



MEMORANDUM

July 15, 2015

TO: Montgomery County Planning Board

VIA: Mike Riley, Director of Parks *MGR*
Mitra Pedoeem, Acting Deputy Director of Parks *MP*
John E. Hench, Ph.D., Chief, Park Planning & Stewardship Division *JHench*
Michael Ma, Acting Chief, Park Development Division *mm*

FROM: Brenda Sandberg, Legacy Open Space Program Manager *BBS*
William E. Gries, Park Development Division *weg*
Josh Kaye, Park Development Division *JK*

SUBJECT: Land Acquisition Recommendation, Legacy Open Space Program
Bennett Creek Conservation Park
James Kent MacKendree Day, Trustee, et al, and Barbara J. Day, et al, Properties
(Day Properties)
136.4331 acres, more or less

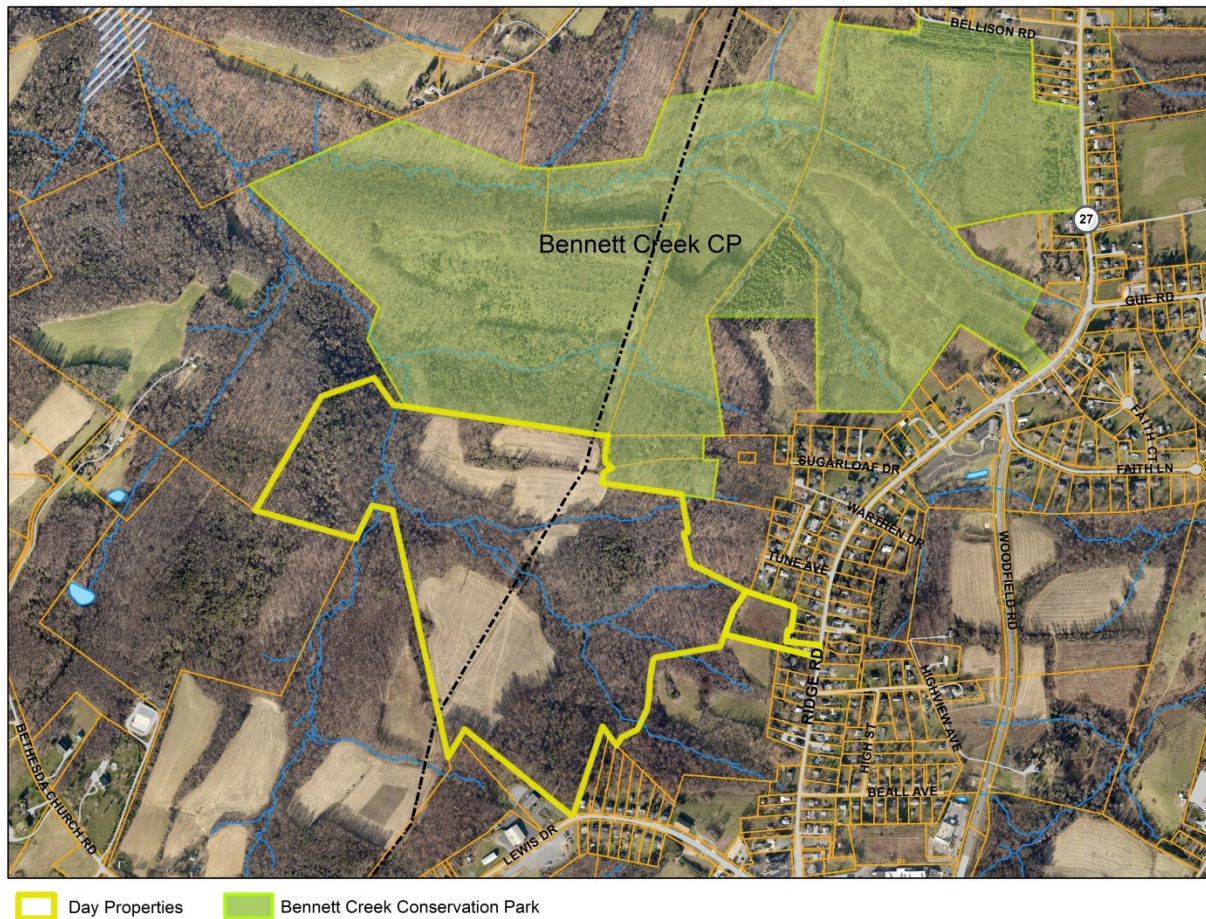
STAFF RECOMMENDATION

Approve the attached Resolution (Attachment B) to acquire the Day Properties, 136.4331± acres, to add to the Bennett Creek Conservation Park for the negotiated purchase price of \$1,470,888.50 to be funded through the Legacy Open Space CIP with County G.O. Bonds.



