



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

MCPB
Item #
7/1/10



MEMORANDUM

DATE: June 16, 2010

TO: Montgomery County Planning Board

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

FROM: Erin Grayson, Senior Planner (301-495-4598) *EG*
Development Review Division

REVIEW TYPE: Preliminary Plan of Subdivision

APPLYING FOR: 1 lot for 1 one-family detached residential dwelling unit

PROJECT NAME: Boxwell Property

CASE #: 120100210

REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: RE-1

LOCATION: 15340 Peach Orchard Road, 1,200 feet north of Siebel Drive

MASTER PLAN: Cloverly

APPLICANT: Caroline M. Mitchell-Boxwell Revocable Trust

ENGINEER: Landmark Engineering, Inc.

FILING DATE: March 18, 2010

HEARING DATE: July 1, 2010

RECOMMENDATION: Approval subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 1 one-family detached residential dwelling lot.
- 2) The Applicant must comply with the conditions of approval for the SPA Preliminary/Final Water Quality Plan:
 - a. Prior to recording of plat, the Applicant must enter into an agreement with the Planning Board to limit impervious surface to no more than 14.8 percent (or 11,037 square feet) of the property acreage of 1.7 acres.
 - b. Prior to release of building permit, the Applicant must demonstrate conformance to the impervious surface limit. Any modifications to these plans which increase imperviousness will require Planning Board action.
- 3) The Applicant must comply with the conditions of approval for the Preliminary Forest Conservation Plan. The applicant must meet all conditions and requirements prior to recording of plat or MCDPS issuance of sediment and erosion control permit(s), as appropriate:
 - a. Prior to issuance of building permit or sediment and erosion control permit, a Final Forest Conservation Plan must be submitted for review and approval by M-NCPPC Environmental Planning Division. The Final Forest Conservation Plan must include the following elements:
 - i. Forest bank or offsite forest planting site must be identified.
 - ii. Proposed limits of disturbance.
 - iii. Tree save plan.
 - b. Prior to the preconstruction meeting, forest bank credits must be purchased or planting plan for offsite forest planting site must be approved by M-NCPPC Environmental Planning Division.
- 4) The Applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits, as applicable.
- 5) The Applicant must dedicate and the record plat must show dedication of 38 feet of right-of-way from the centerline (for a total of approximately 1,913 square feet) along the property frontage for Peach Orchard Road.
- 6) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated December 30, 2009. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 7) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated May 12, 2010. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 8) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s).
- 9) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.
- 10) Other necessary easements must be shown on the record plat.

SITE DESCRIPTION

The site of the Boxwell Property preliminary plan application, “Property” or “Subject Property”, is located in the RE-1 zone in the Cloverly Master Plan area. The Property is currently an unrecorded, pipestem-shaped parcel consisting of 72,518 square feet, or 1.70 acres. A two-story, one-family detached residential dwelling unit currently exists on the Property with private driveway access to Peach Orchard Road. The MNCPPC Upper Paint Branch Stream Valley Park is located directly west and south of the Subject Property, and developed properties containing one-family detached dwelling units, also zoned RE-1, border the site to the north and to the east across Peach Orchard Road.

The Subject Property has several trees, including nine trees that are 24 inches and greater in diameter at breast height (dbh). These trees create tree cover, but no forest cover, on the site. The site is located in the Left Fork tributary of the Upper Paint Branch watershed. This watershed has been designated a Special Protection Area (SPA), where there is an impervious surfaces cap of 8%. Streams in this watershed are designated Use III waters (natural trout waters). An intermittent stream originates just north of the Property and flows southward under the existing gravel driveway along the pipestem portion of the Subject Property. This stream’s environmental buffer encompasses a large portion of the long driveway located on the pipestem portion of the Property.

