



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

July 17, 2003

Mr. Grant DeMeritte  
Secretary/Treasurer  
Sherbrooke Homeowners Association, Inc.  
1002 Heartsfields Drive  
Silver Spring, Maryland 20904

Re: Request to change conservation easements from Category I to Category II in the Sherbrooke subdivision (preliminary plan no. 1-98096)

Dear Mr. DeMeritte:

This letter is in response to the Sherbrooke Homeowners Association's letter, dated June 16, 2003, requesting information on how to change a conservation easement from Category I to Category II.

As you and the other members of the HOA's board of directors are aware, there are Category I conservation easements on the back of some of the lots in the Sherbrooke subdivision. Some of the HOA common open space land also have Category I conservation easements. These easements were created to protect existing forest or forest planting areas, as required by the Montgomery County Forest Conservation Law. These conservation easements were created as part of the forest conservation plan approved by the Planning Board for the Sherbrooke subdivision.

Changing conservation easements from Category I to Category II in an entire subdivision is a major change to both the approved preliminary subdivision plan and the subdivision's forest conservation plan. A Category I conservation easement is used to protect native trees, shrubs, and understory vegetation in an existing forest or newly-planted forest in a natural setting. A Category II easement protects individual trees or stands of trees, but allows understory vegetation to be non-native or landscaped, as long as such plantings do not adversely affect the trees. Changing from Category I to Category II conservation easements in a large part or the entirety of the subdivision requires amendments to the preliminary plan and the forest conservation plan that have to be approved by the Planning Board through a public hearing process.

If the HOA is requesting a change to these conservation easements, the HOA would be the applicant for the proposed amendments to the preliminary plan and the forest conservation plan. Each property owner that has a conservation easement affected by the proposed amendments would have to agree to these changes. In addition, the

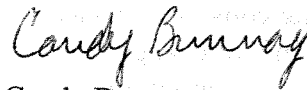
application would have to include a proposal to replace the areas of Category I conservation easements that would be lost under the proposed amendments. The proposed replacement areas would have to be of equal or greater value and amount than the forested areas that would be lost.

The proposed amendments would be reviewed by both staff and the Planning Board through a public hearing process. This process also allows comments from interested parties, such as homeowners adjoining the Sherbrooke subdivision.

It should be noted that staff would *not* support a request to convert conservation easements from Category I to II. This subdivision was extensively reviewed and discussed with respect to forest conservation requirements by both the Planning Board and its staff during the regulatory review process. There were lengthy discussions at the public hearing regarding the need to retain some forest on-site and the desire of surrounding residents for substantial vegetated buffers to provide screening between new and existing homes. To change the conservation easements to Category II would effectively remove long-term protection for the forested areas that have been retained or are planted on-site. Staff believes this change would be contrary to the intent of the Planning Board when it approved the preliminary subdivision plan. The final decision, however, will be made by the Board.

If you or other members of the HOA have additional questions regarding the subdivision's forest conservation plan, please contact me at (301)-495-4543. Questions related to the preliminary plan amendment process may be directed to Malcolm Shaneman in the Development Review Division at (301)-495-4587.

Sincerely,



Candy Bunnag,  
Environmental Planner  
Countywide Planning Division

Cc: Michele Rosenfeld  
Malcolm Shaneman  
Cathy Conlon