**Vicinity of Proposed
Bennett Creek
Conservation Park**

Figure 1: Aerial Photo of Proposed Acquisition of Day Properties



Site Description

Staff has negotiated a contract to acquire approximately 136 acres of land owned by the Day family (outlined in yellow in Figure 1) to add to the Bennett Creek Conservation Park north of Damascus. The Day properties include one parcel with approximately 133 acres of RDT zoned land in forest and agricultural production, and an additional small parcel zoned RNC with 3.6 acres of open field and an old farmhouse along Ridge Road (Rt. 27). The land is located immediately South of the recently acquired Snow Properties west of Ridge Road, the initial acquisition for Bennett Creek Conservation Park. The Day properties acquisition is key to implementing the vision for Bennett Creek Conservation Park to form a rural, green buffer and provide recreation opportunities for the residents of Damascus. The Planning Board was briefed in October 2014 on the potential for the Day properties acquisition to occur during their deliberations on the Snow property acquisition.

The Day properties are located in the upstream portions of the Legacy Open Space (LOS) designated Bennett Creek Headwaters (see next section for details). The proposed acquisition area consists of agricultural fields, forest, meadows, steep slopes, and a number of wetlands and seeps/springs, thus protecting and providing public access to a large area of this LOS Natural Resource site. The site also provides access to the park from Ridge Road for park users and maintenance operations closer to the center of Damascus, and improves the opportunities for the natural surface trail network through the conservation park.

As on the Snow properties, the forest on this site includes areas of mature, good quality mixed oak and hickory with a good quality native understory, areas dominated by maturing tulip tree forest with a mixed oak component, and other areas with a young tulip tree-red maple forest. Non-native invasive (NNI) shrubs and vines are present in some understories and forest edges. Two farm fields are in active agricultural use, and one meadow behind the house on Ridge Road appears to be used for haying.

Figure 2: Forest with Existing Trail



Figure 3: Wooded Stream Valley



Figure 4: Angled Aerial (South Facing) Showing Fields & Forest Surrounding Damascus



The site does contain a farmhouse and outbuildings along Ridge Road. This property was not identified for historic designation in the April 2009 Approved and Adopted Damascus-Goshen Historic Resources Amendment to the Master Plan for Historic Preservation in Montgomery County. The buildings appear to be in a fair to good state of repair and the house is currently occupied by tenants. Much of the interior and exterior architectural character maintains intact, contributing to the farming character of the Damascus community. However, a final decision as to whether the house will remain or not has not been made by staff. An engineering survey of the condition of the house and outbuildings will be conducted as soon as the property is acquired. Staff will analyze the condition of the buildings, do a cost-benefit analysis of the various options for retention or removal of the improvements including short-term and long-term costs and park operational impacts, and then make a final determination of what to do with the structures. Legacy Open Space One-Time Cost funds would be available for either repairing the structures for functional use (either rental or park use) or for demolition and site cleanup, depending on the final decision.

