



MCPB
Item #
12/9/10

MEMORANDUM

DATE: November 29, 2010

TO: Montgomery County Planning Board

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

FROM: Richard Weaver, Coordinator (301-495-4544)
 Development Review Division

REVIEW TYPE: Preliminary Plan Review

APPLYING FOR: Subdivision to create 38 lots including five townhouse MPDU's (12.5%) using the MPDU optional method provisions

PROJECT NAME: Anselmo Property
CASE #: 120100160

REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: RE-1 with MPDU's
LOCATION: Located at the southern terminus of Rainbow Drive on the north side of Briggs Chaney Road

MASTER PLAN: Cloverly

APPLICANT: RAM Investing, Ltd.
ENGINEER: Site Solutions, Inc.
ATTORNEY: Miles and Stockbridge, P.C.

FILING DATE: March 1, 2010
HEARING DATE: December 9, 2010



Approval signatures

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RECOMMENDATION: Approval of the Preliminary Plan and Preliminary Water Quality Plan, subject to the following conditions.

1. Approval under this Preliminary Plan is limited to a maximum of 38 lots for 38 dwelling units consisting of 33 single-family detached units and 5 single-family attached units.
2. The Applicant must comply with the following conditions of the SPA Preliminary Water Quality Plan:
 - a. Prior to recording of plat, applicant must enter into an agreement with the Planning Board to limit impervious surfaces to no more than 8.0 percent.
 - b. Prior to release of building permit, applicant must demonstrate conformance to the impervious surface limit. Any modifications which increase imperviousness beyond 8% will require Planning Board approval.
 - c. Applicant must conform to the conditions as stated in DPS' water quality plan approval letter dated October 26, 2010.
 - d. Final Water Quality Plan must demonstrate proposed project will not exceed 8.0 percent imperviousness.
3. The Applicant must comply with the Preliminary Forest Conservation Plan and the following conditions:
 - a. Category I conservation easement must be placed over all areas of forest retention, forest planting, and environmental buffers, including proposed and future forest banking areas.
 - b. Provide permanent signs along the boundaries of the Category I conservation easement area.
 - c. Forest plantings must be provided over all unforested stream buffers.
 - d. Submission of a final forest conservation plan consistent with section 109.B. of the forest conservation regulations at the time of Site Plan.
 - e. Final forest conservation plan to include a program for restoring "Forest Save A" area that includes the removal of the existing ATV trails and debris.

Identification of all trees within the environmental buffer that would be subject to the variance provision based on the determination of the critical root zone (CRZ) according to the following accepted formula: 1 inch DBH = 1.5 feet radius of the CRZ. If any trees are identified as subject to the variance provision and were not included on the original variance request, an amendment to the variance may be required at the time of Site Plan and Final FCP approval.
4. The Applicant must dedicate and show on the record plat the following rights-of-way along the property frontage:
 - Briggs Chaney Road – minimum right-of-way width of 40 feet from the centerline of the right-of-way.

- Rainbow Drive – minimum modified right-of-way width of 68 feet.
 - Public Street “A” – minimum right-of-way width of 68 feet.
5. The Applicant must construct the section of Rainbow Drive between its current terminus and Public Street “A” to 68 foot primary roadway right-of-way standards and Public Street “A” to 68 foot tertiary right-of-way standards.
 6. The Applicant may limit sidewalk along Public Street “A” to the north side of Public Street “A” and along the north half of the Public Street “A” cul-de-sac, if a waiver is obtained through the Montgomery County Department of Permitting Services (DPS) and a payment in-lieu is made for the remainder of the sidewalk along the south side of Public Street “A” and along the south half of the Public Street “A” cul-de-sac.
 7. The Applicant must construct an asphalt pathway through the property to connect Briggs Chaney Road and the new Rainbow Drive terminus/Public Street “A”, and an eight-foot wide shared-use path where it is incomplete along the Briggs Chaney Road property frontage, as shown on the preliminary plan. The paths must be in place and open for public use prior to the release of a building permit for the 20th single-family dwelling unit. Final width of the on-site pathway must be determined at Site Plan.
 8. The record plat must reflect a Category I easement over all areas of stream valley buffers and forest conservation.
 9. The record plat must reflect common ingress/egress and utility easements over all shared driveways.
 10. The record plat must reflect all areas under Homeowners Association ownership and specifically identify stormwater management parcels.
 11. The record plat must reflect a public use and access easement over all private pathways.
 12. The record plat must have the following note: “The land contained hereon is within an approved cluster development and subdivision or resubdivision is not permitted after the property is developed.”
 13. The record plat must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 (“Covenant”). Applicant must provide verification to Commission staff prior to release of final building permit that Applicant’s recorded HOA Documents incorporate by reference the Covenant.
 14. The applicant must comply with the conditions of the MCDPS stormwater management approval dated October 26, 2010. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
 15. The applicant must comply with the conditions of the MCDOT letters dated November 1, 2010 and November 17, 2010. These conditions may be amended

by MCDOT provided the amendments do not conflict with other conditions of the preliminary plan approval.

16. Before any building permit is issued, the applicant must make the applicable school facilities payment at the elementary school level to the Montgomery County Department of Permitting Services (MCDPS).
17. No clearing, grading or recording of plats prior to certified site plan approval.
18. Final approval of the number and location of dwelling units, on-site parking, site circulation, sidewalks, and bikepaths will be determined at site plan.
19. The certified preliminary plan must contain the following note: “Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the preliminary plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan.
20. 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.
21. The record plat must show necessary easements.

SITE DESCRIPTION (Figure 1 and 2)

The subject property “Subject Property” or “Property” is identified as an unplatted parcel, P183, on Tax Map JS 61. It is 42.28 acres in size and is zoned RE-1. It is located in the Cloverly Planning Area and is in the Upper Paint Branch Environmental Overlay Zone where imperviousness for new development is limited to 8%. The Property fronts on Briggs Chaney Road, a two-lane arterial with a minimum right-of-way width of 80 feet. It is located immediately east and north of the MNCPPC’s Cloverly Park. The Cloverly Elementary School lies to the west of the Park and the Cloverly Shopping Center is to the west of the school at the intersection of Briggs Chaney Road and New Hampshire Avenue. One-family detached residential uses surround the Property to the north, west and south.

A Use III-P stream originates on, and bisects, the Property and is a headwater stream to the Paint Branch stream system. There is forest on the Property that is generally located in the southern portion of the site within the stream valley buffer. There is also another patch of forest in the western portion of the Property at the terminus of Olive Street. The remainder of the property is in open field, and there is an existing one-family residential structure in the center of the site with a driveway out to Briggs Chaney Road.

Three roads currently terminate at the property boundary. Rainbow Drive, a master planned primary residential street with a 70 foot right-of-way, stubs at the northern boundary. Olive Drive, a secondary residential street with a 60 foot right-of-way, terminates at the western boundary of the Property. Colesberg Street is also a secondary street, and it terminates along the eastern boundary. It is apparent that all three roads were planned to extend onto the Subject Property and perhaps intersect.

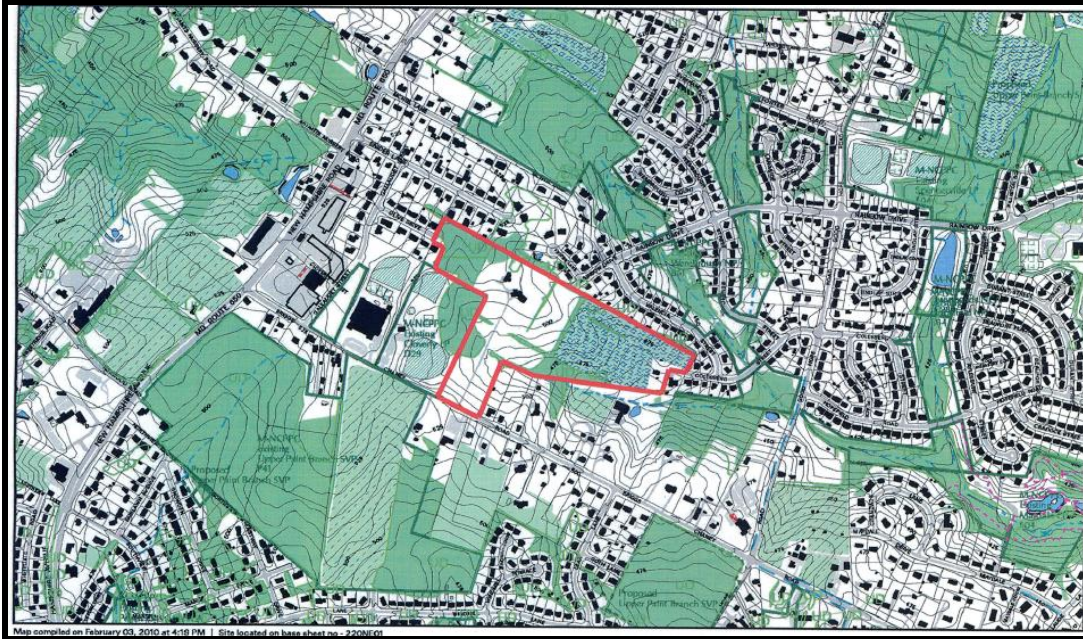


Figure 1

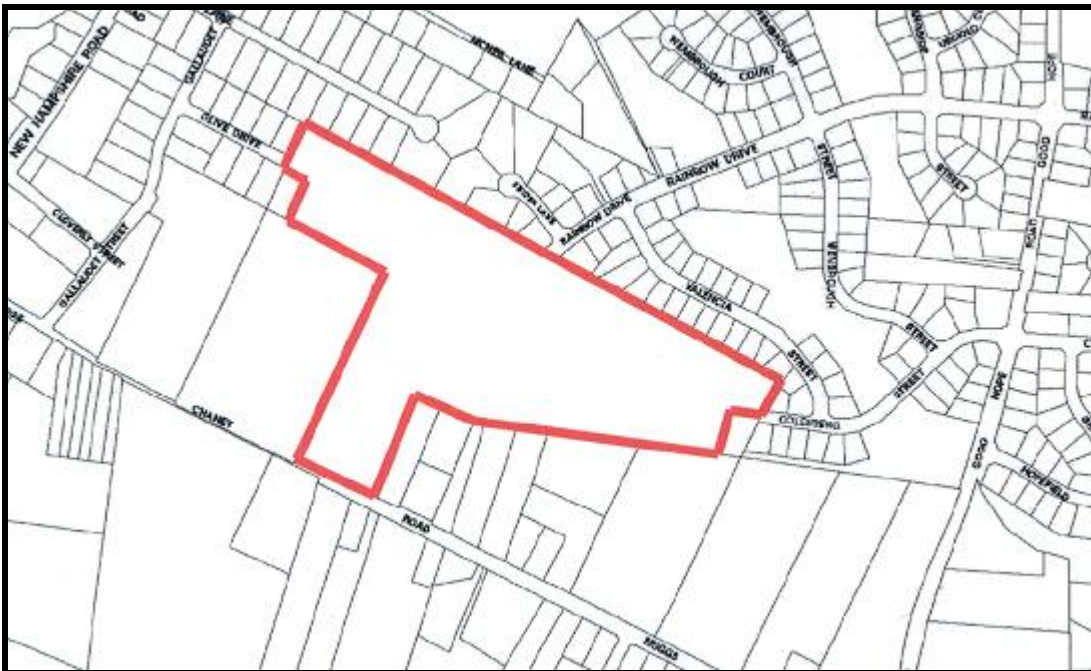


Figure 2

PREVIOUS PLANNING BOARD ACTION

On February 2, 2009, the Planning Board considered a non-binding pre-preliminary plan for the same Property showing 51 lots using the MPDU development options with a density bonus. Following is a brief review of the issues that were discussed at that hearing and the recommendations of the Board.

1) Road Connections

Three roads terminate at the Property's boundary; Colesburg Street to the east, Rainbow Drive to the north and Olive Drive to the west. While recognizing that the extension of Rainbow Drive to Briggs Chaney Road was no longer supported by the *1997 Cloverly Master Plan*, staff argued that the connection of Rainbow Drive to an extension of Colesburg Street to the east would provide for better vehicular through-movements than ending Rainbow Drive as two cul-de-sacs. The applicant argued that the road connection was not necessary for adequate vehicular circulation and that the imperviousness was not justified in the Upper Paint Branch Special Protection Area. The applicant also expressed the community's opposition, to making this connection, particularly the residents along Colesburg Street.

The Planning Board agreed with the Applicant and advised that the connection of Colesburg Street to Rainbow Drive was not absolutely necessary to provide vehicular circulation and that pedestrian movements could be addressed with a pathway connection through the site from Rainbow Drive down to Briggs Chaney Road.

2) Site Layout

Given the surrounding land uses and the opportunity to maximize contiguous green space by clustering development, staff recommended that any new dwelling units approved on this property be located north of the stream valley that bisects the site.

The Planning Board did not fully support staff with respect to clustering all lots on the north side of the stream. They did, however, express concerns about the compatibility of the townhouses that had been proposed along the Briggs Chaney Road property frontage, and suggested that one family detached units front to Briggs Chaney Road instead.

3) Bikepath Location

Although the Cloverly Master Plan removed the Rainbow Drive connection to Briggs Chaney Road, it continues to recommend a bike path connection between the two streets. Staff and the applicant had differing opinions on the location of this bike path connection. Staff preferred a connection from Rainbow Drive to Briggs Chaney Road while the Applicant believed that a shorter path to Cloverly Park was superior.

The Planning Board agreed with staff in that a sidewalk connection to Briggs Chaney would better serve the majority of individuals who might use it. A connection just to the Park would be less desirable, providing fewer options to those who might wish to go to the school site or the shopping center.

4) Imperviousness Waiver

As discussed fully in this report, the Upper Paint Branch Special Protection Area requires new development to hold to an 8% imperviousness cap. The Applicant requested a waiver from the Planning Board to allow pervious pavement to be excluded from the impervious calculations. Staff explained that while the Board has expressed interest in further research about pervious pavement, they should not change their stance on pervious pavement at this time and should continue to calculate impervious coverage as they have historically done, i.e., no credit for porous pavements. The Planning Board agreed with staff's recommendation.

5) Sidewalk Waiver

The Applicant requested that the Planning Board consider requiring a sidewalk on only one side of the new internal street for the project. At the time, staff supported this request but assumed that it would be a five-foot wide sidewalk. Since that time, a Capital Improvement Program project (CIP Project No. 506747 – Rainbow Drive Sidewalk Construction and Pavement Removal Project) has begun that will provide a four-foot wide sidewalk along the east side of Rainbow Drive between its current terminus 100 feet south of Snider Lane and 400 feet west of Thompson Road.

The initial of the CIP sidewalk project has altered staff's position on this sidewalk and it is discussed in the transportation section of this report.