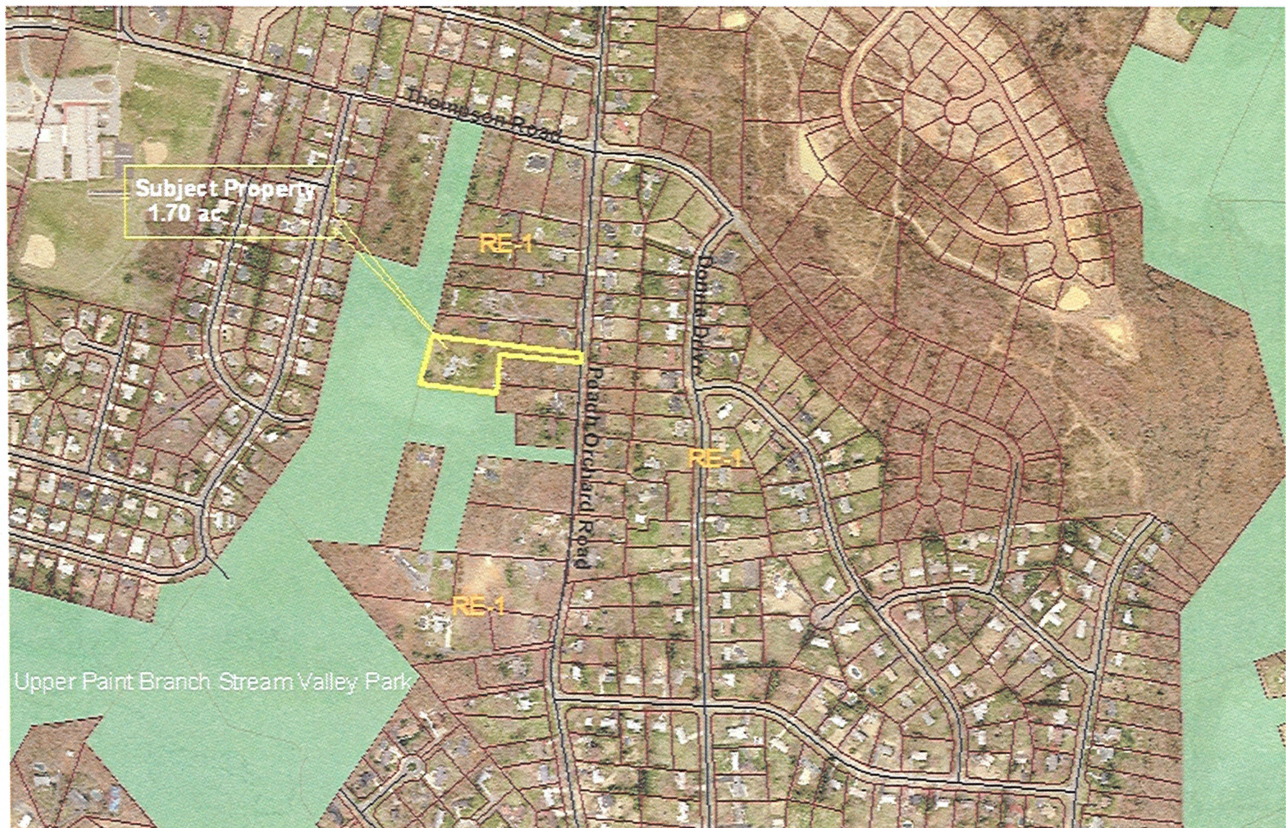


Exhibit 1: Aerial Map

PROJECT DESCRIPTION

The Applicant proposes to retain the existing one-family detached dwelling unit and record the parcel as a 1.66 acre lot, after proper dedication for Peach Orchard Road along the frontage of site is made. Creation of the lot will allow the Applicant to replace or reconstruct the house lawfully in the future.

Access from Peach Orchard Road via a private driveway is also proposed to remain. No trees are proposed to be removed on the Property at this time. The existing impervious area on the Property is 14.8%, which is permitted to remain under the grandfathering provisions of Section 59-C-18.152 (a)(1)(A) of the Montgomery County Code, discussed in greater detail in the environment section on page 5 of this report.

