



Preserve at Rock Creek (Bowie Mill): Site Plan 82006011B

JAC

Josh Penn, Senior Planner, Area 3

Joshua.Penn@montgomeryplanning.org

(301) 495-4546

John A. Carter, Chief

John.Carter@montgomeryplanning.org

(301) 495-4575

Staff Report Date: 12-26-14

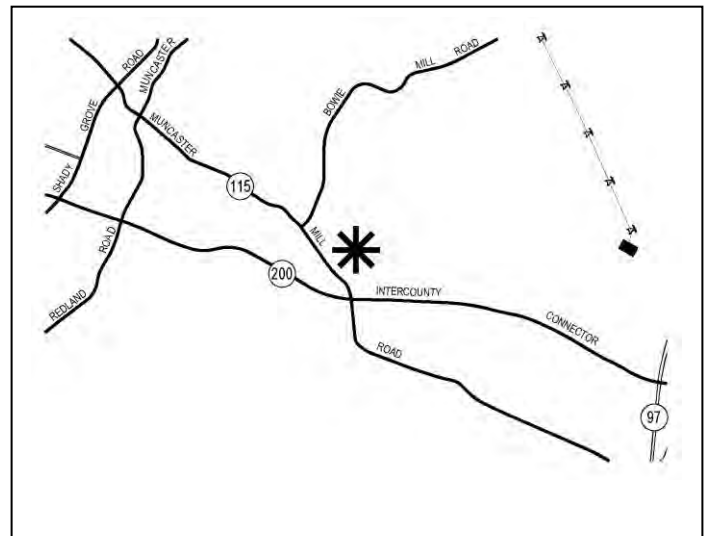
Description

**Preserve at Rock Creek (aka Bowie Mill Estates):
Site Plan Amendment 82006011B**

Changes to the Historic Farmhouse located on Lot 1, Block D and revise condition 11b and 11c to change which lots are being withheld to ensure impervious compliance, 438.2 acres, RNC-Zone, located at the east side of the intersection of Muncaster Mill and Bowie Mill Roads, Upper Rock Creek Master Plan Area.

Staff Recommendation: Approval with Conditions

Applicant: Stanley Martin Homes
Site Plan Filing Date: June 4, 2014



Summary

- Application to implement changes to the Historic Lot (Lot 1, Block D) and change the lots that are in withholding for impervious compliance.
- Site Plan amendment includes a Final Forest Conservation Plan amendment, with variance, to update the plans and satisfy forest conservation requirements.
- Site Plan amendment includes revisions to Final Water Quality Plan
- The amendment is in substantial conformance with the Upper Rock Creek Master Plan.
- The amendment meets the requirements of RNC Zone.
- As of the posting of this Staff Report, no community opposition has been received.

RECOMMENDATION

Staff Recommendation: Approval of Site Plan 82006011B. All site development elements shown on the latest electronic version as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required except as modified by the following conditions.¹

Conformance with Previous Approvals

1. Preliminary Plan Conformance

The development must comply with the conditions of approval for Preliminary Plan 120060320, or as amended.

Environment

2. Impervious Surface Cap (Previous Condition #11)

b) Applicant to enter into an agreement with M-NCPPC for the purpose of withholding building permits for seventeen (17) one-family detached residential lots to ensure compliance with the impervious limitations. The 17 lots shall be graphically denoted on the certified site plan. Building permits for the 17 lots to be released one at a time, though not necessarily in the order listed. The 17 lots are: Block C, Lots 1, 2, 3, 11, 12, 13, 14, 15, 16, 17, & 18, and Block B, Lot 13, 14, 15, 16, 17 &.

c) The Certified Site Plan shall denote the order of the last 5 lots to be released. The last five lots to be released are, in descending order: Block B, Lots 14, 15, 16, 17, & 18.