PROJECT DESCRIPTION (See Figure 3)

The application proposes 38 residential units including 33 one-family detached and 5 one-family attached (townhomes). Because the application proposes twenty or more units, Moderately Priced Dwelling Units (MPDU's) must be provided in accordance with Chapter 25A of the Zoning Ordinance. The five townhomes constitute the 12.5% minimum number of MPDU's that are required under the law. The application is developing under the optional method for MPDU developments which allows detached lots as small as 10,000 square feet and one family attached unit lots as small as 3,000 square feet. Thirty of the one family detached units and all five of the townhomes will be located on an extension of Rainbow Drive in a "barbell" configuration. Three one family detached units will be located on Briggs Chaney Road. Rainbow Drive will be located within a 68 foot wide right-of-way with a 20 foot wide pavement width, as will the barbell cul-de-sacs at the end of Rainbow. Sidewalks will be constructed on one side

of the new streets, and staff is recommending that the applicant contribute towards a CIP funded sidewalk project on Rainbow Drive to fund a short off-site section of sidewalk from the northern Property boundary to Valencia Street. Five on street parking spaces are shown to allow overflow, visitor parking that cannot be accommodated within private driveways.

The five townhomes will be split into two sticks, one of two units and one with three units; all will be located in relatively close proximity to the “open play area” located in the center of the project. A sidewalk will extend from the terminus of Rainbow Drive down to Briggs Chaney Road. Staff is recommending that this sidewalk be paved and five feet in width with the expectation that it will be heavily used by local residents in the neighborhood to the north for access to the nearby park, elementary school and the shopping center at the intersection of Briggs Chaney and New Hampshire Avenue. This sidewalk will terminate in close proximity to the three one family detached units that front on Briggs Chaney Road, each served by a single driveway. The applicant will also be required to complete a small section of the bikeway along the Property’s frontage on Briggs Chaney Road.

A stream bisects the site and is classified as a Use III-P stream. The stream and its environmental buffer will be protected in a Category I easement.

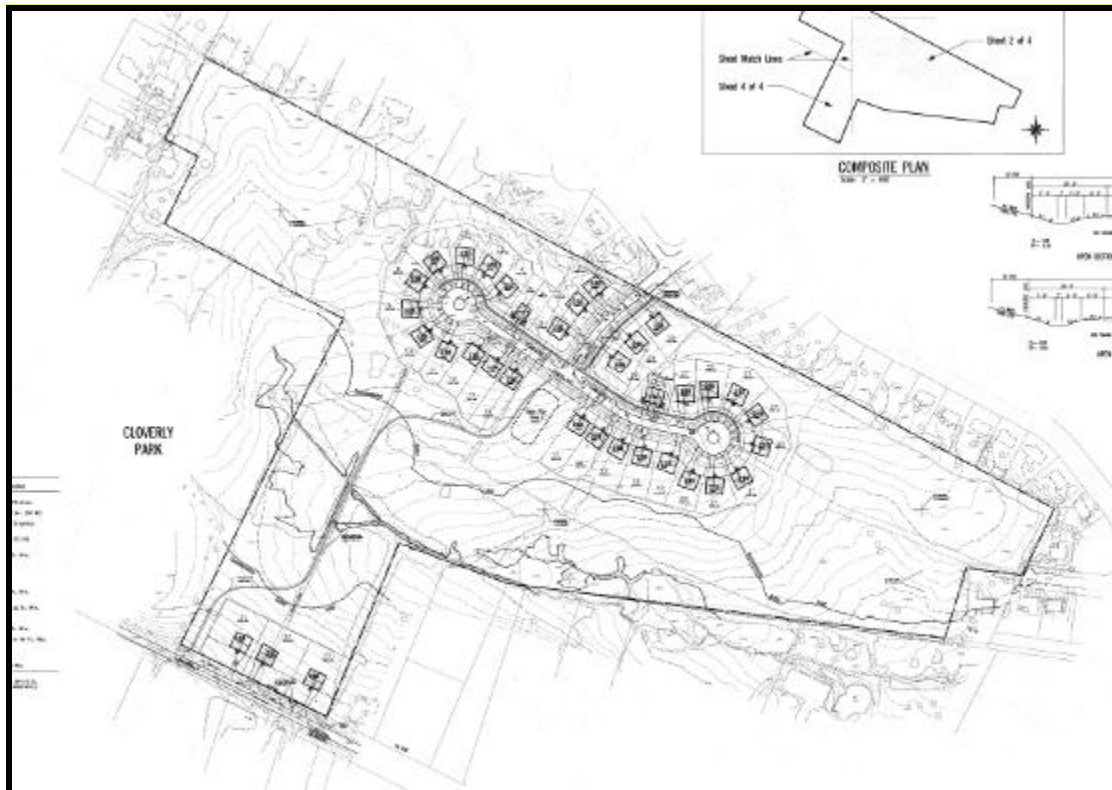


Figure 3

ISSUES

Since this Property is located in the Upper Paint Branch Special Protection Area, imperviousness is limited to 8%, including all hard surfaces built by the developer of the site. At this Preliminary Plan stage, staff has determined that the plan exceeds the 8% impervious limit due in part to an error in the way imperviousness was calculated by the Applicant, and also because staff is recommending certain sidewalk and driveway improvements at the time of Site Plan that will further increase the imperviousness on the site. As part of this Preliminary Plan, staff is recommending that the Board support the following three items, to be addressed as part of the Site Plan review with the understanding that the Site Plan will continue to be held to the imperviousness limit of 8%:

- 1) Staff advises that the calculation of the gross tract area on the Impervious Area Plan correctly includes the land area between the right-of-way /property line and the edge of pavement of Briggs Chaney Road along the Property frontage. However, the calculation of impervious area for the site must include not only the proposed improvements within the right-of-way but also, the existing impervious area, including the existing bikeway/walkway path. The impervious area calculations must be revised to include the entirety of the path.
- 2) At the time of Site Plan, show a 5 foot wide paved pathway leading from Rainbow Drive to Briggs Chaney Road. Staff and the Applicant currently disagree on the width of this important path connection that will serve the neighborhoods to the north. The Preliminary Plan and impervious calculations currently show this as a four foot wide paved path. Staff advises that a five foot wide path is the minimum width that will allow two individuals to walk side by side or pass with ease. This particular pedestrian connection, which was at one time recommended to be an on-street bikepath in conjunction with Rainbow Drive, will carry higher volumes of pedestrians. Staff seeks Planning Board support for a five foot wide configuration. The addition of one foot of pavement will result in more imperviousness and may require reduction of other impervious surface areas.
- 3) Staff recommends that at the time of Site Plan, all driveways less than 80 feet in length measured from the street line to the garage door, be constructed at double-width for the entirety of their length. This recommendation is based on Planning Board action for similar applications in Special Protection Areas where staff made this recommendation based on past experience revealing that owners of driveways less than 80 feet are likely to widen them to improve vehicular parking and circulation, thereby increasing the imperviousness the Board was trying to achieve. Staff believes it appropriate to account for the likelihood of this occurrence when impervious limits are set at the regulatory review stage.

This recommendation in no way requires a developer to actually build the driveway to the double width configuration; only to account for the imperviousness that it will create in the Imperviousness Area Plan and calculations. The developer may wish to re-investigate shared driveways that may result in some savings on impervious area. Shared drives at no time should be less than 20 feet wide.

Since the final determination on the number of units and the location and configuration of sidewalks and other hardscape features are ultimately determined at Site Plan, staff believes that it is not necessary to finalize these details at the Preliminary Plan stage. The recommended conditions establish, among other things, the maximum lots that can be achieved under the requirements of the Subdivision Regulations (38) and the maximum level of impervious surface (8%) that is permitted. Therefore, a future site plan decision will remain in conformance with the preliminary plan as long as it adheres to the conditions of the preliminary plan.

ANALYSIS AND FINDINGS

Conformance to the Master Plan

Staff finds that the Preliminary Plan is in conformance with the *1997 Approved and Adopted Cloverly Master Plan*. The Cloverly Plan makes the following relevant land use recommendations on pages 30-32 regarding residential areas.

- *Join new development with existing neighborhoods through street and pedestrian connections. Interconnections between neighborhoods creates a greater sense of community by eliminating barriers for local circulation without creating cut-through routes that attract an excessive level of cut-through traffic.*

Staff response: The Preliminary Plan makes two important sidewalk connections that provide important pedestrian links along Rainbow Drive. The off-site link to the north to Valencia Street will require the developer to make a payment to the approved Capital Improvement project for a sidewalk along other portions of Rainbow Drive. Although this off-site section is not currently funded in the CIP project, it will provide a critical missing link. The County will use these developer funds to pay for this off-site section to be built.

The other critical sidewalk connection provides for a neighborhood connection through the Subject Property. This sidewalk runs from the terminus of Rainbow Drive to Briggs Chaney Road and is recommended by staff to be a five foot sidewalk as opposed to the four foot wide sidewalk shown on the Preliminary Plan. This will ultimately be discussed as part of the future site plan. This section of sidewalk is critical to provide pedestrian connections for the neighborhoods to the north, down to

the Cloverly Park, the elementary school and the newly redeveloped shopping center at the Briggs Chaney Road intersection with New Hampshire Avenue.

The recommendation to connect Rainbow Drive from its current terminus, south to Briggs Chaney Road was removed from the 1997 Cloverly Master Plan. The connection was briefly discussed by the Planning Board at the pre-preliminary plan hearing for this Property. The Board supported the master plan recommendation to not make this connection.

- *Encourage clustering of development to provide open space that protects natural resources, provides recreation, and contributes to the rural and residential atmosphere. Cluster subdivision should be configured to protect environmentally sensitive areas, provide forested stream buffers and provide forested open space along arterial and major highways, provide access and views to parkland and open space and provide a transition to similar lots sizes of adjacent subdivisions.*

Staff Response: This plan uses the optional method of development under the MPDU provision which allows smaller lots and higher density. Although this plan does not take advantage of the density bonus allowance (due to imperviousness limits) it does take advantage of the smaller lot sizes to compact the dwelling footprints, roads and sidewalks to minimize imperviousness. The de facto clustering also provides considerable open space that leaves large upland areas undeveloped, protects all forest on the property, and keeps disturbance out of the stream valley buffer that bisects the Property. The cluster allows this development to maintain an open space buffer between the new lots and the existing lots to the north along Valencia Street.

- *Extend the opportunity to use the cluster option to all RE-1 zoned properties to encourage open space, environmental protection and recreation.*

Staff Response: As discussed above, the applicant takes advantage of the smaller lot sizes to cluster development in the most developable area of the site. All environmentally sensitive features on the Property are protected and ample open space is created.

The Cloverly plan goes on to recommend that all new development in the Upper Paint Branch should “*implement and strictly enforce the requirements and guidelines of the Special Protection Area Law and the 1981 Performance Criteria for any land developed in the Upper Paint Branch watershed including a 10 percent (now 8%) imperviousness limits for individual properties and additional setbacks from streams, wetlands, springs, and seeps to reduce the impacts of development in the watershed.*” (p. 87) The proposed plan has a projected imperviousness of approximately 8 %, which conforms with the master plan guidance. Final imperviousness will be established at the site plan stage.

Master Plan recommended transportation and pedestrian circulation

The Plan supports the improved interconnection of streets and an improved bikeway system. The Plan's objective for pedestrian circulation is to "*provide a sidewalk network that connects residential areas to public facilities, commercial areas, and bus stops.*" (p.

62) The pedestrian circulation recommendations include the following:

- *Provide sidewalks on both sides of new roads and when existing roads are being improved. The construction of sidewalks and paths along one side of the road may be acceptable to limit environmental impacts.*

Staff Response: The Plan proposes sidewalks to be built on one side of the new streets only in response to efforts to minimize imperviousness. Staff and the Montgomery County Department of Transportation support the sidewalks on one side of the street only.

- *Connect existing sidewalks to public facilities, commercial areas, bus stops, neighborhoods and other sidewalks.*

Staff Response: As discussed above, the recommended five foot wide sidewalk is in staff's estimation a very important pedestrian link that will give residents in existing communities to the north of the Subject Property the ability to get to Briggs Chaney Road, to the Park, to the school and to shopping.

- *Use asphalt paths, where practical, to help maintain Cloverly's rural character. It is important that the existing character of the neighborhood be preserved if sidewalks are constructed along residential streets. The use of concrete sidewalks may be appropriate to maintain safety where paths are located directly adjacent to open section roads or where connections are made to other concrete sidewalks.*

Staff Response: An asphalt path is envisioned to connect Rainbow Drive to Briggs Chaney. Sidewalks along the internal roadways are to be concrete to match the approved CIP project on Rainbow Drive.

Staff finds that the Preliminary Plan addresses all of the recommendations of the Cloverly Master Plan with respect to the Subject Property. The project will be an extension of an existing neighborhood that clusters development to the maximum extent possible so that large areas of open space can be saved and environmental resources are protected. Roadways and internal sidewalks provide both vehicular and pedestrian circulation for this project as well as adjacent communities.

Public Facilities

Roads and Transportation Facilities

A traffic study was required for the subject application per the Local Area Transportation Review (LATR)/Policy Area Mobility Review (PAMR) Guidelines since it is estimated that the proposed development will generate 30 or more peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods.

The consultant for the Applicant submitted a traffic study dated November 17, 2009, that determined traffic-related impacts of the proposed development on nearby roadway intersections during weekday morning and evening peak periods. A summary of the study findings are discussed below.

- Trip Generation

The peak-hour trip generation estimate for the proposed Anselmo Property development was based on trip generation rates included in the *LATR/PAMR Guidelines*. A summary of site trip generation is presented in Table 1.

TABLE 1: SUMMARY OF SITE TRIP GENERATION

Site Trip Generation	Morning Peak-Hour			Evening Peak-Hour		
	In	Out	Total	In	Out	Total
Units off Rainbow Drive						
30 single-family detached units	7	22	29	21	12	33
5 single-family attached units	0	2	2	3	1	4
Units off Briggs Chaney Road						
3 single-family detached units	1	2	3	2	1	3
Total Site Trips	8	26	34	26	14	40

Source: Lenhart Traffic Consulting, Inc. Traffic Impact Analysis for Anselmo Property; November 17, 2009.

Note: Based on M-NCPPC *LATR/PAMR Guidelines* trip generation data.

As shown in Table 1, the proposed development was estimated to generate approximately 34 total trips during the weekday morning peak-hour, and 40 total trips during the weekday evening peak-hour.

- Local Area Transportation Review

A summary of the Critical Lane Volume (CLV) analysis results for the intersections included in the traffic study for the weekday morning and evening peak-hours is presented in Table 2.

TABLE 2: SUMMARY OF CAPACITY CALCULATIONS

Intersection	Traffic Conditions					
	Existing		Background		Total	
	AM	PM	AM	PM	AM	PM
Briggs Chaney Rd/Good Hope Rd	1,185	796	1,195	810	1,219	827
Good Hope Rd/Rainbow Dr	470	227	470	227	500	254

Source: Lenhart Traffic Consulting, Inc. Traffic Impact Analysis for Anselmo Property; November 17, 2009.