Figure 5: Gothic Farm House View from Ridge Road



Figure 6: Farm House View from Driveway



Figure 7: Outbuilding



Figure 8. Meadow between Farm House and Forest



Bennett Creek Headwaters: Legacy Open Space & Damascus Master Plans

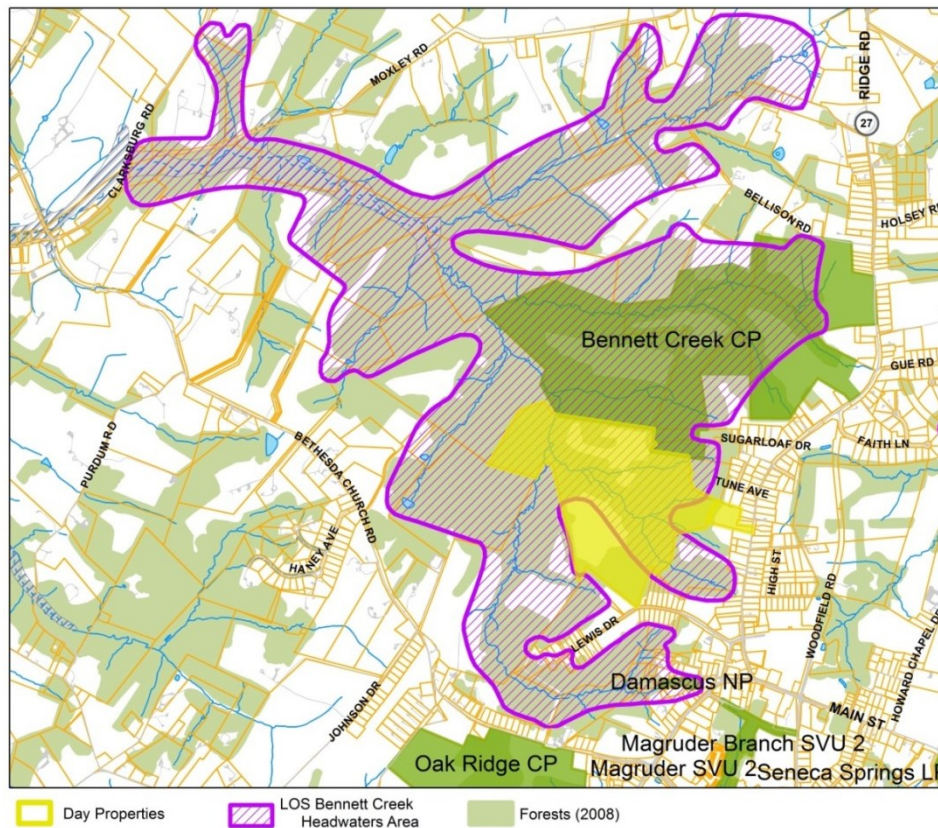
The Bennett Creek watershed was initially determined to include high quality resources and to be worthy of LOS designation at the time of the original *Legacy Open Space Functional Master Plan* (2001). The site was included in the LOS Plan appendix, a list of sites which were to be evaluated for addition to the Plan over time, with a notation that the “Bennett Stream headwaters ... meet [the LOS] criteria, but need further study [to] select specific properties” (Appendix D).

The Bennett Creek watershed was further evaluated through the Damascus Master Plan process (2003-2006) and was confirmed to be a high quality watershed with significant forest and wetland resources. The watershed also was determined to meet several key LOS criteria as a significant Natural Resource (see Attachment A). The approved and adopted *Damascus Master Plan* (2006) designated the **Bennett Creek Headwaters Area** as a Legacy Open Space Natural Resource site of approximately 1000 acres by action of Planning Board and County Council.

Primary characteristics of the LOS Natural Resource area include:

- Large area of contiguous forest (about 800 acres of 1000 acre designation) with several mature stands of high quality upland and riparian forest
- Principal headwater tributaries of Bennett Creek with numerous braided wetlands, seeps and springs (over 47 acres), mostly forested with little disturbance by human activity
- Provides protection of water quality of Bennett Creek, a very high quality stream as determined by State and County criteria

Figure 9. Bennett Creek Headwaters LOS Natural Resource Extent



Additional support for the creation of Bennett Creek Conservation Park can be found in the *Damascus Master Plan* that states a vision consisting of ten overarching goals, of which two are relevant:

- *Maintain the quality and integrity of the outstanding natural systems within the Damascus Master Plan area ... and mitigate the impacts of future development.*
- *Provide a network of local and countywide parks that offer recreational activities, support an interconnected trail system, protect important natural features, and create attractive settings for cultural and historic resources.*

Bennett Creek Conservation Park: Vision and Proposed Uses

The Day properties are key to creating a functional Conservation Park in the uppermost portions of the designated LOS Natural Resource. To reiterate the vision of the park as originally briefed to the Board in 2014, the benefits of Bennett Creek Conservation Park after acquisition of the Day properties would include the following:

- Approximately 400 acres of new Conservation Parkland that can provide significant resource-based recreation opportunities to the growing Damascus and Clarksburg communities, including:
 - Natural surface trails for hiking, cycling and equestrian use
 - One-way and loop connections between different neighborhoods of Damascus
 - Large natural areas necessary for nature appreciation and bird and wildlife viewing
 - Potential future connectivity options with the existing Oak Ridge Conservation Park and Magruder Branch Stream Valley Park in the southern portions of Damascus
- Full protection of almost 300 acres of existing forest including many wetlands and sensitive resources in the uppermost headwaters, plus opportunities to create or maintain a variety of native meadow and early succession habitats.
- Protection of the rural viewshed of this town that is surrounded by the agricultural and rural open spaces of the County's Agricultural Reserve by removing development potential on two highly visible parcels looking from Ridge Road towards the mountains west of Frederick.
- Potential for preservation of crop farming through agricultural lease on approximately 40 acres of currently farmed land on the Day properties.

Other Policy Support for Bennett Creek Conservation Park

Vision 2030 and 2012 PROS

The Vision 2030 strategic plan (2011) and the 2012 PROS Plan update both reflect findings that there is increased demand countywide for trails and resource-based recreation opportunities in the County, both needs that can be addressed through the creation of Bennett Creek Conservation Park. A statistically-valid survey conducted during Vision 2030 indicated that the most popular recreation activity in the County is the use of hard and natural surface trails, with very strong evidence for high demand and need for more *natural surface trails*. For instance, 80% of respondents said natural surface trails are needed for their household's leisure time activities, higher than any other facility type. Respondents also noted that Natural surface trails are the most important facility to add, expand, or improve (70% saying very important).

The Vision 2030 survey also indicates strong support for *additional natural areas* in the County. Sixty-three percent (63%) of respondents indicate that adding, expanding or improving natural areas is very important, higher than all facilities except natural surface trails, hard surface trails, and playgrounds. Similar strong support for natural surface trails and natural areas is found when looking at the survey results for just the Potomac/Rural Vision Team area that includes Damascus.

In addition to the survey results, anecdotal evidence and park manager reports from the Little Bennett park region indicate that current natural surface trails in the Little Bennett region are seeing increased usage and wear & tear. This increase is not unexpected due to the recent population growth in Clarksburg and Damascus that are expected to continue. The Planning Department reports that the adjacent corridor town of Clarksburg is expected to have an *additional 22,000 residents* at full build-out. In Damascus, the Master Plan applied zones that will result in an estimated increase of around *20,000 residents* from the population at the adoption of the 2006 master plan.

State Planning Documents and Policies

Two State policy documents identified this area as an important natural resource worth protecting. Over 30 years ago, the *Comprehensive Outdoor Recreation and Open Space Plan* (Maryland Office of Planning, 1977) recommended priority areas throughout each County for future passive recreation and resource protection. The Little Bennett and Bennett Creeks headwaters are jointly identified as a recommended location for conservation parkland for resource conservation and public use. More recently, the State Green Infrastructure analysis from the late 1990's identified the Bennett Creek Headwaters as a major corridor in the green infrastructure of the State and County, connecting the nearby Patuxent River corridor with the Monocacy River and Great Seneca corridors.

County Water Quality Studies

The Bennett Creek watershed has been subject to routine stream monitoring over the past few decades as part of the Countywide Stream Protection Strategy (CSPS) and other County monitoring programs. In general, the watershed health has been classified as "good" over those years. Land cover is predominantly forest and agricultural, resulting in a low amount of impervious area. Watershed quality is impaired slightly by runoff from the developed town center and agricultural practices, but even still Bennett Creek is considered to be one of the higher quality stream systems in the County.

Agency and Citizen Support

The Legacy Open Space Advisory Group and the Legacy Open Space Internal Implementation Team unanimously support acquisition of the Day properties to serve the many new residents of northern Montgomery County. This acquisition is further supported by senior management of the Department of Parks and Area 3 Planning Department staff.

Property Valuation

A contract has been secured to implement this acquisition of 136.4331 acres from the Day family for a total cost of \$1,470,888.50. The acquisition will be funded by the Legacy Open Space CIP account using County G.O. Bonds.