3. The Applicant must comply with the following conditions of approval for the Final Forest Conservation Plan ("FCP") No. 82006011B:

- a) All previously approved conditions of approval remain valid.
- b) The Final Sediment Control Plan must be consistent with the final limits of disturbance as approved by the M-NCPPC Staff.
- c) The Applicant must comply with all tree protection and tree save measures shown on the approved FCP. Tree save measures not specified on the approved FCP may be required by the M-NCPPC forest conservation inspector.

¹ For the purposes of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor (s) in interest to the terms of this approval.

SITE DESCRIPTION

The Preserve at Rock Creek (formerly known as Bowie Mill Estates) will be a 438.2 acre property located generally on the east side of Muncaster Mill Road (MD 115) and Bowie Mill Road, opposite the intersection with Needwood Road (“Property” or “Subject Property”). The Property is in the Rural Neighborhood Cluster (“RNC”) zone as recommended by the 2004 Upper Rock Creek Area Master Plan. The Subject Property is outlined in red on figure 1. The Magruder High School and Sequoyah Elementary School properties are partially surrounded by the Subject Property. The approved Bowie Mill Estates preliminary plan created 186 lots and dedicated approximately 260 acres to the Maryland-National Park and Planning Commission (“M-NCPPC”) for park land. The lot shown in bright blue in the figure below is Lot 1 in the previously approved preliminary plan. Lot 1 was referenced in the documentation from the original approval as the environmental setting for the historic site (“Historic Setting”). The Subject Property is located in the Upper Rock Creek watershed and a Special Protection Area.