Note: Cloverly Policy Area Congestion Standard: 1,450 CLV

As shown in Table 2, under Total (Build) traffic conditions, CLV values for intersections included in the study are below the Cloverly Policy Area congestion standard (1,450 CLV). Based on above, staff finds the subject preliminary plan satisfies the LATR requirements of the APF test.

- Policy Area Mobility Review

The Cloverly Policy Area is currently operating under “acceptable” according to the Growth Policy conditions established under PAMR and does not require mitigation of any “new” site-generated peak-hour trips. Based on the above, staff finds the subject preliminary plan satisfies the PAMR requirements of the APF test.

- Adequacy of right-of-ways

The Preliminary Plan has been reviewed by MNCPPC staff and staff of the Montgomery County Department of Transportation (MCDOT). Staff finds that the right-of-ways shown on the plan will provide adequate access for vehicular traffic and adequate room for the necessary road cross-section improvements. The extension of Rainbow Drive into the site will be accommodated within a 68 foot wide right-of-way with 20 feet of pavement and open section drainage swales on each side of the street, in accordance with MCDOT design standards. Five designated on-street parking spaces will be provided for overflow visitor parking. Fire and rescue services will prohibit parking of vehicles on the street itself due to fire code standards that require 20 feet of unobstructed pavement to allow emergency apparatus to extend side stabilizers.

- Adequacy of pedestrian connections

The cul-de-sac nature of this subdivision will not have through traffic movements. Pedestrians can safely use the sidewalk that is proposed on one side of the street only. Staff finds that with the construction of the sidewalks as shown on the Preliminary Plan to include a five foot wide sidewalk from Rainbow Drive down to Briggs Chaney Road, and with the off-site extension of the sidewalk from the site to Valencia Street, access for pedestrians will be safe and adequate.

Other Public Facilities and Services

Other public facilities and services, such as police stations, firehouses and health services are currently operating within the standards set by the Growth Policy Resolution currently in effect. Services such as electric, telephone, gas, water and sewer are available to the site and can adequately serve the proposed dwelling units.

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. The Property is within the Paint Branch High School cluster where there is at least one elementary school operating above capacity (105-120%). The Applicant will be required to make a school facilities payment at the elementary school level for all new units, to the Montgomery County department of Permitting Services at the time of building permit.

Staff finds that, with the condition to make the necessary School Facility Payment, all public facilities will be adequate to serve the proposed dwelling units.

Environment

Water Quality Plan and Impervious Limits

Since the site is in the Upper Paint Branch Special Protection Area (SPA), development of the property is subject to the Special Protection Area Law and a water quality plan is required. MCDPS reviewed and conditionally approved the elements of the preliminary water quality plan under their purview in October 26, 2010. The Planning Board's responsibility is to determine if the environmental guidelines for special protection areas, forest conservation requirements, and site imperviousness requirements are satisfied.

Staff has reviewed the water quality plan and recommends that the Planning Board approve it. The water quality plan adequately protects the sensitive environmental features under the purview of the Planning Board's review.

Impervious surface restrictions for development projects in the Upper Paint Branch SPA are set forth in the Environmental Overlay Zone for the SPA. The Environmental

Overlay Zone has an 8 % imperviousness limit for new projects or redevelopment projects with current imperviousness at or below 8 %.

As discussed in the Issues section of this report, it appears that the imperviousness for the subdivision as currently shown on the preliminary plan would be in excess of 8 % for the subdivision. The Impervious Area Plan that was submitted on October 6, 2010 contains an error. The calculation of the gross tract area correctly includes the land area between the right-of-way line and the edge of pavement along the property's frontage on Briggs Chaney Road. However, the calculation of impervious area for the site must include the existing impervious area within the right-of-way, which includes the existing bikeway/walkway path. The impervious area calculations must be revised to include the path.

The required and recommended revisions to the Impervious Area Plan will result in imperviousness in excess of 8 %. The final plans for the subdivision must not exceed the 8 % limit set in the Environmental Overlay Zone. At the time of Site Plan, the applicant will have to provide a revised Impervious Area Plan demonstrating an ability to meet the 8% impervious limit. This must include all revisions to the plan required by Planning Board action on the Preliminary Plan.

Driveway Design

Staff also recommends that the plan adhere to staff and Board policy regarding the configuration of driveways within areas of the County that are held to impervious limitations. As shown on the Preliminary Plan, the driveways are double-width where they meet the house/garage but then taper down to single-width driveways as they reach the street. While this design may serve to minimize impervious area in theory, it is staff's experience that if the overall length of the driveway is too short, it does not allow for an adequate area for cars to maneuver around each other when entering/exiting the driveway. This situation often results in individual homeowners adding additional pavement to their driveway after the builder has left the project. Homeowners tend to add pavement to create a uniform width for the entire length of the driveway, thereby increasing the impervious area on the property. Based on staff investigation, the widening of driveways to accommodate additional cars and to improve circulation is prevalent.

Staff does not support a driveway design that in all likelihood will ultimately result in higher levels of imperviousness. In other similar circumstance, the Planning Board has required that all driveways, except those leading to side-loaded garages or that are greater than or equal to eighty (80) feet in length, be designed as double car width at the public right-of-way. The final determination on the driveway impervious amounts will be determined at site plan. While 80 feet is not based on empirical evidence, it has been

used as a basis for this decision by the Planning Board in other subdivisions with similar impervious limitations.

Environmental Buffers

A stream, wetlands, and associated environmental buffer are located on the south-central portion of the property. The applicant proposed to construct a path through the property that will provide a pedestrian connection between the existing residential areas to the north of the site and Briggs Chaney Road, as well as connect the two separate residential portions of this proposed community. The proposed path will generally follow the course of the existing gravel driveway as it traverses the environmental buffer and crosses the onsite stream. Staff recommends that the environmental buffer be protected with a Category I conservation easement, and that the standard conservation easement be modified to allow for the proposed path within the easement area. As part of the preliminary forest conservation plan (see discussion below), the applicant will be retaining existing forest, as well as planting forest within the unforested environmental buffers.

County DPS Special Protection Area Review Elements

DPS has reviewed and conditionally approved the elements of the SPA water quality plan under its purview with a synopsis provided below.

Site Performance Goals

As part of the water quality plan, the following performance goals were established for the site: stream/aquatic life habitat protection, maintain stream base flow and maintain groundwater recharge, protect seeps, streams and wetlands, maintain natural onsite stream channels, minimize storm flow increases, identify and protect stream banks prone to erosion and slumping, minimize increases to ambient water temperature, minimize sediment loading, minimize nutrient loadings, and control insecticides, pesticides and toxic substances.

Stormwater Management Concept

The use of various ESD practices including micro bio retention, bio swales, grassed swales, landscape infiltration areas, dry wells, rooftop disconnections, rain gardens, and sheet flow to conservation will provide channel protection and water quality control. The project is required to be designed in accordance with the most recent revisions to the Maryland Department of the Environment (MDE) Manual. With the approval of the preliminary water quality plan, staff finds that the Preliminary Plan complies with the Subdivision Regulations requirement to address stormwater management.

Sediment and Erosion Control

Redundant sediment control measures are to be used where practical, and the total storage volume for sediment traps shall be 125% of the normally required volume. Primary sediment and erosion control for this project will be provided via earth dikes and a sediment trap or basin. The use of silt fence alone will not be allowed as a perimeter control measure. DPS is requiring the use of super silt fence around small areas of disturbance.

Monitoring of Best Management Practices

Stormwater monitoring is required for this project. The details of the monitoring requirements will be determined during the review of the Final Water Quality Plan.

Montgomery County Forest Conservation Law

Environmental Guidelines

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420100250 for this property was approved on November 3, 2009. The NRI/FSD identifies the environmental constraints and forest resources on the subject property. A stream, three wetland areas, and associated environmental buffer lie in the south-central portion of the site. The 10.26-acre environmental buffer includes some field cover, tree cover, and 3.45 acres of forest cover.

There are 43 trees on the site outside the environmental buffer which are 24 inches or greater DBH. The site's topography is gently sloping, with minimal steep slopes along the stream banks and in the eastern part of the site adjacent to an offsite driveway near Colesberg Street. There is an existing gravel driveway that crosses the stream and the environmental buffer. A pedestrian path is proposed in the general location of the existing driveway.

Forest Conservation Plan

The Preliminary Forest Conservation Plan proposes to clear approximately 0.46 acres of existing forest. This area of isolated forest is a separate stand located in the north-central portion of the property. It currently resembles an overgrown hedgerow located between open fields. This forest does not contain any environmentally sensitive features and has been classified as low priority forest. The remaining 8.66 acres of forest will be retained. There is a 0.92-acre reforestation requirement that is proposed to be met by forest planting in the environmental buffer. The remaining 5.63-acre portion of the buffer that is currently unforested will also be planted in forest. This is consistent with the Planning Board's "Environmental Guidelines": The guidelines recommend that a development plan in a SPA should reforest the entire environmental buffer that occurs onsite, even if

the reforestation exceeds the development’s forest planting requirements under the Forest Conservation Law. Credits associated with the excess planting area may be created and sold to others to meet their offsite requirements.

Staff finds that the application fully complies with Chapter 22A the Montgomery County Forest Conservation Law.

Forest Conservation Variance

Variance Request

On October 6, 2010 the applicant requested a variance for the removal of seven trees that are 30-inches and greater in trunk diameter (Attachment 2). The seven trees proposed for removal are # 1, 17, 118, 136, 767, 768, and 769 (Table 3). Tree 17 is located within existing forest that is proposed to be removed.

TABLE 3 – SPECIMEN TREES TO BE REMOVED

Tree No.	Common Name	Botanical Name	D.B.H.	C.R.Z. Radius	Tree Condition	Location
1	Red Oak	<i>Quercus rubra</i>	40 inch	60 feet	Fair	Lot/Street
17	Black Cherry	<i>Prunus serotina</i>	30 inch	45 feet	Poor	Lot/Street
118	Black Cherry	<i>Prunus serotina</i>	30 inch	45 feet	Poor	Lot and public utility easement
136	Sycamore	<i>Platanus occidentalis</i>	36 inch	54 feet	Fair	Lot
767	Red Maple	<i>Acer rubrum</i>	41 inch	61.5 feet	Good	Lot/Street/utilities
768	Red Maple	<i>Acer rubrum</i>	38 inch	57 feet	Good	Lot
769	Red Maple	<i>Acer rubrum</i>	33 inch	49.5 feet	Good	Lot

The applicant’s October 6, 2010 letter requesting approval of the variance states:

Section 22A-21(b) lists the criteria for the granting of the variance requested herein. The following narrative explains how the requested variance is justified under the set of circumstances described above.

1. *Describe the special conditions peculiar to the property which would cause the unwarranted hardship.*

As described above, the proposed plan design has been determined by the following circumstances:

- A. The subject property contains several major environmental constraints,

including (1) A large area (over 10 acres) of environmental buffer, (2) A major stand (5.2 acres) of existing forest that should be preserved, and (3) an SPA impervious area limit of 8% of the tract area.

- B. A compact and efficient scheme of street and lot layout is driven by the impervious area limitations.
- C. The open, central area of the subject property, located outside the major forest stand and outside the environmental buffer is the logical area to locate the proposed development envelope.
- D. Access to the proposed development envelope should be via the extension of Rainbow Drive, located in the center of the long northern property line.

2. *Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas.*

The Applicant's goal is to create a compact, well designed subdivision that is sensitive to the environmental conditions of the subject property. Other adjacent properties were developed to significantly higher net densities since they were developed prior to today's environmental guidelines and forest conservation regulations. The maximum density permitted on the subject property is 51 lots, a number easily achievable in the past. However, due to statutory environmental limitations (i.e., 8% impervious area limit), the Applicant proposes a density of only 38 lots, seventy-five percent of the potential maximum density. Reconfiguring the proposed lot and street layout to accommodate the seven trees in question would reduce the density further, resulting in a hardship that would adversely affect the economic feasibility of this development proposal.

3. *Verify that State water quality standards will not be avoided or that a measurable degradation in water quality will not occur as a result of the granting of the variance.*

There are currently no stormwater quantity or quality provisions on the property. In conjunction with its proposed development of the subject property, the Applicant has prepared a stormwater management concept plan that will improve water quality measures on the subject property and in the surrounding area.

The Applicant confirms that the loss of these trees will cause no degradation in water quality associated with the proposed development as a result of the granting of the requested variance.

4. *Provide any other information appropriate to support the request.*

The Applicant believes that the information set forth above is adequate to justify the requested variance to remove the seven protected trees on the subject property.

Variance Findings

The Planning Board must make findings that the applicant has met all requirements of section 22A-21 of the County Code before granting the variance. Staff has made the following determination on the required findings:

1. Will not confer on the applicant a special privilege that would be denied to other applicants;

The requested variance will not confer on the applicant any special privileges that would be denied to other applicants. All of the affected trees except for Tree 17 are located within the buildable area on the property. They are located in the part of the site that is outside of forest and environmentally sensitive areas, and in the area that contains existing improvements. Tree 17 is located within an isolated, low priority forest area that is an overgrown hedgerow. In addition, the SPA requirement of a regulatory impervious limitation promotes the compact layout design for this subdivision, limiting the ability to retain individual trees on the property.

2. Is not based on conditions or circumstances which are the result of the actions by the applicant;

The requested variance is not based on conditions or circumstances which are the result of specific actions by the applicant outside the norm of a development application allowed under the applicable zoning and associated regulations. The requested variance is based on the proposed site layout that is utilizing area that is outside of existing forest, with the exception of the low priority “hedgerow” forest, or outside of other environmentally sensitive areas (i.e., environmental buffer), and a design that proposes to minimize the impervious area to comply with the SPA overlay zone requirements.

3. Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property

The requested variance is a result of the proposed site design and layout on the subject property in accord with zoning and subdivision requirements and not as a result of land or building use on a neighboring property.

4. Will not violate State water quality standards or cause measurable degradation in water quality.

The requested variance will not violate State water quality standards or cause measurable degradation in water quality. A Stormwater Management Plan

utilizing various ESD practices is proposed for the property. The project is required to be designed in accordance with the most recent revisions to the Maryland Department of the Environment (MDE) Manual. In addition, the applicant is required to plant all stream buffers which will result in more onsite forest than currently exists. This will provide additional water quality benefits.

As a result of the above findings, staff recommends approval of the applicant's request for a variance from Forest Conservation Law to remove or otherwise impact specimen (and/or certain other specified) trees on-site. The variance approval is assumed into the Planning Board's approval of the preliminary forest conservation plan.

County Arborist's Recommendation

On September 28, 2010 the County Arborist provided a written statement indicating that she was electing not to review the variance request for this project because the NRI/FSD application for the property was submitted on August 19, 2009. The original variance request was submitted by the applicant in January 2010. A revised request was submitted by the applicant on October 6, 2010, but the County Arborist's reasons for electing not to review the variance request apply to the revised request as well.

