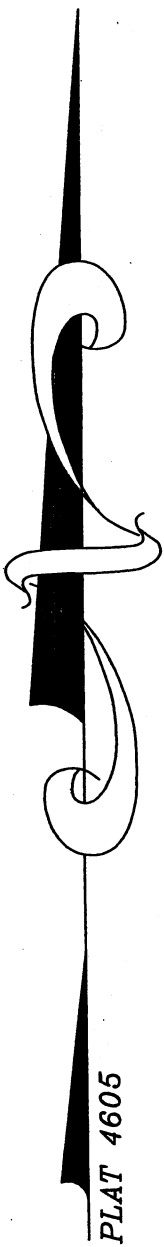
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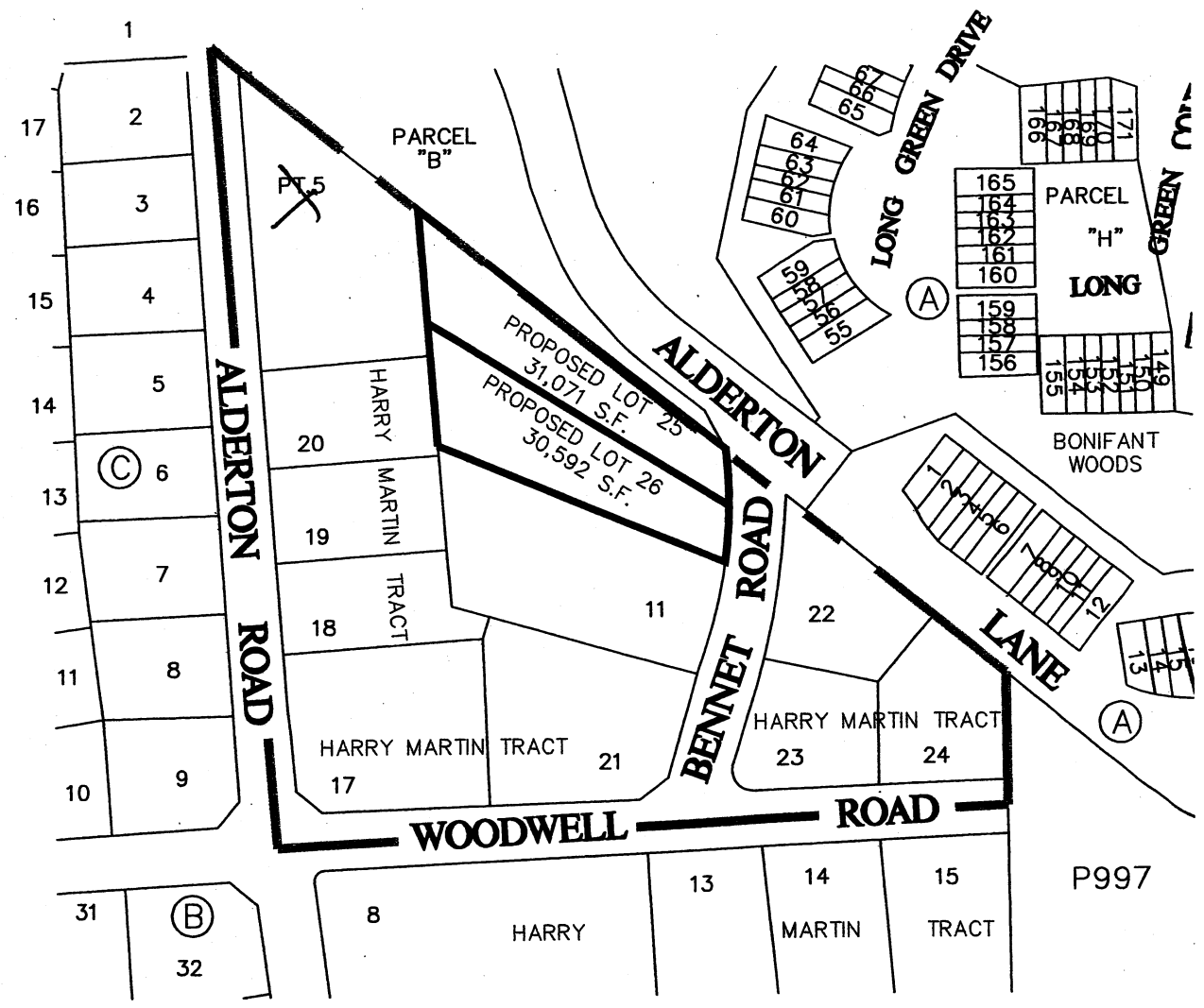
Research & Technology Center



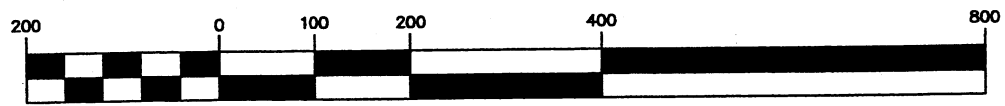
1 inch = 400 feet
1 : 4800



PLAT 4605



GRAPHIC SCALE



(IN FEET)
1 inch = 200 ft.