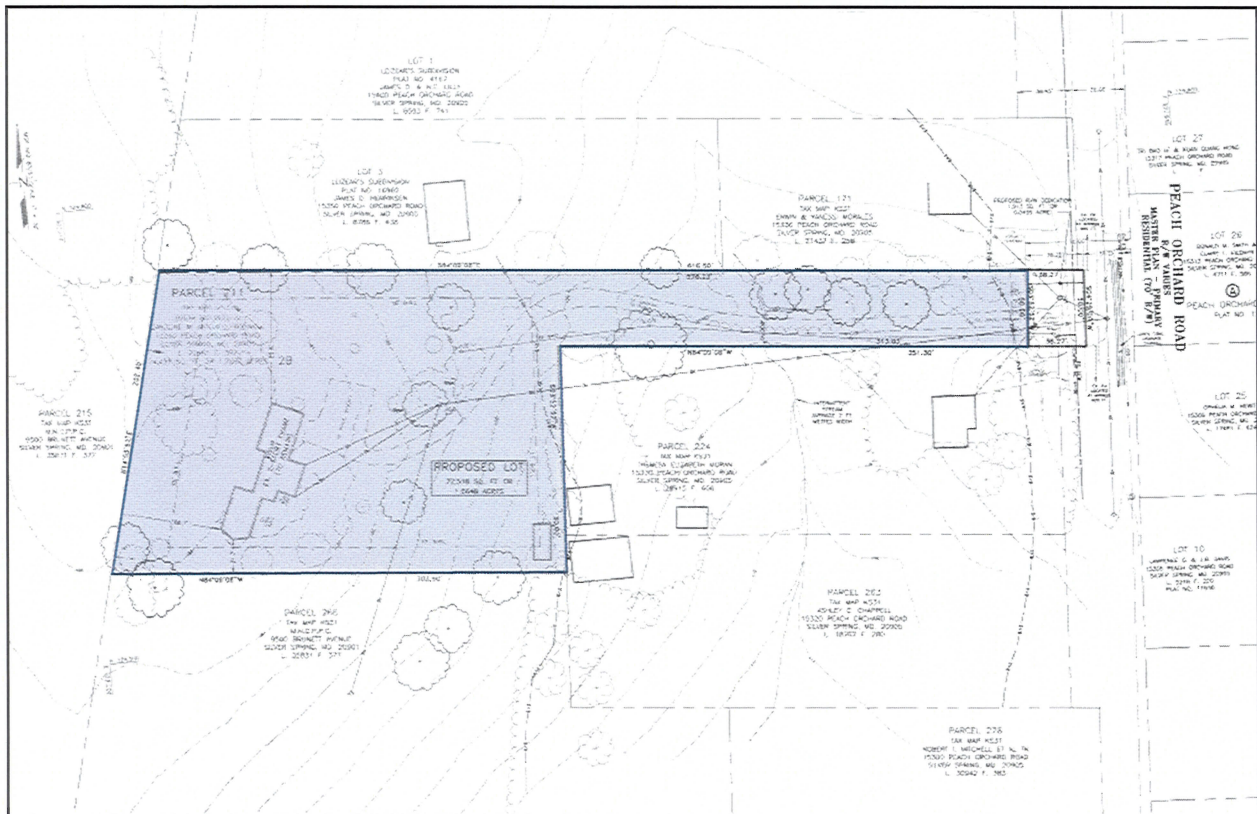


Exhibit 2: Preliminary Plan

ANALYSIS AND FINDINGS

Substantial Conformance to Master Plan

The Subject Property is identified as part of the Residential Wedge in the Approved and Adopted 1997 Cloverly Master Plan. This master plan “continues the low-density land use recommendations of the 1981 plan to protect the Northwest Branch and Paint Branch watersheds through low-density residential zoning and enhanced park and recreation linkages” (p. 22). The recommendations for the residential areas include a recommendation to maintain low-density zoning to protect residential stability, neighborhood character, and rural character. The proposed plan substantially conforms to the Cloverly Master Plan in that a residential lot that exceeds minimum RE-1 zoning standards is being created and the creation of the lot fits within the current development pattern of the area.

Public Facilities

Roads and Transportation Facilities

The proposed lot is not subject to Local Area Transportation Review or Policy Area Mobility Review because the proposed development generates fewer than 3 new peak-hour trips within the weekday morning and evening peak periods. The Property has frontage on Peach Orchard Road, which is a primary residential street requiring 70 feet of right-of-way. Right-of-way dedication from the centerline totaling 1,913 square feet is required to achieve 70 feet of right-of-way from the opposite right-of-way line. Sidewalks are not required in the RE-1 zone because pedestrians can safely use the road in this low density situation. Proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed public and private improvements.

Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the proposed dwelling unit. The dwelling unit will be served by public water and sewer. Gas, electric and telecommunications services are also available to serve the lot. Schools, police stations, firehouses and health services are currently operating within the standards set by the Growth Policy Resolution currently in effect. The application has been reviewed and approved by the Montgomery County Fire and Rescue Service which has determined that the Property has adequate access for emergency vehicles.

Environment

The plan meets all applicable requirements of the Special Protection Area law and meets all applicable requirements for protection of environmentally sensitive areas as specified in the Environmental Guidelines.

Preliminary/Final Water Quality Plan

As part of the requirements of the Special Protection Area law, a preliminary and final water quality plan must be reviewed in conjunction with a preliminary subdivision plan. Under this

provision of the law, MCDPS and the Planning Board have different responsibilities in the review of a water quality plan. MCDPS reviews and acts on those elements of the water quality plan that relate to water protection performance goals, stormwater management, sediment and erosion control and monitoring of best management practices. MCDPS has approved their portion of the water quality plan, as discussed in the Stormwater Management & Sediment Control section below. The Planning Board's responsibility is to determine if the environmental guidelines for special protection areas, site imperviousness requirements and forest conservation requirements are satisfied.

Stormwater Management & Sediment Control

A Preliminary/Final Water Quality Plan for the site was approved by the MCDPS Stormwater Management Section on December 30, 2009. Since there is no proposed development or other land disturbing activity associated with this Preliminary/Final Water Quality Plan, there are no associated stormwater management, sediment control, or monitoring requirements at this time.

Site Imperviousness

Impervious surface restrictions for development projects in the Upper Paint Branch SPA are set forth in the Environmental Overlay Zone for the Upper Paint Branch SPA. An 8% imperviousness limit was established for the Environmental Overlay Zone for new projects or redevelopment projects. However, there is also a provision for projects with impervious surfaces that exceed the 8% limit that lawfully existed before July 31, 2007 and are proposing to construct features within the project area. Section 59-C-18.152 (a)(1)(A) of the Montgomery County Code states:

“(A) Any impervious surface lawfully existing pursuant to a building permit issued before July 31, 2007 that exceeds the 8 percent restriction, may continue or be reconstructed under the development standards in effect when the building permit was issued.”

The existing site has 11,037 square feet of impervious surfaces, or about 14.8 % of the site. These include the existing house, patio area, walkway, driveway, and a small portion of Peach Orchard Road that lies within the Property. Since there is an existing house that lawfully existed prior to July 31, 2007, the site imperviousness for this project can exceed the 8% cap but cannot be increased over what exists today.

Although the proposed preliminary plan shows the existing house will remain as is, the Applicant has indicated that the house may be either reconstructed or demolished and a new house built. Since a house exists on the site, and the residential use is to remain, staff recommends that if and when the house is reconstructed or replaced, an impervious limit that is equivalent to the imperviousness that occurs on the site today should be applied. This would be consistent with the Environmental Overlay Zone.

Environmental Buffers

The pipestem portion of the property lies within the environmental buffer of the intermittent stream that flows through the site. Since vehicular access to the site can only occur along the

pipestem, the existing driveway cannot be relocated outside the buffer. Staff does not recommend the placement of a conservation easement over the environmental buffer.

Site Performance Goals

Since there is no proposed development or land-disturbing activity for the site, no site performance goals were required to be established for the site at this time.

Forest Conservation

The Preliminary Forest Conservation Plan identifies a 0.33-acre afforestation requirement. The Applicant proposes to satisfy the requirement by purchasing credits from a forest bank, which is acceptable to staff. If a forest bank site is not available, staff recommends the Applicant afforest at an offsite location. Staff recommends approval of the Preliminary Forest Conservation Plan with the conditions of approval specified on page 2 of this report.

Because staff anticipates the Applicant will apply for a building permit and/or sediment and erosion control permit shortly after the preliminary plan is approved, staff recommends the Final Forest Conservation Plan be submitted for review and approval prior to the release of a sediment and erosion control permit or building permit. The Final Forest Conservation Plan should include a tree save plan that identifies trees on and near the property that can and should be protected during construction. Further, a variance may then be necessary if the critical root zone of trees that are at least 30 inches in diameter at breast height (DBH) are affected by proposed redevelopment on the site. The Final Forest Conservation Plan should also identify the specific forest mitigation bank or offsite forest planting location.