Start-Up Costs & Operating Budget Impact (OBI)

Costs for the management of this acquisition in both short and long term is expected to be in line with other conservation parkland acquisitions. Start-up costs to create a functioning Conservation Park out of this land will fall into four categories that can be funded through existing CIP funds:

- 1) Park cleanup, security and signage: Removal of any fences or other unwanted debris, placing security gates at access points along public roads, and installing MNCPPC property signage.
- 2) Non-Native Invasive removals: NNI work will be conducted when the parkland is first acquired, focusing on forest edges and former farm fields, to arrest any NNI populations.
- 3) Natural surface trails and trail access points: This Park would include natural surface trails as one of its main features, and associated gravel parking lots, kiosks and trail signage will be needed.
- 4) Studies and implementation of recommendations for structures: Conduct necessary studies to evaluate the condition of the structures, then implement the final recommendation for the structures (either repair for rental or park use, or removal).

Adequate Legacy Open Space PDF "One-Time Cost" funds are available most years in the amount of \$250,000 to fund the first two of these expenses (estimated at \$20K - \$30K), and the final category is funded through the Natural Surface Trails Implementation PDF (estimated at \$60K - \$110K for entire Bennett Creek CP). The final expense category, for the study and either repair or demolition of the structures, will also be funded through the Legacy Open Space One-Time Cost account, total amount to be determined depending on selected option.

Park operating expenses (OBI) for an established Conservation Park on this site would fall under three major categories: Park Operations, Park Police, and Natural Resource Management (deer and NNI control). There are no features on this park that are expected to make OBI any higher than for other large conservation parks. A rough estimate of OBI for this additional acreage, after installation of parking lots and trails, is around \$25,000 per year.

The Day acquisition, combined with the prior Snow acquisition, provides a rare opportunity to create another valuable legacy for the future residents of our growing County, and to contribute to maintaining the quality of life for our rural and suburban residents in the Damascus and Clarksburg region.

Attachments: A) Legacy Open Space Criteria Analysis

B) Resolution MCPB 15-103

cc: John Nissel Antonio DeVaul Megan Chung
Doug Ludwig Kip Reynolds Shuchi Vera
Wendy Hanley Jim Poore
Kristi Williams David Vismara

Attachment A: Legacy Open Space Criteria Analysis

When evaluated according to the LOS criteria for environmentally sensitive natural resources, the Bennett Creek Headwaters is truly a standout site as a significant example of a large terrestrial and aquatic natural community in the County. The evaluation of the site by the LOS criteria conducted by John Turgeon, former Senior Legacy Open Space Planner, in 2003 cannot be improved upon, so it is repeated here with very minor edits to update information on current parkland in the Damascus area:

- The site has **particular countywide and regional importance** because it is a large diverse ecological area with a variety of habitats, some of them unique. It represents an opportunity to protect the principal forested headwaters of a major stream whose watershed spans Montgomery and Frederick Counties.
- The resource **contributes to the protection of public water supply** since the Bennett Creek is part of the Potomac River watershed.
- The site is **part of a “critical mass” of similar open space** since it is located within a significant green infrastructure corridor as identified by the Maryland Greenway Commission linking the Patuxent River parkland with Little Bennett Regional Park and Magruder Branch Stream Valley Park. Thus, the resource provides **ecological connectivity** between these significant areas and could provide **human connectivity** as well.
- The resource provides an additional **buffer to the County’s Agricultural Reserve** from development approaching from the south, and helps define the traditional town center of Damascus.
- The resource represents an **opportunity for broadening interpretation and public understanding** of natural resources due to it being a major forested headwaters area with relatively little negative impact from development.
- The resource represents a **significant opportunity to increase the amount of conservation parkland** in the Damascus region. The Damascus Planning Area includes Oak Ridge Conservation Park, located southwest of the town center at the headwaters of the Little Bennett Creek. Sections of Magruder Branch and Great Seneca Stream Valley Parks, a type of conservation parkland, are also located within the Damascus Planning Area, but consist primarily of narrow greenways along those streams. The creation of a large conservation park with a variety of habitats in the Bennett Creek headwaters, consistent with the definition of Conservation Parks in the Park, Recreation and Open Space (PROS) Plan, would be a significant addition to park resources for the residents of this developing part of the County.