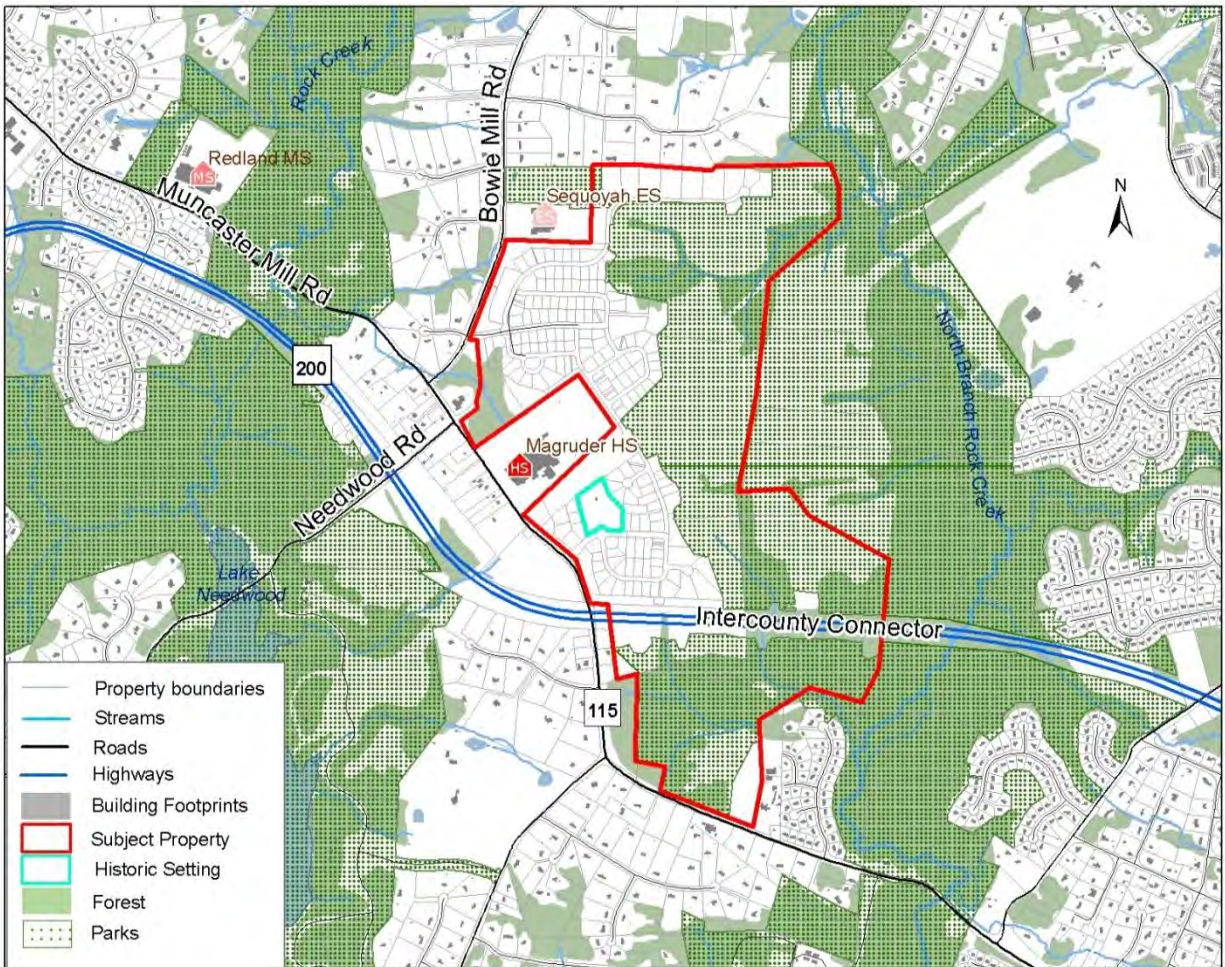


Figure 1

The surrounding land uses are one-family detached housing, and the public elementary and high schools abutting the Property along Bowie Mill Road and Muncaster Mill Road. To the east, the land is mostly M-NCPPC owned parkland and stream valley buffer. The surrounding zoning is mostly in the RE-1 Zone with smaller areas in the RE-2 Zone west of Bowie Mill Road, and also to the east within the North Branch Stream Valley Park.



Figure 2

PROJECT DESCRIPTION

Project History

The Preliminary Plan No. 120060320 Bowie Mill Estates was approved on November 21, 2007 for 186 lots (158 market rate and 28 MPDU's), and approximately 260 acres of land dedicated to the M-NCPPC.

The Site Plan No. 820060110, Preserve at Rock Creek, for the same Property, was approved on November 13, 2009 for 186 lots (158 market and 28 MPDU's).

The Preliminary Plan Amendment No. 12006032A, Preserve at Rock Creek, was approved on September 26, 2012 to delete Conditions #29 & 33 and a revision to Condition #30 in regards to the restoration & preservation of the Historic House that was destroyed after the approval of the Preliminary Plan.

The Preliminary Plan Amendment No. 12006032B and Site Plan Amendment No. 82006011A, Preserve at Rock Creek, were approved by the Planning Board on July 17, 2014 (resolution pending) to provide a land swap and transfer of open space acreage reassignment of Rural Open Space designation with an adjoining piece owned by Montgomery Hospice.

Proposal

The application reviewed by this Staff Report includes a Site Plan amendment identified as No. 82006011B ("Amendment"). The Amendment is required to address changes to the Historic Farmhouse located on Lot 1, Block D and revise previous condition #11 to change which lots are being withheld to ensure impervious compliance and make the necessary findings pursuant to 59-D-3 of the Montgomery County Zoning Ordinance.

ANALYSIS AND FINDINGS

1. *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

An approved development plan or a project plan is not required for the subject development.

2. *The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The Site Plan meets all of the requirements of the RNC zone.

3. *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

No Change from previous approval.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The house on the Historic Site is the only structure to change as part of this application from the previous approval.

When the original preliminary plan was approved, there was consideration given to the existing historic resources on the Property, including the J.H. Cashell Farm House, a barn and a stone accessory structure. A 5.01 acre lot was created to serve as the Historic Setting for the structures as recommended by the Historic Preservation Commission for the three structures and conditions were included in the plan approval regarding the creation and preservation of a viewshed, the relocation of the nearby historic barn onto the Historic Setting, the rehabilitation of the historic house, and the stone accessory structure. The work to be done on the historic was tied to a certain number of building permits for the project. The historic house was destroyed by arson in November of 2010, necessitating an amendment to the preliminary plan. The Applicant worked with the Historic Preservation Commission on the design and location of a new dwelling unit to eventually be built in place of the former historic house.