Compliance with the Subdivision Regulations and Zoning Ordinance

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 of the subdivision.

The lot was reviewed for compliance with the dimensional requirements for the RE-1 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 attached Table 1. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

Citizen Correspondence and Issues

The Applicant held a pre-submission meeting on October 21, 2009 to discuss the application with adjacent and confronting property owners and relevant civic organizations. The sign was properly posted on the Property on March 5, 2010 and on March 11, 2010 the Applicant notified adjacent and confronting property owners and various citizen groups that a preliminary plan was formally submitted to MNCPPC. As of the date of this report, no concerns of interested parties have been brought to the attention of MNCPPC staff.

CONCLUSION

The proposed lot meets all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conforms to the recommendations of the Cloverly 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 – Agency Correspondence

Table 1: Preliminary Plan Data Table and Checklist

Plan Name: Boxwell Property				
Plan Number: 120100210				
Zoning: RE-1				
# of Lots: 1				
# of Outlots: 0				
Dev. Type: Standard, Residential				
PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval by the Preliminary Plan	Verified	Date
Minimum Lot Area	40,000 square feet	72,518 square feet is min. proposed	EG	6/16/10
Lot Width	125 ft.	200 ft. is min. proposed	EG	6/16/10
Lot Frontage	25 ft.	50 ft. is min. proposed	EG	6/16/10
Setbacks				
Front	50 ft. Min.	Must meet minimum ¹	EG	6/16/10
Side	17 ft. Min./35 ft. total	Must meet minimum ¹	EG	6/16/10
Rear	35 ft. Min.	Must meet minimum ¹	EG	6/16/10
Height	50 ft. Max.	May not exceed maximum ¹	EG	6/16/10
Max Resid'l d.u. or Comm'l s.f. per Zoning	1 dwelling unit	1 dwelling unit	EG	6/16/10
Building coverage	15% Min.	3% is min. proposed	EG	6/16/10
TDRs	No		EG	6/16/10
Site Plan Req'd?	No		EG	6/16/10
FINDINGS				
SUBDIVISION				
Lot frontage on Public Street		Yes	EG	6/16/10
Road dedication and frontage improvements		Yes	Agency letter	5/12/10
Environmental Guidelines		Yes or N/a	Staff memo	6/10/10
Forest Conservation		Yes or Exempt	Staff memo	6/10/10
Master Plan Compliance		Yes	EG	6/16/10
Other (i.e., parks, historic preservation)				
ADEQUATE PUBLIC FACILITIES				
Stormwater Management		Yes	Agency letter	12/30/09
Water and Sewer (WSSC)		Yes	Agency comments	5/4/10
10-yr Water and Sewer Plan Compliance		Yes	Agency comments	5/4/10
Well and Septic		N/a	EG	6/16/10
Local Area Traffic Review		N/a	Staff memo	5/3/10
Policy Area Mobility Review		N/a	Staff memo	5/3/10
Transportation Management Agreement		No	Staff memo	5/3/10
School Cluster in Moratorium?		No	EG	6/16/10
School Facilities Payment		No	EG	6/16/10
Fire and Rescue		Yes	Agency letter	5/20/10
Other (i.e., schools)				

¹ As determined by MCDPS at the time of building permit.



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Carla Reid
Director

December 30, 2009

Mr. Charles Grimsley
Landmark Engineering, Inc.
6110 Executive Boulevard, Suite 110
Rockville, Maryland 20852

Re: **Preliminary/Final Water Quality Plan**
for Mitchell/Boxwell Property
SM File #: 236887
Tract Size/Zone: 1.71 Ac/RE-1
Tax Plate: KS341
Parcel: 211
Watershed: Upper Paint Branch

SPECIAL PROTECTION AREA

Dear Mr. Grimsley:

Based on a review by the Department of Permitting Services, the Preliminary/Final Water Quality Plan (PFWQP) for the above mentioned site is conditionally approved. This approval is for the elements of the Preliminary/Final Water Quality Plan of which DPS has lead agency responsibility, and does not include limits on imperviousness or stream valley buffer encroachments.