Mitigation

Staff does not recommend that additional compensation be required for the loss of the seven trees associated with the variance request. Four of the trees that will be removed were determined to be in either fair or poor condition. All of the trees are located in the area that is most suitable for the development to occur, in that the overall environmental impacts are minimized. The proposed development has been designed to obtain access from existing Rainbow Drive and the on-site roads, and lots are in close proximity to this point of access. Moreover, the design utilizes clustering in order to minimize imperviousness and impacts to other environmentally sensitive areas (i.e., environmental buffer and riparian forest). In addition, 4.71 acres of reforestation is proposed within the environmental buffer to meet the SPA requirement; this exceeds the 0.92 acres of reforestation required by the forest conservation law to compensate for proposed forest clearing. Staff does not recommend additional mitigation beyond the proposed reforestation to compensate for the loss of these trees.

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 given the recommendations of the *1997 Approved and Adopted Cloverly Master Plan*. The lots can be adequately served by all local utilities that provide service

in this area of the County. The applicant will be required to make necessary improvements with respect to roads and sidewalks to provide for adequate vehicular and pedestrian access and circulation. The cluster development that is proposed, in conjunction with the water quality plan, provides adequate protection for the sensitive environmental features on the site.

The lots were reviewed for compliance with the dimensional requirements for the RE-1 zone using the optional standards for provision of MPDUs as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

CITIZEN CORRESPONDENCE

This plan was properly processed in accordance with the current submittal procedures. A pre-submission meeting was held with interested neighbors on August 25, 2009 at the Cloverly Elementary School. Fourteen individuals attended the meeting from the community. According to the notes within the file, questions were asked and it appears, based on the lack of follow-up comments or questions to staff, that the Applicant answered the questions in a satisfactory manner. A copy of the minutes of the meeting is in Attachment A.

Subsequent to this meeting staff has received two letters. (Attachment B). The first was not in direct opposition to the plan but did express a concern that the size of the lots was so small and questioned why the impervious cap dictated such small, compact development. *The Cloverly Master Plan recommended cluster development and the MPDU optional method allows lots as small as 10,000 square feet for the one family detached units.* There was some concern about on street parking that would be required because of the small lot size, and presumably, the small driveways. *Staff notes that there are five on-street parking spaces, no other on street parking will be allowed by Fire and Rescue Services.* The letter also expressed support for a street connection through the site to Colesburg Road for vehicles. *Staff notes that the Planning Board did not support this at the pre-preliminary plan stage.* The letter also supported the sidewalk from Rainbow Drive to Briggs Chaney.

The second letter expressed disappointment about the density on the site, citing too many houses on too small lots. The letter expressed concern about the lack of parking in the driveways and the problem with street parking on narrow streets. The letter supported fewer and larger lots. *Staff notes that the density on the site is restricted by the imperviousness limitations to well below the maximum allowable. The master plan recommends clustering as the preferred method of development. This plan follows the master plan advice.*

No other letters were submitted to the file. Staff believes that the plan conforms to the master plan vision for the Property and does not believe that enlarging the size of the lots would provide any environmental benefits. Imperviousness, whether the lots are large or small, will remain at 8%.

CONCLUSION

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conform to the recommendations of the *1997 Approved and Adopted Cloverly Master Plan Master Plan*. Access and public facilities will be adequate to serve the proposed lots, 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.

Attachment A – Meeting Minutes

Attachment B – Letters to File

Attachment C – Approval Memoranda

APPENDIX A

Variance Requirements

Section 5-1607(c) of the Natural Resources Article, MD Ann. Code affects the Montgomery County Forest Conservation law by identifying the following trees, shrubs, plants, and specific areas as priority for retention and protection and shall be left in an undisturbed condition unless the applicant qualifies for a variance in accordance. More specifically the vegetation to remain undisturbed includes:

Trees, shrubs, or plants determined to be rare, threatened, or endangered under:

- (1) *The federal Endangered Species Act of 1973,*
- (2) *The Maryland Nongame and Endangered Species Conservation Act, Natural Resources Article, §§10-2A-01—10-2A-09, Annotated Code of Maryland, and*
- (3) *COMAR 08.03.08;*

B. *Trees that:*

- (1) *Are part of an historic site,*
- (2) *Are associated with an historic structure, or*
- (3) *Have been designated by the State or the Department as a national, State, or county champion tree; and*

C. *Any tree having a diameter measured at 4.5 feet above the ground of:*

- (1) *30 inches or more, or*
- (2) *75 percent or more of the diameter, measured at 4.5 feet above the ground, of the current State champion tree of that species as designated by the Department of Natural Resources.*

Under Chapter 22A-21 of the County Code a person may request in writing a variance from this Chapter if the person demonstrates that enforcement would result in unwarranted hardship to the person. The applicant for a variance must:

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
- (3) Verify that State water quality standards will not be avoided or that a measurable degradation in water quality will not occur as a result of the granting of the variance; and
- (4) Provide any other information appropriate to support the request.

In Montgomery County before considering the variance the Planning Board must refer a copy of each request to the County Arborist within the Montgomery County Department of Environmental Protection for a written recommendation. The County Arborist must make a recommendation on the variance request to the Planning Board within 30 days from the receipt of the request. If there is no recommendation from the County Arborist the response is presumed to be favorable.

Attachment A

MINUTES OF PRELIMINARY PLAN COMMUNITY MEETING

ANSELMO PROPERTY

August 25, 2009

On August 25, 2009, at 7:00 PM, a meeting was conducted by Ralph DeSena (applicant) to discuss the imminent filing of a Preliminary Plan of Subdivision for property located on the north side of Briggs Chaney Road, just east of the Cloverly Elementary School and Cloverly Park. The meeting was held at the Cloverly Elementary School.

Attached to the minutes is a copy of the sign-in sheet of meeting attendees. The meeting was well attended and 65 people signed in. In addition to Mr. DeSena, the meeting was attended by Al Blumberg of Site Solutions Inc. and Steve Orens of Miles & Stockbridge.

Ralph DeSena welcomed the group and introduced Al Blumberg and Steve Orens. Mr. Blumberg described the new plan and compared it to the previously proposed plan. The initial plan, Pre-Application Concept Plan, proposed 51 homes, including 15 townhomes on Briggs Chaney Road. This density of 51 units is what is permitted on this property, in accordance with the Montgomery County Zoning Ordinance. The new Preliminary Plan proposes 38 homes, including 3 detached homes on Briggs Chaney Road and 35 homes, including 5 MPDU's in a triplex and duplex configuration, located on two cul-de-sacs at the end of Rainbow Drive. 38 units represents a 25% reduction in density on the property.

Mr. Orens then described the process and where we are in that process, indicating that both Preliminary Plan of Subdivision and Site Plan review will be required, providing ample opportunity to raise any issues or concerns with the Montgomery County Planning Board and staff. He then entertained questions and comments, as follows:

1. Has an Environmental Impact Report been prepared?
 - a. The NRI/FSD has been prepared and submitted to P&P for review and comment. No EIS is required or proposed for this development.
2. Are schools in the area adequate? Briggs Chaney ES already is using portable classrooms.
 - a. An adequacy test will be performed by the applicant and the MCPS as a part of the Preliminary plan review.

3. Will traffic impacts be assessed? Can the roadway system accommodate 125 additional cars?
 - a. A traffic and transportation report and analysis will be prepared for review by park and planning who will assess the adequacy of the roadway system, primarily during the AM and PM peak hours.
4. People don't like shared driveways. They cause problems and neighbor friction.
 - a. The 8% imperviousness cap forces us to use shared driveways.
5. Wetlands will be impacted.
 - a. The NRI/FSD indicates the locations of all wetlands on the site. None will be impacted.
6. How big are the houses to be?
 - a. Two story homes, with integral garages, providing approximately 3,000 to 3,500 sq.ft. of living space. Mr. DeSena pointed to the Monument Place development in the City of Rockville, off of Falls Road, as an example of the type and size of homes he envisions for this property.
7. That size house is not compatible with the smaller houses in the neighborhood and will depreciate property values because the houses are too big.
 - a. The group was divided as to impact on property values. While some attendees thought the houses too large, others felt that newer houses are, today, reasonably larger than those constructed in decades past. Still others voiced the opinion that the houses were too small by today's standards.
8. How big will the garages be?
 - a. Two car garages will be approx. 20' x 20', large enough to park two cars inside.
9. If the average household in Montgomery County has 5 cars, where will they park?
 - a. We believe that the average cars per household is closer to 3, not 5. There will be adequate space to accommodate 3 to 4 cars in the garage and on the driveways at the market rate units.
10. There should be sidewalks on Rainbow Drive to Briggs Chaney Middle School. Montgomery County has been promising to build sidewalks along Rainbow Drive for 6 years.
 - a. The applicant endorses the county construction of sidewalks to address the safety of school children walking to schools.
11. There should be sidewalks to Briggs Chaney Elementary school too.
 - a. The proposed bikeway leading to Briggs Chaney Road will provide an off-street pedestrian connection to that school.

12. The proposed bikeway would be better located by connecting directly into the Briggs Chaney Park. The park will be the logical destination for users and is closer to the school
 - a. We agree.
13. Will the new proposed development cause a change in school boundaries?
 - a. It is premature to answer that question. Determination of school boundaries are made by MCPS, not by the developer or land owner.
14. Will the new development accommodate emergency vehicles and school buses adequately?
 - a. The MC Fire Marshal's office is active in the review process and the proposed roadway system meets or exceeds their access requirements. We have already met once with the Fire Marshal's office and they will continue to be involved in the review process.
15. Residents of the neighborhood have a difficult time making a left turn from Peach Orchard Road onto Route 198. New houses will exacerbate the problem.
 - a. Applicant will support a traffic light by the State at that intersection if it meets SHA warrants for a traffic signal. However, the preliminary Traffic analysis indicates that very few vehicles from the proposed housing development will use the intersection of Peach Orchard Road & Rt. 198
16. Can HOA limit households to 3 cars or trucks maximum?
 - a. Probably not, but Montgomery Village has imposed restrictions to the effect that residents cannot park commercial vehicles in their driveways.
17. This proposed development is too dense.
 - a. 38 homes on 42 acres is less than 1 unit per acre. The 8% imperviousness cap forces the homes to be built in a compact pattern.
18. Good Hope Estates was rezoned from R-200 to RE-1, even though houses are on lots smaller than 40,000 sq.ft. Why development on Anselmo on smaller lots?
 - a. The MPDU optional provisions of the Zoning Regulations permit lots as small as 10,000 sq.ft. even though the overall density is in effect more than one acre of land per house.
19. One resident suggested an extension should be added to Colesberg Drive.
 - a. Both the applicant and the neighborhood objected to a connection to Colesberg. The Planning Board agreed that a connection to Colesberg would not be acceptable. The neighborhood objected vehemently at our last meeting to any connection to Olive Drive or to Briggs Chaney Road or Colesberg Drive.

20. Does the 8% imperviousness cap mean that homeowners can't build a shed or a swimming pool in their back yard?
 - a. if someone request a building permit for such a use in this development, the request could be denied because of the imperviousness cap.

21. If no shed, homeowners will fill up their garage, thereby taking away parking and exacerbating the parking problem anticipated in the new development.
 - a. 4 parking spaces are to be provided for each of the 2 car garage homes. Two in the garage and 2 just outside the garage on the driveways. So even if one garage space is full of storage material, there will still be parking for 3 vehicles off the street.

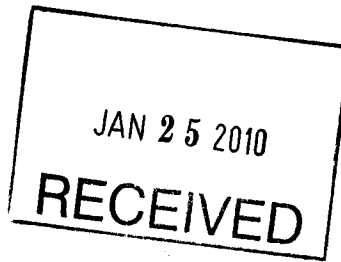
22. The Little Paint Branch drainage area is environmentally sensitive. No development should be permitted within the watershed.
 - a. The 8% imperviousness cap is designed to minimize environmental impact. The significant open space areas will help to mitigate any potential adverse impact. The Environmental Planning section of Park & Planning will be intimately involved in the review of this project.

23. Concern was expressed about the culs-de-sac regarding snow removal.
 - a. The roundabout and culs-de-sac have been designed to county standards and are adequate to accommodate all emergency equipment, including snow plows and sand trucks.

24. How can we citizens get our concerns known to the powers that be?
 - a. Call or write to Rich Weaver or Cathy Conlon at the Development Review Division of Park & Planning. Info can be found on-line.

Attachment B

Development Review Division
MNCPPC
8787 Georgia Ave.
Silver Spring, MD 20910



January 20, 2010

I am writing in reference to the **Anselmo Property, Plan number 120100160**. I live at 1309 Wembrough Court, which is off of Rainbow Drive in the Good Hope Estates neighborhood next to the Anselmo Property.

I have attended two public meetings held by the Design Company to review the proposed development. I am disappointed in the density of the plan proposed. I understand the desire of the property owner to maximize the number of lots that they can obtain from their property. However the design as shown on this plan is proposing too many houses on too-small lots. All the lots are shown with short, shared driveways. Our neighborhood which the Anselmo Property will become a part of, has no shared driveways and typically has 3 cars. The limited parking that is proposed with shared driveways and narrow streets is not practical. The need to limit impervious area due to the Special Protection Area of the Paint Branch Watershed should be upheld on this property by creating fewer, larger lots-not by limiting parking areas for the lots to an unrealistic, impractical driveway layout.

The lots as shown are so tight that new homeowners will immediately be prevented from building additions or sheds on their property because the lots are already at the impervious limit for the Paint Branch SPA. Again, the lots need to be bigger and fewer.

The new lots should more closely reflect the size of the most recent lots built within the last several years on Snider Lane. These lots are approximately 1 acre in size. The proposed layout does do a nice job of preserving the stream and its buffer and preserving the existing wooded area.

I am asking the Subdivision Review Committee to require that the Anselmo property be redesigned to provide fewer, larger lots. This will ensure that the new houses are both compatible with the surrounding development and preserve the existing environment as much as possible.

Sincerely, 
Maura McMullen
1309 Wembrough Court
Silver Spring, MD 20905
McMullens2@verizon.net

2000 Cradock St.
Silver Spring MD 20905
September 6, 2009

Ms. Cathy Conlon
mncppc, park and planning, montgomery regional office
8787 Georgia Ave. Silver Spring MD 20910-3716

Dear Ms. Conlon:

On August 25 a meeting was held to discuss the development of the Anselm property off of Briggs Chaney Rd. in Cloverly. This letter is for the purpose of making several comments relative to this issue.

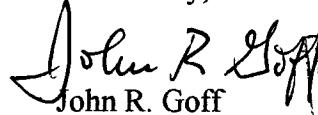
I do not have strong feelings about the plans for the site; I leave that for others in the more immediate neighborhood to hash out with you. However it seems to me that the lots, with their houses, are being made extraordinarily compact, presumably to allow more houses to be built without exceeding ground permeability limits. People at the meeting who expressed objections to the lot size were right in their anxiety that the design, especially of the driveways, would cause dangerous street parking conditions. Is the permeability restriction really so severe that the houses must be crowded in in such an unnatural way?