The 2003 analysis of the specific natural resource factors in the Legacy Open Space Functional Master Plan also concludes that:

- The Bennett Creek Headwaters Area is a significant forested headwaters area with relatively little negative impact from development and containing some exemplary natural communities.
- It is a large area of good quality contiguous forest supporting a diversity of plants and wildlife.
- The site’s forest provides a valuable buffer to the headwater tributaries of the Bennett Creek, which is key to maintaining the good water quality of the stream.
- The site provides a wildlife corridor and a corridor for potential natural surface trails that, in the future, could link several watersheds that meet in this area, including the Patuxent River, Great Seneca Creek, and the Little Bennett and Bennett Creek tributaries to the Monocacy River.

Attachment B: Planning Board Resolution 15-103

MCPB

15-103

RESOLUTION

WHEREAS, The Maryland-National Capital Park and Planning Commission (“Commission”) is authorized by Maryland Code Annotated, Land Use §17-101 (formerly Article 28, Section 5-101 of the Annotated Code of Maryland) to acquire, develop, maintain and operate a public park system within the Maryland-Washington Metropolitan District; and

WHEREAS, Montgomery County, Maryland (the “County”), has appropriated certain funds from the County’s General Obligation Bond proceeds to fund the Commission’s Legacy Open Space Acquisition Program; and

WHEREAS, the Commission identifies properties that are eligible for acquisition with funds from the Legacy Open Space Acquisition Program and recommends that the County acquire such properties with such funds; and

WHEREAS, Barbara J. Day and James Kent MacKendree Day, Trustee of the James Kent Day 2000 Irrevocable Trust, own a 50% undivided interest, as Tenants in Common, in certain property identified as Tax Account #12-001-00927464, containing 3.5566 acres, improved, and James Kent MacKendree Day, Trustee of the James Kent Day 2000 Irrevocable Trust, and James Kent MacKendree Day, Trustee of the William J. Day, Jr. 1998 Irrevocable Trust, own a 50% undivided interest, as Tenants in Common, in certain property identified as Tax Account #12-001-00927522, containing 132.8765 acres, unimproved, (collectively, the “Property”) located in Damascus, Maryland, all of which meets parkland acquisition criteria as an addition to Montgomery County’s existing Bennett Creek Conservation Park; and

WHEREAS, the Bennett Creek watershed was designated a high quality natural resource deserving of further study and protection through a variety of tools by the Montgomery County Planning Board under the *Legacy Open Space Functional Master Plan of 2001* via the *Damascus Master Plan of 2006*; and

WHEREAS, the Montgomery County Planning Board on behalf of the Commission recommends that the County acquire the 3.5566 acres, improved, from Barbary J. Day and the James Kent Day 2000 Irrevocable Trust and the 132.8765 acres, unimproved, from the James Kent Day 2000 Irrevocable Trust and the William J. Day, Jr. 1998 Irrevocable Trust, all as described above; and

WHEREAS, there are sufficient monies available in the Commission’s Legacy Open Space Acquisition Program CIP to pay for the acquisition of the Property.

NOW THEREFORE BE IT RESOLVED that the Montgomery County Planning Board recommends that the County execute a land purchase agreement, on such terms acceptable to Commission, to acquire the 3.5566 acres, improved, from Barbara J. Day and the James Kent Day 2000 Irrevocable Trust for the purchase price of Two Hundred Seventy-Five Thousand Dollars (\$275,000) and other valuable consideration; and

BE IT FURTHER RESOLVED that the Montgomery County Planning Board recommends that the County execute a land purchase agreement, on such terms acceptable to Commission, to acquire the 132.8765 acres, unimproved, from James Kent Day 2000 Irrevocable Trust and the William J. Day, Jr. 1998 Irrevocable Trust for the purchase price of One Million One Hundred Ninety Five Thousand Eight Hundred Eighty Eight and 50/100 Dollars (\$1,195,888.50) and other valuable consideration.

* * * * *

This is to certify the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner _____, seconded by Commissioner _____, with Commissioners _____, _____, _____, _____, and _____ voting in favor of the motion, at its regular meeting held on Thursday, July 23, 2015 in Silver Spring, Maryland.

Casey Anderson, Chair
Montgomery County Planning Board