Site Description: The site is located at 15340 Peach Orchard Road. This proposal is for the conversion of the existing Parcel to a Lot of record. There is no proposed construction activity associated with this application. The parcel contains an existing single family dwelling, which is to remain. Even though there is currently no proposed development for this property, a Preliminary/Final Water Quality plan is required as part of the subdivision process.

This site is tributary to the Left Fork of the Upper Paint Branch. This watershed has been designated as a Special Protection Area.

Since there is no proposed development or other land disturbing activity associated with this Preliminary/Final Water Quality Plan, there are no associated stormwater management, sediment control, or monitoring requirements at this time.

Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended Water Quality Plan requirements.

If you have any questions regarding these actions, please feel free to contact Mark Etheridge at (240) 777-6338.

Sincerely,



Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB:dpm:CN236887

cc: C. Conlon (MNCPPC-DR)
C. Bunnag (MNCPPC-ED)
R. Gauza (MCDEP)
SM File # 236887

Qn: N/A
Qi: N/A
Recharge N/A



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

May 12, 2010

Arthur Holmes, Jr.
Director

Ms. Catherine Conlon, Subdivision Supervisor
Development Review Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan No. 1-20100210
Boxwell Property

Dear Ms. Conlon:

We have completed review of the above referenced preliminary plan signed March 15, 2010. This plan was reviewed by the Development Review Committee at its meeting on May 3, 2010. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to DPS in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. Necessary dedication for future widening of Peach Orchard Road in accordance with the master plan.
2. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
3. The owner will be required to furnish this office with a recorded covenant whereby said owner agrees to pay a prorata share for the future construction or reconstruction of Peach Orchard Road per the Montgomery County primary open section standard including sidewalk (MC-12.04), whether built as a Montgomery County project or by a private developer under permit, prior to DPS approval of the record plat. The deed reference for this document is to be provided on the record plat.
4. The sight distance study has been accepted. A copy of the accepted sight distances evaluation certification form is enclosed for your information and reference.
5. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Dan Sanayi of the MCDOT Traffic Engineering Design and Operations Section at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
6. Permit and bond will be required as a prerequisite to DPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
 - A. Reconstruct the driveway apron to open section roadway standard (MC-301.03)

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

Ms. Catherine Conlon
Preliminary Plan No. 1-20100210
May 12, 2010
Page 2

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Ms. Dewa Salihi at 240-777-2197.

Sincerely,



Gregory M. Leck, P.E., Manager
Development Review Team

Enclosures (2)

M:\subdivision\SA1 111001\Preliminary Plans\1-20100210 Boxwell Property\1-20100210 Boxwell.doc

cc: Caroline Mitchell-Boxwell
Charles Grimsley, Landmark Engineering
Shahriar Etemadi; M-NCPPC TP
Joseph Y. Cheung; DPS RWPPR
Henry Emery; DPS RWPPR
Sarah Navid; DPS RWPPR
Brett Linkletter; DOT DHS
Dan Sanayi; DOT DTEO
Dewa Salihi, DOT DTEO
Preliminary Plan Folder
Preliminary Plans Note Book



MONTGOMERY COUNTY, MARYLAND
 DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION
 DEPARTMENT OF PERMITTING SERVICES

SIGHT DISTANCE EVALUATION

Facility/Subdivision Name: Boxwell Property Preliminary Plan Number: 1-20100210

Street Name: Peach Orchard Road Master Plan Road Classification: Primary

Posted Speed Limit: 35 mph

Street/Driveway #1 (15340 Peach Orchard Rd) Street/Driveway #2 (N/A)

Sight Distance (feet) OK?
 Right 600+
 Left 650+

Sight Distance (feet) OK?
 Right _____
 Left _____

Comments: _____

Comments: _____

GUIDELINES

Classification or Posted Speed (use higher value)	Required Sight Distance in Each Direction*	Sight distance is measured from an eye height of 3.5' at a point on the centerline of the driveway (or side street) 6' back from the face of curb or edge of traveled way of the intersecting roadway where a point 2.75' above the road surface is visible. (See attached drawing)
Tertiary - 25 mph	150'	
Secondary - 30	200'	
Business - 30	200'	
Primary - 35	250'	
Arterial - 40	325'	
(45)	400'	
Major - 50	475'	
(55)	550'	

*Source: AASHTO

ENGINEER/ SURVEYOR CERTIFICATE

I hereby certify that this information is accurate and was collected in accordance with these guidelines.