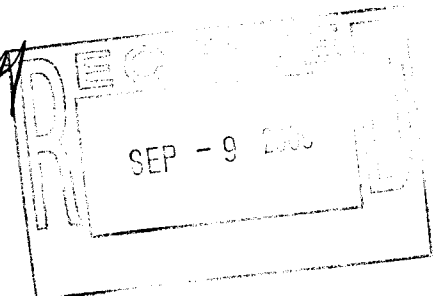
I also do not see why there is an objection to making a connection at Colesburg Rd as well as at Rainbow. I did not hear a credible reason given at the meeting for not making this connection.

My particular request in this matter is that provision be made for bike and foot traffic through the property from either Rainbow or Colesburg to Briggs Chaney Rd. I know this is under consideration, but I want to emphasize my support for this measure. Since I live on the east side of Good Hope Estates, using Good Hope Rd. to get to Cloverly by bicycle is extremely dangerous. If Snider Lane had not been fenced off, that would be the perfect alternative. As a second choice, being able to get from Rainbow to Cloverly School via Briggs Chaney would solve the problem. There is a forest path between the Anselm property and Snider Lane but this is not suitable for bicycles.

Thank you for considering my suggestions.

Yours truly,


John R. Goff



cc: Rich Weaver, mncppc
cc: Mr. Stephen J. Orens, Miles and Stockbridge P.C.

Attachment C



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

October 13, 2010

MEMORANDUM

TO: Richard Weaver, Development Review Division

VIA: Khalid Afzal, Team Leader, East Transit Corridor Team, ^{VA}Vision Division

FROM: Kristin O'Connor, East Transit Corridor Team, Vision Division ^{KO}

SUBJECT: Anselmo Property- Preliminary Plan No. 120100160

Recommendation

The Vision Division has reviewed the proposed Preliminary Plan, located within the 1997 *Approved and Adopted Cloverly Master Plan*, and finds that the proposed plan is consistent with the Master Plan.

Master Plan Discussion

The Anselmo Property is a 42-acre site which is zoned RE-1 and is within the *Cloverly Master Plan* (1997). Located in the upper Paint Branch watershed, the preliminary plan proposes a total of 38 units (5 units are single-family attached MPDUs) clustered with a total of 8 percent imperviousness. The main objective in the residential areas in the Master Plan is to "maintain the mix of suburban and rural communities resulting from watershed protection and rural development patterns to reinforce the strength of residential areas and to enhance the quality of life." (p. 30)

The 1997 *Cloverly Master Plan* makes the following relevant land use recommendations on pages 30-32 regarding residential areas:

- Join new development with existing neighborhoods through street and pedestrian connections. Interconnections between neighborhoods create a greater sense of community by eliminating barriers between residents. The design of interconnections can utilize measures that provide for local circulation without creating cut-through routes that attract an excessive level of cut-through traffic.
- Encourage clustering of development to provide open space that protects natural resources, provides recreation, and contributes to the rural and residential atmosphere. Cluster subdivisions should be configured to protect environmentally sensitive areas, provide forested stream buffers and provide forested open space along arterial and major highways, provide access and views of parkland and open space and provide a transition to similar lots sizes of adjacent subdivisions
- Extend the opportunity to use the cluster option to all RE-1 zoned properties to encourage open space, environmental protection, and recreation.

Environmental and Watershed Protection

The *Cloverly Master Plan* recommends that all new development in the upper Paint Branch area should, “implement and strictly enforce the requirements and guidelines of the Special Protection Area Law and the 1981 Performance Criteria for any land developed in the upper Paint Branch watershed including a 10 percent imperviousness limit for individual properties and additional setbacks from streams, wetlands, springs, and seeps to reduce the impacts of development in the watershed” (p. 87). The proposed plan has a projected imperviousness of eight percent, well within the master plan guidance.

Transportation and Pedestrian Circulation

The Plan supports the improved interconnection of streets and an improved bikeway system. The Plan’s objective for pedestrian circulation is to “provide a sidewalk network that connects residential areas to public facilities, commercial areas, and bus stops” (p. 62). The pedestrian circulation recommendations include the following:

- Provide sidewalks on both sides of new roads and when existing roads are being improved. The construction sidewalks and paths along one side of the road may be acceptable to limit environmental impact.
- Connect existing sidewalks to public facilities, commercial areas, bus stops, neighborhoods, and other sidewalks.
- Use asphalt paths, where practical, to help maintain Cloverly’s rural character. It is important that the existing character of the neighborhood be preserved if sidewalks are constructed along residential streets. The use of concrete sidewalks may be appropriate to maintain safety where paths are located directly adjacent to open section roads or where connections are made to other concrete sidewalks.

The proposed sidewalk along Rainbow Drive extended will connect to the proposed Rainbow Drive Sidewalk project (CIP #500912). A proposed 4’ wide asphalt path is proposed through the site beginning at the open play area and connecting to an existing bikeway along Briggs Chaney Road that leads to Cloverly Park, Cloverly Elementary School, and the Cloverly commercial area.

Although the road connection from Rainbow Drive to Briggs Chaney was removed from the 1997 Plan (p.48), the approved and adopted Master Plan retained a bikeway through the Anselmo property (Figure 23 on p. 60). In addition to an illustration, a description of the bikeway connection was provided in Table 5 on p. 61. The Vision Division’s staff recommends a path from Briggs Chaney to Rainbow Drive to complete the “network” that the Master Plan envisioned.

Conclusion and Master Plan Compliance

Based on Vision staff’s analysis, the proposed preliminary plan is consistent with the *1997 Approved and Adopted Cloverly Master Plan*.



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

MEMORANDUM

TO: Richard Weaver, Development Review Division

VIA: Mark Pfefferle, Acting Chief, Environmental Planning Division *MP*

FROM: Mary Jo Kishter, Senior Planner, Environmental Planning *MJK*

DATE: November 17, 2010

SUBJECT: Preliminary Plan of Subdivision 120100160, Anselmo Property

RECOMMENDATION

The Environmental Planning staff has reviewed the preliminary plan referenced above. Staff recommends approval of the preliminary plan of subdivision, which includes approvals of the Special Protection Area (SPA) preliminary water quality plan and the preliminary forest conservation plan. Staff recommendations include:

1. Approval of the SPA Preliminary Water Quality Plan with the following conditions:
 - a. Prior to recording of plat, applicant to enter into an agreement with the Planning Board to limit impervious surfaces to no more than 8.0 percent.
 - b. Prior to release of building permit, applicant to demonstrate conformance to the impervious surface limit. Any modifications which increase imperviousness beyond 8% will require Planning Board approval.
 - c. Applicant will conform to the conditions as stated in DPS' water quality plan approval letter dated October 26, 2010.
 - d. Final Water Quality Plan to demonstrate proposed project will not exceed 8.0 percent imperviousness.

2. Compliance with the Preliminary Forest Conservation Plan and the following conditions:
 - a. Category I conservation easement must be placed over all areas of forest retention, forest planting, and environmental buffers, including proposed and future forest banking areas.
 - b. Provide permanent signs along the boundaries of the Category I conservation easement area.
 - c. Forest plantings over all unforested stream buffers.
 - d. Submission of a final forest conservation plan consistent with section 109.B. of the forest conservation regulation.
 - e. A program for restoring "Forest Save A" area that includes the removal of the existing ATV trails and debris.
 - f. Identification of all trees within the environmental buffer that would be subject to the variance provision based on the determination of the critical root zone (CRZ) according to the following accepted formula:
1 inch DBH = 1.5 feet radius of the CRZ. If any trees are identified as subject to

the variance provision and were not included on the original variance request, an amendment to the variance may be required at the time of Site Plan and Final FCP approval.

BACKGROUND

The 42.17-acre property is located on the north side of Briggs Chaney Road, approximately 2,000 feet east of its intersection with New Hampshire Avenue, in the Cloverly Planning Area. The property is surrounded by existing residential homes and is adjacent to Cloverly Park, to the west of the site. It lies within the Upper Paint Branch Special Protection Area (SPA). Streams in this watershed are designated as Use III waters (natural trout waters). A tributary of the Paint Branch flows through the southern extension of the property and then runs parallel to the southeastern property line. Three wetland areas occur within the stream's environmental buffer. An existing gravel driveway crosses over the onsite stream and is located within the environmental buffer.

The topography is gently sloping and the property contains approximately 9.12 acres of forest, of which 3.45 acres is located within the environmental buffer, 5.21 acres is located in the northwestern corner of the property, and 0.46 acres is in the form of an overgrown hedgerow located between fields in the north-central part of the property. The remainder of the property is in open field. An existing gravel driveway provides access from Briggs Chaney Road to a single family house. The house and several outbuildings occur within the north-central and eastern portions of the site.

The applicant proposes to subdivide the property into 38 residential lots. The existing house and outbuildings would be removed. The majority of the lots would be located in the northern portion of the property and three lots would be located along Briggs Chaney Road. A pedestrian path is proposed through the property, and will generally follow the course of the existing gravel driveway, as it traverses the environmental buffer and crosses the onsite stream. The path will serve as a pedestrian connection between the existing residential areas to the north of the site and Briggs Chaney Road. It will also provide a connection between the two separate residential portions of this proposed community that are bisected by the existing stream.

DISCUSSION

The site is subject to the Forest Conservation Law and a preliminary forest conservation plan was submitted with the preliminary plan of subdivision. Since the site is in the Upper Paint Branch SPA development of the property is subject to the Special Protection Area Law and a water quality plan is required. Under the SPA law, Montgomery County Department of Permitting Services (MCDPS) and the Planning Board have different responsibilities in the review of the water quality plan. MCDPS reviewed and conditionally approved the elements of the preliminary water quality plan under their purview in October 2010. The Planning Board responsibility is to determine if the environmental guidelines for special protection areas, forest conservation requirements, and site imperviousness requirements are satisfied.

SPA PRELIMINARY WATER QUALITY PLAN REVIEW

Review for Conformance to the Special Protection Area Requirements

As part of the requirements of the Special Protection Area Law, a SPA Water Quality Plan should be reviewed in conjunction with a preliminary plan of subdivision. Under the provision of the law, the Montgomery County Department of Permitting Services (DPS) and the Planning Board have different responsibilities in the review of a water quality plan. DPS has reviewed and conditionally approved the elements of the Preliminary Water Quality Plan under its purview. The Planning Board's responsibility is to determine if environmental buffer protection, SPA forest conservation and planting requirements, and site imperviousness limits have been satisfied.

Environmental Planning Staff has reviewed and recommends Board approval with conditions of the elements of the SPA water quality plan under its purview:

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. The Environmental Overlay Zone has an 8 percent imperviousness limit for new projects or redevelopment projects with current imperviousness at or below 8 percent.

The applicant proposes imperviousness for the subdivision in excess of 8 percent for the subdivision. This is not an acceptable amount. The Impervious Area Plan that was submitted on October 6, 2010 contains an error. The calculation of the gross tract area correctly includes the land area between the right-of-way line and the edge of pavement along Briggs Chaney Road that fronts the property. However, the calculation of impervious area for the site must include the existing impervious area within the right-of-way, which includes the existing bikeway/walkway path. The impervious area calculations must be revised to include the path.

There is also a problem with the design of the proposed driveways. The design calls for a double width driveway where the driveway meets the house and then tapers down to a single width driveway as it reaches the street. While this design may serve to minimize impervious area in theory, if the overall length of the driveway is too short, it will not allow for adequate area for cars to maneuver around each other when entering/exiting the driveway. This situation often results in individual homeowners adding additional pavement to their driveway to create a uniform width for the entire length of the driveway, thereby increasing the impervious area on the property. Staff does not support a driveway design that will ultimately result in higher levels of imperviousness. Staff recommends that all driveways with the exception of driveways for side-load garages or driveways that are greater than or equal to eighty (80) feet in length, must be designed as double car width at the public right-of-way. The final determination on the driveway impervious amounts will be determined with the site plan.

The required and recommended revisions to the Impervious Area Plan will result in

imperviousness in excess of 8 percent. The final plans for the subdivision must not exceed the 8 percent limit set in the Environmental Overlay Zone. The applicant will have to provide revised plans demonstrating their ability to meet the 8% impervious limit. The following are changes that may be necessary in order to meet this requirement:

1. Reduce the number of lots proposed for the subdivision
2. Revise the housing type configuration by reducing the number of detached units and increasing the number of attached units as a way of retaining the overall number of units while minimizing imperviousness on the site.

Environmental Buffers

A stream, wetlands, and associated environmental buffer are located on the south-central portion of the property. The applicant proposed to construct a path through the property that will provide a pedestrian connection between the existing residential areas to the north of the site and Briggs Chaney Road, as well as connect the two separate residential portion of this proposed community. The proposed path will generally follow the course of the existing gravel driveway, as it traverses the environmental buffer and crosses the onsite stream. Staff recommends that the environmental buffer be protected with a Category I conservation easement. The applicant will need to modify the standard conservation easement to allow for the proposed path within the easement area. As part of the preliminary forest conservation plan (see discussion below), the applicant will be retaining existing forest, as well as planting forest within the unforested environmental buffers.

County DPS Special Protection Area Review Elements

DPS has reviewed and conditionally approved the elements of the SPA water quality plan under its purview with a synopsis provided below (Attachment 1).

Site Performance Goals

As part of the water quality plan, the following performance goals were established for the site: stream/aquatic life habitat protection, maintain stream base flow and maintain groundwater recharge, protect seeps, streams and wetlands, maintain natural onsite stream channels, minimize storm flow increases, identify and protect stream banks prone to erosion and slumping, minimize increases to ambient water temperature, minimize sediment loading, minimize nutrient loadings, and control insecticides, pesticides and toxic substances.

Stormwater Management Concept

The use of various ESD practices including micro bio retention, bio swales, grassed swales, landscape infiltration areas, dry wells, rooftop disconnections, raingardens, and sheet flow to conservation will provide channel protection and water quality control. The project is required to be designed in accordance with the most recent revisions to the Maryland Department of the Environment (MDE) Manual.

Sediment and Erosion Control

Redundant sediment control measures are to be used where practical, and the total storage volume for sediment traps shall be 125% of the normally required volume. Primary sediment and erosion control for this project will be provided via earth dikes and a sediment trap or basin. The use of silt fence alone will not be allowed as a perimeter control measure. DPS is requiring the use of super silt fence around small areas of disturbance.

Monitoring of Best Management Practices

Stormwater monitoring is required for this project. The details of the monitoring requirements will be determined during the review of the Final Water Quality Plan.

REVIEW UNDER THE COUNTY FOREST CONSERVATION LAW

Environmental Guidelines

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420100250) for this property was approved on November 3, 2009. The NRI/FSD identifies the environmental constraints and forest resources on the subject property. A stream, three wetland areas, and associated environmental buffer lie in the south-central portion of the site. The 10.26-acre environmental buffer includes some field cover, tree cover, and 3.45 acres of forest cover. There are 43 trees on the site outside the environmental buffer which are 24 inches or greater DBH. The site's topography is gently sloping, with minimal steep slopes along the stream banks and in the eastern part of the site adjacent to an offsite driveway near Colesberg Street. There is an existing gravel driveway that crosses the stream and the environmental buffer. A pedestrian path is proposed in the general location of the existing driveway.