MADDOX

INCORPORATED

Attachment "C"

ENGINEERS • SURVEYORS

100 PARK AVENUE
ROCKVILLE, MARYLAND 20850-2699

TEL (301) 762-9001
FAX (301) 294-6418

May 10, 2005

Mr. William E. Gries
Maryland-National Capital Park & Planning Commission
9500 Brunett Avenue
Silver Spring, MD 20901

RE: H.M. Martin's Subdivision 7-05056 – A 2 Lot re-subdivision

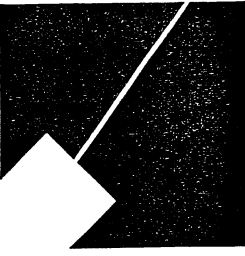
Dear Mr. Gries:

I am writing on behalf of my client, Jamaal Homes, to propose a possible solution to a technical problem we are experiencing with the above referenced re-subdivision. We spoke about this project over the phone about a month ago. The gist of that conversation was me proposing a "land swap" with an adjoining park parcel to alleviate a shortage in road frontage, and you saying "no."

This correspondence is sent to formally propose a similar solution, and to receive a written response (positive or negative) for the record. It is our intent to move forward with this re-subdivision and put the one technical shortfall (road frontage) of this layout in front of the Planning Board for their consideration. I believe their decision will be better informed with this documentary evidence of our proposed solution.

As the enclosed copies of the Pre-Application plan and NRI/FSD plan indicate, this property is fully forested. The property adjoins Parcel B, "Bonifant Woods," a 1.92 acre parcel dedicated to M-NCPPC by plat number 544-74 in March of 1982. Our proposed solution would add 0.47 Acres of contiguous dedication area while taking 0.11 acres of the existing Parcel B, leaving a net gain of 0.36 acres of forested land for the Commission. It should also be noted that this approach would contain nine of the thirteen significant trees identified on the NRI/FSD plan.

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

9500 Brunett Avenue
Silver Spring, Maryland 20901

Attachment "D"

May 22, 2005

Russell E. Reese
Maddox, Inc.
100 Park Avenue
Rockville, Maryland 20850-2699

Re: H. M. Martins Subdivision 7-05056: a 2 Lot re-subdivision

Dear Mr. Reese:

Thank you for your recent letter requesting an exchange of land related to the above referenced item that would result in a net gain of 0.36 acres of forested land for the Commission. You indicated in your letter that you felt this proposed land exchange made sense for everybody involved in that it would also result in other benefits above and beyond a net increase in public parkland. Your letter was a follow-up to an initial phone conversation we had on this matter wherein I indicated that the proposed land exchange was not something I could support.

I have once again reviewed your request, this time with input from Cathy Conlon and Steve Federline, and have concluded that my initial reaction to your proposal still stands. That is, I cannot recommend to the Montgomery County Planning Board that it approve your requested land exchange. The property you are asking the Commission to convey was received as an open space dedication through the development review process for "Bonifant Woods." As such, this land is being held in trust as parkland for the benefit of all residents in Montgomery County. Public parkland must be protected at all costs and should only be considered for alternate non-park use when the resulting benefit rises to the level where it is clearly in the public interest. In this instance, the public interest is not served to the point where we can justify participating in the proposed land exchange.

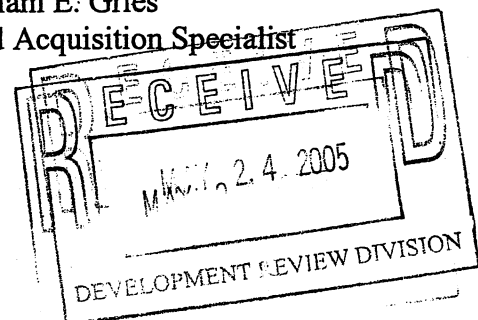
If you have further questions concerning my opinion in this matter, please call me at (301) 650-2861.