Charles J. Grimsley 5/11/10
 Signature Date

PE11124
 PLS/P.E. MD Reg



Montgomery County Review:

Approved
 Disapproved:

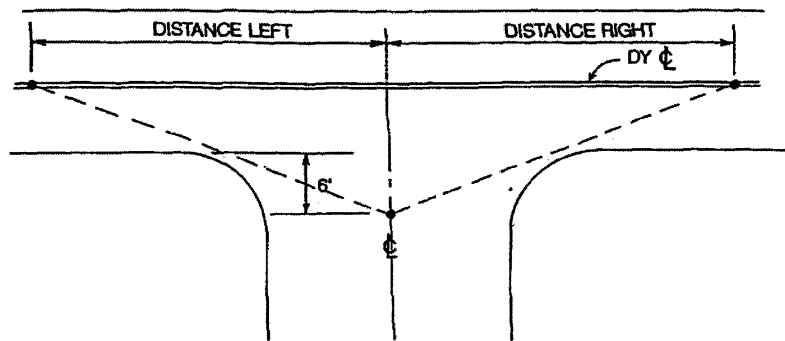
By: gms
 Date: 5/17/10



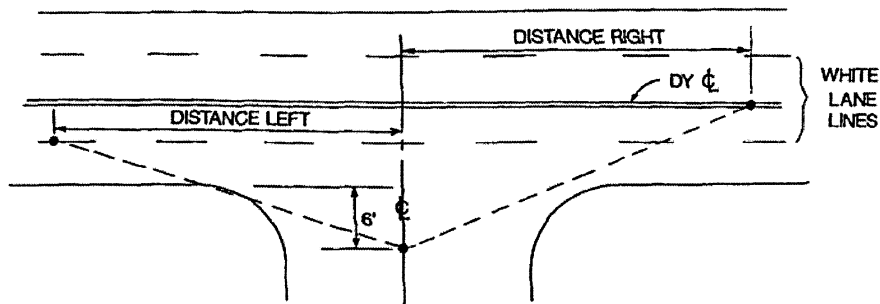
MONTGOMERY COUNTY, MARYLAND
DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION
DEPARTMENT OF PERMITTING SERVICES

SIGHT DISTANCE EVALUATION ATTACHMENT

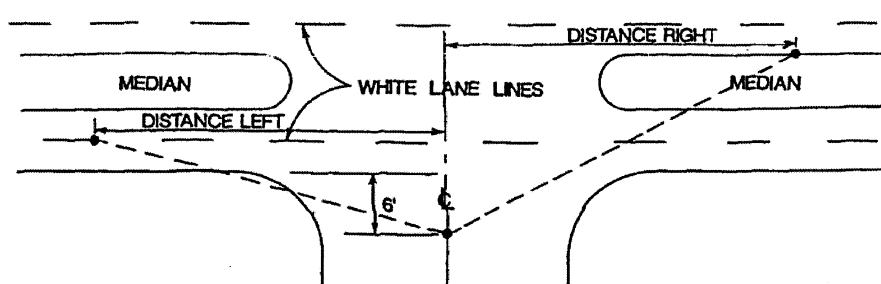
2 LANE UNDIVIDED ROADWAY



MULTI-LANE UNDIVIDED ROADWAY



MULTI-LANE DIVIDED ROADWAY





FIRE MARSHAL COMMENTS

DATE: 20-May-10
TO: Charles Grimsley - landmarkctg@aol.com
Landmark Engineering
FROM: Marie LaBaw
RE: Boxwell Property
120100210

PLAN APPROVED

1. Review based only upon information contained on the plan submitted **10-May-10**. 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.

THERE ARE NO PHYSICAL CHANGES TO THE SITE PROPOSED AS PART OF THIS PLAN