Forest Conservation Plan

The Preliminary Forest Conservation Plan proposes to clear approximately 0.46 acres of existing forest. This area of isolated forest is a separate stand located in the north-central portion of the property. It currently resembles an overgrown hedgerow located between open fields. This forest does not contain any environmentally sensitive features, and has been classified as low priority forest. The remaining 8.66 acres of forest will be retained. There is a 0.92-acre reforestation requirement that is proposed to be met by forest planting in the environmental buffer. The remaining 5.63-acre portion of the buffer that is currently unforested will also be planted in forest. This is consistent with the Planning Board's "Environmental Guidelines": The guidelines recommend that a development site in a SPA should reforest the entire environmental buffer that occurs onsite, even if the reforestation exceeds the development's forest planting requirements under the Forest Conservation Law. Credits associated with the excess planting area may be created and sold to others to meet their offsite requirements.

Forest Conservation Variance

Variance Requirements

Section 5-1607(c) of the Natural Resources Article, MD Ann. Code affects the Montgomery County Forest Conservation law by identifying the following trees, shrubs, plants, and specific areas as priority for retention and protection and shall be left in an undisturbed condition unless the applicant qualifies for a variance in accordance. More specifically the vegetation to remain undisturbed includes:

- A. *Trees, shrubs, or plants determined to be rare, threatened, or endangered under:*
 - (1) *The federal Endangered Species Act of 1973,*
 - (2) *The Maryland Nongame and Endangered Species Conservation Act, Natural Resources Article, §§10-2A-01—10-2A-09, Annotated Code of Maryland, and*
 - (3) *COMAR 08.03.08;*

- B. *Trees that:*
 - (1) *Are part of an historic site,*
 - (2) *Are associated with an historic structure, or*
 - (3) *Have been designated by the State or the Department as a national, State, or county champion tree; and*

- C. *Any tree having a diameter measured at 4.5 feet above the ground of:*
 - (1) *30 inches or more, or*
 - (2) *75 percent or more of the diameter, measured at 4.5 feet above the ground, of the current State champion tree of that species as designated by the Department of Natural Resources.*

Under Chapter 22A-21 of the County Code a person may request in writing a variance from this Chapter if the person demonstrates that enforcement would result in unwarranted hardship to the person. The applicant for a variance must:

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
- (3) Verify that State water quality standards will not be avoided or that a measurable degradation in water quality will not occur as a result of the granting of the variance; and
- (4) Provide any other information appropriate to support the request.

In Montgomery County before considering the variance the Planning Board must refer a copy of each request to the County Arborist within the Montgomery County Department of Environmental Protection for a written recommendation. The County Arborist must make a recommendation on the variance request to the Planning Board within 30 days from the receipt of the request. If there is no recommendation from the County Arborist the response

is presumed to be favorable.

Variance Request

On October 6, 2010 the applicant requested a variance for the removal of seven trees 30-inches and greater (Attachment 2). The seven trees proposed for removal are # 1, 17, 118, 136, 767, 768, and 769 (Table 1). Tree 17 is located within existing forest that is proposed to be removed.

Table 1. Specimen Trees to be Removed

Tree No.	Common Name	Botanical Name	D.B.H.	C.R.Z. Radius	Tree Condition	Location
1	Red Oak	<i>Quercus rubra</i>	40 inch	60 feet	Fair	Lot/Street
17	Black Cherry	<i>Prunus serotina</i>	30 inch	45 feet	Poor	Lot/Street
118	Black Cherry	<i>Prunus serotina</i>	30 inch	45 feet	Poor	Lot and public utility easement
136	Sycamore	<i>Platanus occidentalis</i>	36 inch	54 feet	Fair	Lot
767	Red Maple	<i>Acer rubrum</i>	41 inch	61.5 feet	Good	Lot/Street/utilities
768	Red Maple	<i>Acer rubrum</i>	38 inch	57 feet	Good	Lot
769	Red Maple	<i>Acer rubrum</i>	33 inch	49.5 feet	Good	Lot

The applicant’s October 6, 2010 letter requesting approval of the variance states:

Section 22A-21(b) lists the criteria for the granting of the variance requested herein. The following narrative explains how the requested variance is justified under the set of circumstances described above.

1. *Describe the special conditions peculiar to the property which would cause the unwarranted hardship.*

As described above, the proposed plan design has been determined by the following circumstances:

- A. *The subject property contains several major environmental constraints, including (1) A large area (over 10 acres) of environmental buffer, (2) A major stand (5.2 acres) of existing forest that should be preserved, and (3) an SPA impervious area limit of 8% of the tract area.*
- B. *A compact and efficient scheme of street and lot layout is driven by the impervious area limitations.*
- C. *The open, central area of the subject property, located outside the major forest stand and outside the environmental buffer is the logical area to locate the proposed development envelope.*
- D. *Access to the proposed development envelope should be via the extension of Rainbow Drive, located in the center of the long northern property line.*

2. Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas.

The Applicant's goal is to create a compact, well designed subdivision that is sensitive to the environmental conditions of the subject property. Other adjacent properties were developed to significantly higher net densities since they were developed prior to today's environmental guidelines and forest conservation regulations. The maximum density permitted on the subject property is 51 lots, a number easily achievable in the past. However, due to statutory environmental limitations (i.e., 8% impervious area limit), the Applicant proposes a density of only 38 lots, seventy-five percent of the potential maximum density. Reconfiguring the proposed lot and street layout to accommodate the seven trees in question would reduce the density further, resulting in a hardship that would adversely affect the economic feasibility of this development proposal.

3. Verify that State water quality standards will not be avoided or that a measurable degradation in water quality will not occur as a result of the granting of the variance.

There are currently no stormwater quantity or quality provisions on the property. In conjunction with its proposed development of the subject property, the Applicant has prepared a stormwater management concept plan that will improve water quality measures on the subject property and in the surrounding area.

The Applicant confirms that the loss of these trees will cause no degradation in water quality associated with the proposed development as a result of the granting of the requested variance.

4. Provide any other information appropriate to support the request.

The Applicant believes that the information set forth above is adequate to justify the requested variance to remove the seven protected trees on the subject property.

Variance Findings

The Planning Board must make findings that the applicant has met all requirements of section 22A-21 of the County Code before granting the variance. Staff has made the following determination on the required findings:

1. Will confer on the applicant a special privilege that would be denied to other applicants;

The requested variance will not confer on the applicant any special privileges that would be denied to other applicants. All of the affected trees except for Tree 17 are located within the buildable area on the property. They are located in the part of the

site that is outside of forest and environmentally sensitive areas, and in the area that contains existing improvements. Tree 17 is located within an isolated, low priority forest area that is an overgrown hedgerow. In addition, the SPA requirement of a regulatory impervious limitation promotes the compact layout design for this subdivision, limiting the ability to retain individual trees on the property.

2. Is based on conditions or circumstances which are the result of the actions by the applicant;

The requested variance is not based on conditions or circumstances which are the result of specific actions by the applicant outside the norm of a development application allowed under the applicable zoning and associated regulations. The requested variance is based on the proposed site layout that is utilizing area that is outside of existing forest, with the exception of the low priority "hedgerow" forest, or outside of other environmentally sensitive areas (i.e., environmental buffer), and a design that proposes to minimize the impervious area to comply with the SPA overlay zone requirements.

3. Is based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property

The requested variance is a result of the proposed site design and layout on the subject property in accord with zoning and subdivision requirements and not as a result of land or building use on a neighboring property.

4. Will violate State water quality standards or cause measurable degradation in water quality.

The requested variance will not violate State water quality standards or cause measurable degradation in water quality. A Stormwater Management Plan utilizing various ESD practices is proposed for the property. The project is required to be designed in accordance with the most recent revisions to the Maryland Department of the Environment (MDE) Manual. In addition, the applicant is required to plant all stream buffers which will result in more onsite forest than currently exists. This will provide additional water quality benefits.

As a result of the above findings, staff recommends approval of the applicant's request for a variance from Forest Conservation Law to remove or otherwise impact specimen (and/or certain other specified) trees on-site. The variance approval is assumed into the Planning Board's approval of the preliminary forest conservation plan.

County Arborist's Recommendation

On September 28, 2010 the County Arborist provided a written statement indicating that she was electing not to review the variance request for this project because the NRI/FSD application for the property was submitted on August 19, 2009 (Attachment 3).

The original variance request was submitted by the applicant in January 2010. A revised request was submitted by the applicant on October 6, 2010, but the County Arborist's reasons for electing not to review the variance request apply to the revised request as well.

Mitigation

Staff does not recommend that additional compensation be required for the loss of the seven trees associated with the variance request. Four of the trees that will be removed were determined to be in either fair or poor condition. All of the trees are located in the area that is most suitable for the development to occur, in that the overall environmental impacts are minimized. The proposed development has been designed to obtain access from existing Rainbow Drive and the on-site roads and lots are in close proximity to this point of access, the design utilizes clustering in order to minimize imperviousness and impacts to other environmentally sensitive areas (i.e., environmental buffer and riparian forest). In addition, 4.71 acres of reforestation is proposed with the environmental buffer to meet the SPA requirement; this exceeds the 0.92 acres of reforestation required by the forest conservation law to compensate for proposed forest clearing. Staff does not recommend additional mitigation beyond the proposed reforestation to compensate for the loss of these trees.

SUMMARY

Environmental Planning recommends approval of the Preliminary Plan of Subdivision, which includes the SPA Preliminary Water Quality Plan, and the Preliminary Forest Conservation Plan with the conditions stated above.



Attachment 1

DEPARTMENT OF PERMITTING SERVICES

October 26, 2010

Carla Reid
DirectorIsiah Leggett
County ExecutiveMr. Jeffrey Lewis
Site Solutions, Inc.
20410 Observation Drive, Suite 205
Germantown, MD 20878Re: **Preliminary Water Quality Plan for
Anselmo Property
SM File #: 238988
Tract Size/Zone: 42.2 acres / RE-1
Total Concept Area: 42.2 acres
Watershed: Upper Paint Branch SPA****SPECIAL PROTECTION AREA**

Dear Mr. Lewis:

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

Site Description: The site is located at the intersection of Briggs Chaney Road and Rainbow Drive in Silver Spring, MD. This site is located in the watershed for the Left Fork of the Upper Paint Branch and is within the Upper Paint Branch Special Protection Area (SPA). The project proposes to subdivide the property to create 35 single family lots.

Stormwater Management: The stormwater management requirements for this project are proposed to be met via the use of various ESD practices. These will include micro bio retention, bio swales, grassed swales, landscape infiltration areas, dry wells, rooftop disconnection, raingardens, and sheet flow to conservation areas. In addition, all disturbed areas must be tilled and topsoiled per the Montgomery County topsoil specifications prior to final vegetative stabilization.

Sediment Control: Redundant sediment control measures are to be used throughout the site where practical. The total storage volume for traps shall be 125% of the normally required volume. All sediment traps must be equipped with dewatering devices. Also, due to the sensitive nature of the watershed, the use of flocculants, compost material or other measures to increase the effectiveness of sediment removal may be required in the detailed sediment control plan. The following requirements are also to be incorporated into the detailed sediment control plan:

1. Silt fence alone will not be allowed as a perimeter control. The use of super silt fence will be acceptable for small areas of disturbance.
2. Primary control for construction of this project will be provided via earth dikes and a sediment trap or basin.

One year of pre-construction monitoring must be completed prior to the issuance of a sediment control permit. This pre-construction monitoring must be conducted as directed by DEP. Please contact Mr. Keith Van Ness at 240-777-7728 to discuss the location and type of pre-construction monitoring that will be required for this project.

Conditions of Approval: The following conditions must be addressed in the submission of the Final Water Quality Plan (FWQP). This list may not be all inclusive and may change based on available information at the time of the subsequent plan reviews:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. Because this development relies on ESD practices, use of the Montgomery County "Residential Land Transfer Sediment Control Maintenance Agreement" will not be allowed for this project. If any lots are sold to a developer, that developer will be required to obtain a sediment control permit via the submission of separate engineered sediment control plans.

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:ts:CN236988

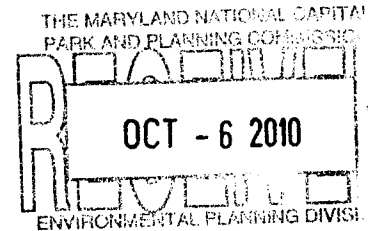
cc: C. Conlon (MNCPPC-DR)
M. Pfefferle (MNCPPC-EP)
W.Green (MCDEP)
M. Etheridge
SM File # 236988

Qn: on-site 42.2 ac.
Ql: on-site 42.2 ac.
Recharge is provided

STATEMENT OF R.A.M. INVESTING, LTD.
FOR A VARIANCE IN ACCORDANCE WITH SECTION 22A-21
OF THE MONTGOMERY COUNTY CODE

ANSELMO PROPERTY

#120100160



I. BACKGROUND INFORMATION.

The Applicant for a variance pursuant to the provisions of Section 22A-21 of the Montgomery County Code is R.A.M. Investing, Ltd., representative of the owners of the property, Michael Anselmo et al, Trustee. The applicant proposes to subdivide a portion of this property into residential lots and leave the remainder as permanent open space. Of the 42.17 acres, approximately 30.7 acres or 73% of the property will remain as open space, both forested and unforested.

II. APPLICANT'S PROPOSAL.

Attached is a copy of the proposed Preliminary Plan of Subdivision for the subject property. Since this site lies within the Upper Paint Branch Special Protection Area (SPA), an 8% impervious area limit is specified in the Montgomery County Environmental Guidelines. To achieve an environmentally sensitive and economically viable project, the lot and street layout must be designed to be compact and efficient. Thus the plan concentrates proposed streets and lots in the open, center area of the property outside the environmental buffer and outside the 5.2 acre forest stand located at the western end of the property. The majority of the proposed lots will gain access by the extension of existing Rainbow Drive which is located near the center of the northern property line.

III. EXPLANATION FOR NEED TO REMOVE SEVEN TREES THAT ARE IDENTIFIED IN STATE LAW FOR PROTECTION.

Also attached to this variance application is a copy of the Preliminary Forest Conservation Plan (PFCP) for the subject property. As indicated on the PFCP, thirty-five specimen trees have been identified on or within one-hundred feet of the subject property. Of these thirty-five trees, seven trees are proposed to be removed. All seven of the trees proposed for removal lie within the compact development envelope described in paragraph II, above. Since these seven trees are widely scattered in the area of the proposed streets and lots, it is not possible to design acceptable streets, fronted by lots and designed to correct development code geometry and specifications, without impacting the critical root zones and trunks of these several trees.