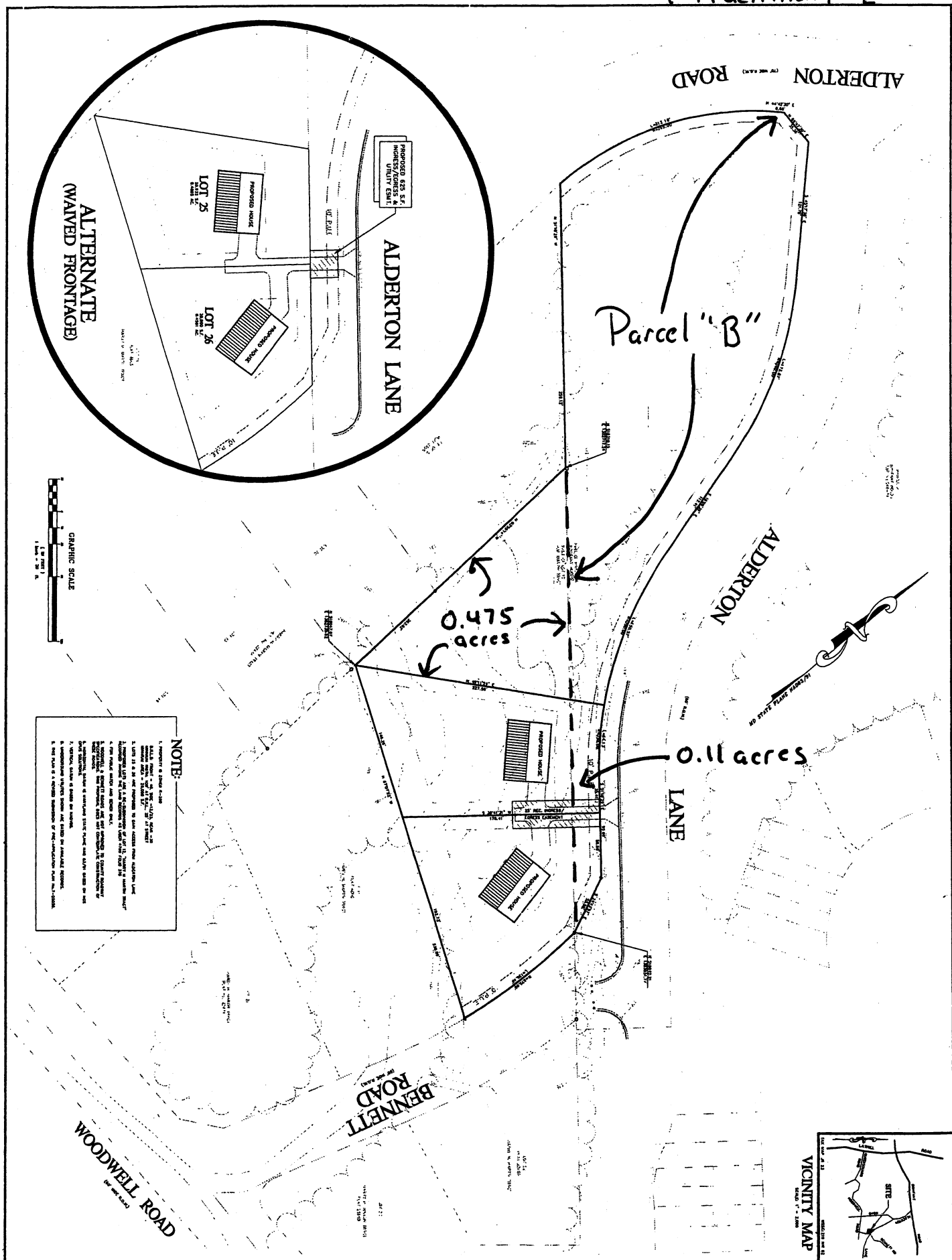
Sincerely,

A handwritten signature in black ink that reads "William E. Gries".

William E. Gries
Land Acquisition Specialist

cc: Cathy Conlon ✓
Steve Federline





NOTE:

1. PROPERTY IS SHOWN AS PER RECORD MAPS.
2. ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
3. ALL DIMENSIONS ARE TO CENTER OF ROAD UNLESS OTHERWISE NOTED.
4. ALL DIMENSIONS ARE TO CENTER OF LOT UNLESS OTHERWISE NOTED.
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DATE	REVISION
1/1/2002	DESIGN TO PROPOSE ALDERTON ACCESS

A RESUBDIVISION
OF LOT 12, HARRY M. MARTIN TRACT &
PARCEL PARCEL B, BONIFANT WOODS
ELECTION DISTRICT NO. 13
MONTGOMERY COUNTY, MARYLAND

PRE-APPLICATION PLAN

VICINITY MAP

MADDOX
INCORPORATED
ENGINEERS • SURVEYORS

150 PARK AVENUE
ROCKVILLE, MARYLAND 20850-2669
(301) 768-9601