The proposed changes in this Site Plan Amendment reflect the results of the collaboration between the Applicant and the Historic Preservation Commission; now that the final design and location has been

determined the Applicant is proceeding forward with the Amendment to implement the changes from the 12006032A Preliminary Plan Amendment to construct a new house on the Historic Site.

5. *The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

Forest Conservation

Final Forest Conservation Plan

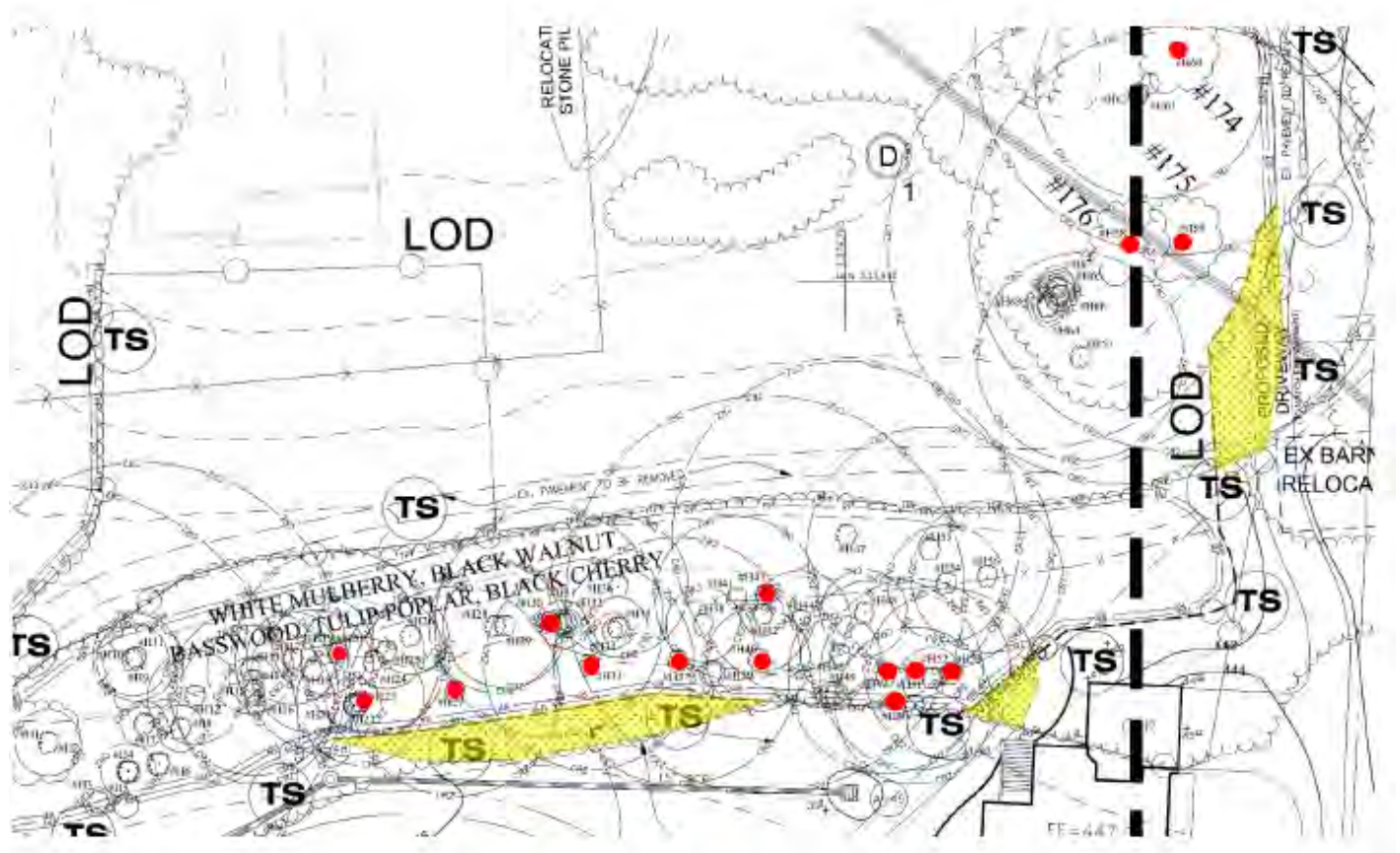
The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law and Staff recommends approval of the Final Forest Conservation Plan, as amended (FCP). An amended Final Forest Conservation Plan (FCP) was submitted with the Site Plan amendment (Attachment A). A Final Forest Conservation Plan (FCP) for the Property was approved on April 16, 2008, as part of Site Plan 820060110. The Applicant has requested to amend the FCP to revise the approved limits of disturbance. The proposed revisions do not impact any forest, conservation easements, or environmentally sensitive features such as streams, wetlands, or environmental buffers. Since the approval of the FCP, the historic farmhouse that was to be preserved was destroyed by fire. The extent of damage does not make the remnant structure a candidate for reconstruction. The Applicant has consulted with the Historic Preservation Commission and has been granted authorization to submit an Application to amend the approved plans to request permission to replace the home along the proposed street frontage of Achille Lane, outside of the historic view shed. The construction of the proposed structure and related alterations requires adjustments to the previously approved limits of disturbance, which also results in the need for a variance to impact the critical root zones of fifteen (15) individual trees located within an historic setting.