Specific trees to be removed:

Condition & descriptions are per NRI/FSD #420100250 approved Nov. 3, 2009

- Tree #1: Red Oak, 40" DBH, Fair Condition (Significant crown die-back)
Reason for removal: Between front of proposed house and proposed street pavement; numerous proposed underground utilities.
- Tree #17: Black Cherry, 30" DBH, Poor Condition (Poor crown, Greenbrier infested) Reason for removal: Immediately adjacent to proposed house in area of proposed grading.
- Tree #118: Black Cherry, 30" DBH, Poor Condition (Crown damage, dense vine cover) Reason for removal: Between front of proposed house and proposed street pavement; within proposed public utility easement.
- Tree #136: Sycamore, 36" DBH, Fair Condition (Heavy vine infestation) Reason for removal: Within rear yard of proposed house, about 40 feet from house and within limit of disturbance; remove for safety reasons – fall danger.
- Tree #767: Red Maple, 41" DBH, Good Condition (Greenbrier and Blackberry infestation at base) Reason for removal: Between front of proposed house and proposed street pavement; numerous proposed underground utilities.
- Tree #768: Red Maple, 38" DBH, Good Condition (Greenbrier and Blackberry infestation at base) Reason for removal: At front wall of proposed house in area of proposed grading.
- Tree #769: Red Maple, 33" DBH, Good Condition (Greenbrier and Blackberry infestation at base) Reason for Removal: Immediately adjacent to proposed house in area of proposed grading.

Note: No additional specimen trees have critical root zones impacted by the proposed limit of disturbance.

IV. SATISFACTION OF THE CRITERIA LISTED IN SECTION 22A-21(b) OF THE MONTGOMERY COUNTY CODE.

Section 22A-21(b) lists the criteria for the granting of the variance requested herein. The following narrative explains how the requested variance is justified under the set of circumstances described above.

“(1) describe the special conditions peculiar to the property which caused the unwarranted hardship.”

As described above, the proposed plan design has been determined by the following circumstances:

- A. The subject property contains several major environmental constraints, including (1) A large area (over 10 acres) of environmental buffer, (2) A major stand (5.2 acres) of existing forest that should be preserved, and (3) an SPA impervious area limit of 8% of the tract area.
- B. A compact and efficient scheme of street and lot layout is driven by the impervious area limitations.
- C. The open, central area of the subject property, located outside the major forest stand and outside the environmental buffer is the logical area to locate the proposed development envelope.
- D. Access to the proposed development envelope should be via the extension of Rainbow Drive, located in the center of the long northern property line.

“(2) Describe how enforcement of these rules will deprive the owner of rights commonly enjoyed by others in similar areas.”

The Applicant’s goal is to create a compact, well designed subdivision that is sensitive to the environmental conditions of the subject property. Other adjacent properties were developed to significantly higher net densities since they were developed prior to today’s environmental guidelines and forest conservation regulations. The maximum density permitted on the subject property is 51 lots, a number easily achievable in the past. However, due to statutory environmental limitations (i.e., 8% impervious area limit), the Applicant proposes a density of only 38 lots, seventy-five percent of the potential maximum density. Reconfiguring the proposed lot and street layout to accommodate the seven trees in question would reduce the density further, resulting in a hardship that would adversely affect the economic feasibility of this development proposal.

“(3) Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance.”

There are currently no stormwater quantity or quality provisions on the property. In conjunction with its proposed development of the subject property, the Applicant has prepared a stormwater management concept plan that will improve water quality measures on the subject property and in the surrounding area.

The Applicant confirms that the loss of these trees will cause no degradation in water quality associated with the proposed development as a result of the granting of the requested variance.

“(4) Provide any other information appropriate to support the request.”

The Applicant believes that the information set forth above is adequate to justify the requested variance to remove the seven protected trees on the subject property.

Furthermore, the Applicant's request for a variance complies with the "minimum criteria" of Section 22A-21(d) for the following reasons:

1. This Applicant will receive no special privileges or benefits by the granting of the requested variance that would not be available to any other applicant.
2. Existing site conditions, including the configuration of the environmental buffer, location of forest stands, and random location of several specimen trees are naturally occurring and have guided the formulation of the proposed land plan. Impervious area limits are statutory and result in additional limits to plan design. Neither the natural conditions nor the statutory limitations are the result of actions by the Applicant, however the proposed land plan strives to respond, to the greatest extent possible, to these constraints.
3. The requested variance is not related in any way to a condition on an adjacent, neighboring property, and
4. Loss of the requested trees will not violate State water quality standards or cause measurable degradation in water quality (which are being improved by the Applicant's overall proposal).

Date: January 4, 2010; Revised September 7, 2010
Prepared by: Site Solutions, Inc.



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Robert G. Hoyt
Director

September 28, 2010

Françoise Carrier, Chair
Montgomery County Planning Board
Maryland National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

RE: Great Falls, DAIC 120080200, NRI/FSD applied for on 5/2/2007
Sandy Spring Friends School, DAIC 120030920, NRI/FSD applied for on 2/25/2009
McKenney Hills ES, MR2010720, NRI/FSD applied for on 1/30/2009
Rolling Ridge Phase II, SC2010008, NRI/FSD applied for on 11/10/2008
Anselmo – Revised, DAIC 120100160, NRI/FSD applied for on 8/19/2009

Dear Ms. Carrier:

Based on a review by the Maryland National Capital Park & Planning Commission (MNCPPC), the applications for the above referenced requests are required to comply with Chapter 22A of the Montgomery County Code. As stated in a letter to Royce Hanson from Bob Hoyt, dated October 27, 2009, the County Attorney's Office has advised me that the specific provisions pertaining to significant trees in the State's Forest Conservation Act do not apply to any application that was submitted before October 1, 2009. Since these applications were submitted before this date, I will not provide a recommendation pertaining to the approval of these requests for variances.

If you have any questions, please do not hesitate to contact me directly.

Sincerely,

Laura Miller
County Arborist

cc: Robert Hoyt, Director
Walter Wilson, Associate County Attorney
Mark Pfefferle, Acting Chief



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

MEMORANDUM

DATE: November 22, 2010

TO: Cathy Conlon, Supervisor
Development Review Division

VIA: Shahriar Etemadi, Supervisor
Transportation Planning Division

FROM: Cherian Eapen, Planner/Coordinator
Transportation Planning Division
301-495-4525

SUBJECT: Preliminary Plan No. 120100160
Anselmo Property
RAM Investing, Ltd.
Off Rainbow Drive; north of Briggs Chaney Road
Cloverly Policy Area

This memorandum presents Transportation Planning staff's Adequate Public Facilities (APF) review of the subject preliminary plan by RAM Investing, Ltd. ("Applicant") to build a 38-unit residential development on approximately 42.0 acres of RE-1 zoned property located to the north of Briggs Chaney Road in Cloverly. The property is within the Cloverly Policy Area and lies in the Upper Paint Branch Environmental Overlay Zone.

RECOMMENDATIONS

Transportation Planning staff recommends the following conditions to be part of the transportation-related APF requirements to approve this preliminary plan:

1. The Applicant must limit development on the property to a total of 38 dwelling units consisting of 35 single-family detached units and 5 single-family attached units.
2. The Applicant must dedicate and show on the record plat the following rights-of-way along property frontage (consistent with the 1997 Approved and Adopted *Cloverly Master Plan* and as modified below per Montgomery County Department of Transportation (DOT) letters

dated November 1, 2010, and November 17, 2010 – see Attachment No. 1 and Attachment No. 2):

- Briggs Chaney Road – minimum right-of-way width of 40 feet from the roadway right-of-way centerline.
 - Rainbow Drive – minimum modified right-of-way width of 68 feet in place of the master plan recommended minimum right-of-way width of 70 feet.
 - Public Street “A” – minimum right-of-way width of 68 feet.
3. The Applicant must construct the section of Rainbow Drive between its current terminus and Public Street “A” as well as Public Street “A” per standards stipulated in DOT letters dated November 1, 2010, and November 17, 2010.
 4. The Applicant may limit sidewalk along Public Street “A” to the north side of Public Street “A” and along the north half of Public Street “A” culs-de-sac, with a waiver obtained through Montgomery County Department of Permitting Services (DPS) and payment in-lieu for the remainder of the sidewalk along the south side of Public Street “A” and along the south half of the Public Street “A” culs-de-sac.
 5. The Applicant must construct a four-foot wide asphalt path through the property, between Briggs Chaney Road and the new Rainbow Drive terminus/Public Street “A”, and an eight-foot wide shared-use path along the entire Briggs Chaney Road property frontage as shown on the preliminary plan. The paths must be in place and open for public use prior to the release of the 20th single-family dwelling unit building permit.

DISCUSSION

Site Location, Access, and Public Transportation Facilities

The Anselmo property is located along the north side of Briggs Chaney Road between Briggs Chaney Road and the existing terminus of Rainbow Drive in the Cloverly area of Silver Spring. The Applicant is proposing to develop the property with 38 single-family dwelling units (35 single-family detached units and 5 single-family attached units). Three of the single-family detached units will front Briggs Chaney Road and will have direct access to Briggs Chaney Road. The remaining units will front either Rainbow Drive (which will be extended 300 feet to the south from its current terminus to Public Street “A”, where it will form a T-intersection with Public Street “A”) or Public Street “A” (an east-west street to the east and west of the Rainbow Drive extension with a cul-de-sac on both ends) and will have direct access to these streets.

As part of this application, the Applicant is providing a four-foot wide asphalt path through the property between Briggs Chaney Road and the new Rainbow Drive terminus/Public Street “A”, and an eight-foot wide shared-use path along the entire Briggs Chaney Road property frontage. The Applicant is also providing a four-foot wide sidewalk along the east side of the Rainbow Drive extension, which will connect the above asphalt path and the sidewalk being constructed by DOT along Rainbow Drive (CIP Project No. 506747 – Rainbow Drive Sidewalk Construction and

Pavement Removal Project – see below). The development will also include a four-foot wide sidewalk along the north side of Public Street “A” and along the north half of Public Street “A” culs-de-sac. Though sidewalks are required along both sides of Public Street “A” in accordance with Montgomery County Code, staff is recommending approval of a waiver for sidewalks along the south side of Public Street “A” and along the south half of the Public Street “A” culs-de-sac by DPS and a payment by the Applicant to DPS for the unbuilt sidewalk sections.

Currently, no transit service routes serve the immediate vicinity of the site. The nearby bus routes include RideOn Route 39 along Good Hope Road and Briggs Chaney Road and Metrobus Route Z2 along New Hampshire Avenue (MD 650).

Master Plan Roadways and Pedestrian/Bikeway Facilities

The Approved and Adopted 1997 *Cloverly Master Plan* includes the following nearby master-planned roadway and pedestrian/bikeway facilities:

1. Briggs Chaney Road, as an east-west two-lane arterial (A-86) between Paint Branch to the east and New Hampshire Avenue to the west, with a minimum recommended right-of-way width of 80 feet and existing bike lanes (EB-10, as Class II; also as BL-14 in the Approved and Adopted March 2005 *Countywide Bikeways Functional Master Plan*).
2. Rainbow Drive/Thompson Road, as a southwest-northeast two-lane primary residential street (P-8) between the existing roadway terminus to the southwest and Peach Orchard Road to the northeast with a minimum recommended right-of-way width of 70 feet and an on-road signed shared-roadway bikeway (PB-36, as Class III). Staff is recommending approval of a modified right-of-way width of 68 feet for the Rainbow Drive extension through the property as recommended by DOT in place of the master plan recommended minimum right-of-way width of 70 feet.

Nearby Transportation Projects

The nearby transportation projects include the following DOT CIP projects:

1. CIP Project No. 506747 – Rainbow Drive Sidewalk Construction and Pavement Removal Project: This project will:
 - a. Provide a four-foot wide sidewalk along the east side of Rainbow Drive between its current terminus 100 feet south of Snider Lane and 400 feet west of Thompson Road,
 - b. Remove pavement along Rainbow Drive at certain locations, and
 - c. Provide center median islands at two locations along Rainbow Drive.

The project is to start construction in Spring 2011. It will be completed in Summer 2011.

2. CIP Project No. 500912 – Thompson Road Connection Project (Rainbow Drive connection to Thompson Road): This project will construct the missing 300 foot section of Rainbow

Drive and will connect Rainbow Drive with Thompson Road. The project is to start construction in Summer 2012. It will be completed in Winter 2012.

Adequate Public Facilities Review

A traffic study was required for the subject application per the *Local Area Transportation Review (LATR)/Policy Area Mobility Review (PAMR) Guidelines* since the proposed development was estimated to generate **30** or more peak-hour trips during the typical weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods.

The consultant for the Applicant submitted a traffic study (dated November 17, 2009) that determined traffic-related impacts of the proposed development on nearby roadway intersections during weekday morning and evening peak periods. A summary of the study findings are discussed below.

- **Trip Generation**

The peak-hour trip generation estimate for the proposed Anselmo Property development was based on trip generation rates included in the *LATR/PAMR Guidelines*. A summary of site trip generation is presented in Table 1.

**TABLE 1
SUMMARY OF SITE TRIP GENERATION
PROPOSED ANSELMO PROPERTY DEVELOPMENT**

Site Trip Generation	Morning Peak-Hour			Evening Peak-Hour		
	In	Out	Total	In	Out	Total
Units off Rainbow Drive						
30 single-family detached units	7	22	29	21	12	33
5 single-family attached units	0	2	2	3	1	4
Units off Briggs Chaney Road						
3 single-family detached units	1	2	3	2	1	3
Total Site Trips	8	26	34	26	14	40

Source: Lenhart Traffic Consulting, Inc. Traffic Impact Analysis for Anselmo Property; November 17, 2009.

Note: Based on M-NCPPC *LATR/PAMR Guidelines* trip generation data.

As shown in Table 1, the proposed development was estimated to generate approximately 34 total trips during the weekday morning peak-hour and 40 total trips during the weekday evening peak-hour.

- **Local Area Transportation Review**

A summary of the capacity analysis/Critical Lane Volume (CLV) analysis results for the intersections included in the traffic study for the weekday morning and evening peak-hours is presented in Table 2.

**TABLE 2
SUMMARY OF CAPACITY CALCULATIONS
PROPOSED ANSELMO PROPERTY DEVELOPMENT**

Intersection	Traffic Conditions					
	Existing		Background		Total	
	AM	PM	AM	PM	AM	PM
Briggs Chaney Rd/Good Hope Rd	1,185	796	1,195	810	1,219	827
Good Hope Rd/Rainbow Dr	470	227	470	227	500	254

Source: Lenhart Traffic Consulting, Inc. Traffic Impact Analysis for Anselmo Property; November 17, 2009.

Note: Cloverly Policy Area Congestion Standard: 1,450 CLV

As shown in Table 2, under Total (Build) traffic conditions, CLV values for intersections included in the study are below the Cloverly Policy Area congestion standard (1,450 CLV). Based on the above, staff finds the subject preliminary plan to satisfy the LATR requirements of the APF test.

- **Policy Area Mobility Review**

The Cloverly Policy Area is currently operating under “acceptable” conditions for PAMR and does not require mitigation of any “new” site-generated peak-hour trips. Based on the above, staff finds the subject preliminary plan to satisfy the PAMR requirements of the APF test.

SE:CE:tc

Attachments

cc: Corren Giles
Greg Leck
Sarah Navid
Khalid Afzal

mmo to RW re Anselmo Property.doc



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

November 1, 2010

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. 1-20100160
Anselmo Property

Dear Ms. Conlon:

We have completed review of the above referenced preliminary plan signed and dated October 1, 2010. This plan was reviewed by the Development Review Committee at its meeting on March 1, 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. We support the reduced right of way widths on Rainbow Drive extended and Street A. Rainbow Drive will have a sixty eight (68) foot tertiary roadway right of way, and Rainbow Drive extended will have a sixty eight (68) foot secondary roadway right of way.
2. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
3. Size storm drain easement(s) prior to record plat. No fences will be allowed within the storm drain easement(s) without a revocable permit from the Department of Permitting Services and a recorded Maintenance and Liability Agreement.
4. The sight distance study has been accepted. A copy of the approved sight distance form is enclosed for your information and reference.
5. The conceptual profiles for Rainbow Drive Extended and Street A are acceptable to this office. The grade establishment will need to be approved by the Department of Permitting Services (MCDPS) prior to record plat.

The proposed typical sections on the grade establishment should be updated to match the typical sections on the preliminary plan.

6. We support twelve (12) foot driveways within this subdivision. There must be a condition in the covenants for each home that states the driveways can not be widened beyond the twelve (12) foot width. If the applicant chooses to or is required to provide twenty (20) foot driveways, the site plan should be revised to reflect that width. Impacts to the proposed drainage ditch due to the increased driveway width will be reviewed by MCDPS at the site plan stage.

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

7. In accordance with Section 49-35(e) of the Montgomery County Code, sidewalks are required to serve the proposed subdivision. Sidewalks are to be provided on both sides of the proposed public streets unless the applicant is able to obtain a waiver from the appropriate government agency.

We support four (4) foot sidewalk on the north side of Street A. The applicant must pursue a sidewalk waiver through MCDPS and pay a fee in lieu to MCDPS for the remainder of the sidewalk along the south side of Street A, and along the south half of the cul-de-sacs.

8. The owner will be required to submit a recorded covenant for the operation and maintenance of private streets, storm drain systems, and/or open space areas prior to MCDPS approval of the record plat. The deed reference for this document is to be provided on the record plat.
9. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
10. If the proposed development will alter or impact any existing County maintained transportation system management component (i.e., traffic signals, signal poles, handboxes, surveillance cameras, etc.), please contact Mr. Bruce Mangum of our Traffic Management Team at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
11. If the proposed development will alter any existing County maintained street lights, signing, and/or pavement markings, please contact Mr. Dan Sanayi of our 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.
12. Trees in the County rights of way – spacing and species to be in accordance with the applicable DOT standards. Tree planning within the public right of way must be coordinated with Mr. Brett Linkletter with the Division of Highway Services, Tree Maintenance Unit at (240) 777-7651.
13. 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. Street grading, paving, sidewalks and handicap ramps, side drainage ditches and appurtenances, and street trees along Rainbow Drive extended and Street A per the following MCDOT standards:

Rainbow Drive extended to be constructed per modified secondary open section Standard 2002.04 and shall include twenty (20) feet of pavement, four (4) feet of sidewalk, handicap ramps, side drainage ditches and pocket parking as shown on the preliminary plan.

Street A to be constructed per modified tertiary open section Standard 2001.03 and shall include twenty (20) feet of pavement, four (4) feet of sidewalk on the north side of the roadway, handicap ramps, side drainage ditches and pocket parking as shown on the preliminary plan.

Street A is to terminate in cul-de-sacs at both ends; cul-de-sacs to be constructed per modified MCDOT Standard No. 222.02 and should include thirty (30) feet of pavement, a thirty (30) foot diameter central island, drainage ditches and appurtenances and sidewalk along the northern half.

Ms. Catherine Conlon
Preliminary Plan No. 1-20100160
November 1, 2010
Page 3

Curb and gutter should be placed along the back of the parallel spaces proposed along Rainbow Drive extended and Street A; details to be worked out with MCDPS at the site plan stage.

Provide one (1) foot minimum cover over proposed driveway culverts per MCDOT Standard No. MC-301.03.

- B. Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the Division of Traffic Engineering and Operations.
- C. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by MCDPS and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by MCDPS.

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; our Development Review Area Engineer for this vicinity; at 240-777-2197 or dewa.salihi@montgomerycountymd.gov.

Sincerely,



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

Enclosures (2)

cc: Ralph DeSena
Michael Anselmo Jr.
Al Blumberg, Site Solutions Inc.
Jeff Lewis, Site Solutions Inc.
Steve Orens, Miles Stockbridge
Preliminary Plan Folder
Preliminary Plans Notebook

cc-e: Henry Emery; MCDPS RWPPR
Sarah Navid; MCDPS RWPPR
Rich Weaver; M-NCPPC DRD
Shahriar Etemadi; M-NCPPC TPD
Dan Sanayi, MCDOT DTEO
Bruce Mangum, MCDOT DTEO
Dewa Salihi, MCDOT DTEO



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

SIGHT DISTANCE EVALUATION

Facility/Subdivision Name: Anselmo Property Preliminary Plan Number: 1-20100160

Street Name: Briggs Chaney Road Master Plan Road Classification: Arterial

Posted Speed Limit: 35 mph

Street/Driveway #1 (Dw Lot 31) Street/Driveway #2 (Dw Lot 32)

Sight Distance (feet) OK?
Right 333' ✓
Left 580' ✓

Sight Distance (feet) OK?
Right 386' ✓
Left 527' ✓

Comments:

Comments:

GUIDELINES

Table with 3 columns: Classification or Posted Speed (use higher value), Required Sight Distance in Each Direction*, and values ranging from 150' to 550'.

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)

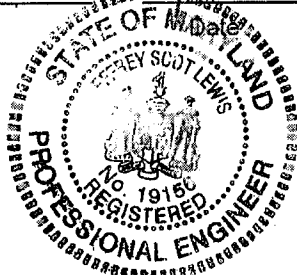
*Source: AASHTO

ENGINEER/ SURVEYOR CERTIFICATE

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

Signature: [Handwritten Signature] Date: 10/26/10

MD 19156 PLS/P.E. MD Reg. No.



Montgomery County Review: [X] Approved [] Disapproved. By: [Signature] Date: 11/1/10



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

SIGHT DISTANCE EVALUATION

Facility/Subdivision Name: Anselmo Property Preliminary Plan Number: 1-20100160

Street Name: Briggs Chaney Road Master Plan Road Classification: Arterial

Posted Speed Limit: 35 mph

Street/Driveway #1 (D/W Lot 33) Street/Driveway #2 ()

Table with 4 columns: Sight Distance (feet), OK?, Sight Distance (feet), OK?. Rows for Right and Left turns.

Comments: (Two sets of blank lines for notes)

GUIDELINES

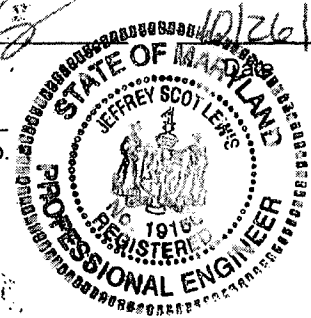
Table with 3 columns: Classification or Posted Speed (use higher value), Required Sight Distance in Each Direction*, and Sight distance is measured from an eye height of 3.5'...

*Source: AASHTO

ENGINEER/ SURVEYOR CERTIFICATE

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

Signature: [Handwritten Signature]
MD 19156
PLS/P.E. MD Reg. No.



Montgomery County Review:
[X] Approved
[] Disapproved:
By: [Handwritten Signature]
Date: 11/1/10



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

November 17, 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.1-20100160
Anselmo Property

Dear Ms. Conlon:

This letter is an addendum to the MCDOT letter dated November 1, 2010 for the above referenced project and should be included in any future submissions to DPS for record plats, storm drain, grading or paving plans, or application for access permit. The following items are being modified:

1. We support the reduced right of way widths on Rainbow Drive extended and Street A. Street A will have a sixty eight (68) foot tertiary roadway right of way, and Rainbow Drive extended will have a sixty eight (68) foot primary roadway right of way.

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, our Development Review Area Engineer for this vicinity, at (240) 777-2197 or dewa.salihi@montgomerycountymd.gov.

Sincerely,

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

M:\subdivisions\1-2010\0160\1-20100160 Anselmo Property Addendum to Letter 1-20100160 Anselmo.doc

cc: Ralph DeSena
Michael Anselmo Jr.
Al Blumberg, Site Solutions Inc.
Jeff Lewis, Site Solutions Inc.
Steve Orens, Miles Stockbridge
Preliminary Plan Folder
Preliminary Plans Notebook

cc-e: Henry Emery; MCDPS RWPPR
Sarah Navid; MCDPS RWPPR
Rich Weaver; M-NCPPC DRD
Shahriar Etemadi; M-NCPPC TPD
Dan Sanayi, MCDOT DTEO
Bruce Mangum, MCDOT DTEO
Dewa Salihi, MCDOT DTEO

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



DEPARTMENT OF PERMITTING SERVICES

October 26, 2010

Isiah Leggett
County Executive

Carla Reid
Director

Mr. Jeffrey Lewis
Site Solutions, Inc.
20410 Observation Drive, Suite 205
Germantown, MD 20876

Re: **Preliminary Water Quality Plan for
Anselmo Property**
SM File #: 236988
Tract Size/Zone: 42.2 acres / RE-1
Total Concept Area: 42.2 acres
Watershed: Upper Paint Branch SPA

SPECIAL PROTECTION AREA

Dear Mr. Lewis:

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

Site Description: The site is located at the intersection of Briggs Chaney Road and Rainbow Drive in Silver Spring, MD. This site is located in the watershed for the Left Fork of the Upper Paint Branch and is within the Upper Paint Branch Special Protection Area (SPA). The project proposes to subdivide the property to create 35 single family lots.

Stormwater Management: The stormwater management requirements for this project are proposed to be met via the use of various ESD practices. These will include micro bio retention, bio swales, grassed swales, landscape infiltration areas, dry wells, rooftop disconnection, raingardens, and sheet flow to conservation areas. In addition, all disturbed areas must be tilled and topsoiled per the Montgomery County topsoil specifications prior to final vegetative stabilization.

Sediment Control: Redundant sediment control measures are to be used throughout the site where practical. The total storage volume for traps shall be 125% of the normally required volume. All sediment traps must be equipped with dewatering devices. Also, due to the sensitive nature of the watershed, the use of flocculants, compost material or other measures to increase the effectiveness of sediment removal may be required in the detailed sediment control plan. The following requirements are also to be incorporated into the detailed sediment control plan:

1. Silt fence alone will not be allowed as a perimeter control. The use of super silt fence will be acceptable for small areas of disturbance.
2. Primary control for construction of this project will be provided via earth dikes and a sediment trap or basin.

Performance Goals: A pre application meeting was held on October 19, 2009, and the minutes of this meeting were approved on November 17, 2009. The performance goals for this project that were established at the pre-application meeting as follows:

1. **Stream/Aquatic life habitat protection** – This will be accomplished through clustering the development to avoid the existing stream buffer area. In addition, a walkway is proposed that will mostly utilize an existing driveway, including an existing stream crossing, thereby not requiring a new crossing.
2. **Maintain stream base flow and maintain groundwater recharge** – The proposed ESD practices are intended to provide recharge within the developed area. Full compliance with ESD requirements will be met for the project. The topsoil requirement will be an additional means of encouraging groundwater recharge.
3. **Protect seeps, streams and wetlands** – The existing stream valley buffer will remain undisturbed, and the ESD practices will encourage recharge.
4. **Maintain natural onsite stream channels** – The existing stream channel and its associated buffer will remain undisturbed during construction, with the possible exception of the existing culvert crossing for the existing driveway, which may require some modification if that is deemed necessary.
5. **Minimize storm flow increases** – Full compliance with ESD requirements is designed to reduce storm flow increases. In addition, the development is limited to a total of 8% imperviousness.
6. **Identify and protect stream banks prone to erosion and slumping** – The existing stream channel will be reviewed during the approval process to determine if there are areas that may need stabilization. In addition, the existing stream valley buffer will be reforested, which should serve to enhance the effects of the buffer and improve stream flow characteristics.
7. **Minimize increases to ambient water temperature** – Full adherence to the ESD criteria, along with reforestation of the existing stream buffer, should provide thermal benefit by encouraging groundwater recharge and shading.
8. **Minimize sediment loading.** Use super silt fence at a minimum and stage construction to allow for quick stabilization. Sediment traps will be sized to provide 125% of the required treatment volume. Disturbed areas will be stabilized as early as practical.
9. **Minimize nutrient loadings** – Strict adherence to the topsoiling requirement should allow for healthier vegetation without the use of excess fertilizers. Existing topsoil on site will be stockpiled for use within the development. Use of ESD techniques throughout the development will also encourage recharge and limit the amount of nutrient runoff from the project.
10. **Control insecticides, pesticides and toxic substances** – Use of ESD techniques throughout the development will help to discourage runoff from conveying substances to the stream system.

Monitoring: The monitoring must be in accordance with the BMP monitoring protocols which have been established by the Department of Permitting Services (DPS) and Department of Environmental Protection (DEP), and as described in DEP's BMP Monitoring Requirements. BMP Monitoring Requirements will be determined during review of the Final Water Quality Plan (FWQP), and will be described in the form of an attachment to the FWQP approval letter.

Prior to the start of any monitoring activity, a meeting must be held on site with DEP, DPS, and those responsible for conducting the monitoring to establish the monitoring parameters.

One year of pre-construction monitoring must be completed prior to the issuance of a sediment control permit. This pre-construction monitoring must be conducted as directed by DEP. Please contact Mr. Keith Van Ness at 240-777-7726 to discuss the location and type of pre-construction monitoring that will be required for this project.

Conditions of Approval: The following conditions must be addressed in the submission of the Final Water Quality Plan (FWQP). This list may not be all inclusive and may change based on available information at the time of the subsequent plan reviews:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. Because this development relies on ESD practices, use of the Montgomery County "Residential Land Transfer Sediment Control Maintenance Agreement" will not be allowed for this project. If any lots are sold to a developer, that developer will be required to obtain a sediment control permit via the submission of separate engineered sediment control plans.

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:tl:CN236988

cc: C. Conlon (MNCPPC-DR)
M. Pfefferle (MNCPPC-EP)
W.Green (MCDEP)
M. Etheridge
SM File # 236988

Qn: on-site 42.2 ac.
Qi: on-site 42.2 ac.
Recharge is provided