Forest Conservation Tree Variance

Section 22A-12(b) (3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. The law requires no impact to trees that: measure 30 inches or greater, DBH; are part of an historic site or designated with an historic structure; are designated as national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species ("Protected Trees"). Any impact to a Protected Tree, including removal or disturbance within the Tree's critical root zone ("CRZ") requires a variance. An application for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law.

Variance Request - The Applicant submitted a variance request in a letter dated November 7, 2014, for proposed impacts to the CRZ of fifteen (15) trees located in an historic setting and considered a high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law (Attachment B). Details of the Protected Trees to be affected but retained are shown graphically in Figure 1 and listed in Table 1.

Figure 1. Variance Trees to be impacted but not removed, located on the Historic Site Lot 1, Block D



● = Protected Tree to be Impacted

■ = Critical Root Zone to be Impacted

Table 1 - Protected Trees to be affected but retained

Tree Number	Species	DBH Inches	Originally Approved CRZ Impact	Amended Total Proposed CRZ Impact	Net Change in CRZ Impact from Approved vs. Amended Plan	Condition
H20	Basswood	17	3%	4%	1%	Fair
H23	Basswood	11	9%	17%	8%	Poor
H27	Black Walnut	17	13%	30%	17%	Good
H30	Black Walnut	19	1%	8%	7%	Good
H33	Black Walnut	17	7%	27%	20%	Good
H37	Black Walnut	21	19%	31%	12%	Good
H40	Basswood	9	4%	6%	2%	Good
H43	Basswood	33	15%	18%	3%	Poor
H49	Black Cherry	16	31%	31%	0%	Poor
H50	Black Walnut	13	49%	50%	1%	Fair
H51	Tulip Tree	16	28%	31%	3%	Excellent
H53	Tulip Tree	14	23%	32%	9%	Excellent
H58	Ginkgo	40	14%	21%	7%	Fair
H59	Ginkgo	35	23%	31%	8%	Fair
H60	Red Maple	34	30%	30%	0%	Poor

Unwarranted Hardship Basis - Per Section 22A-21, a variance may only be considered if the Planning Board finds that leaving the Protected Trees in an undisturbed state would result in an unwarranted hardship, denying an applicant reasonable and significant use of a property. The Applicant contends that an unwarranted hardship would be created due to the existing conditions on the Property and the anticipated development yield of the Property based on the standards of the zone and the previous plan approval. The Property has an approved Site Plan and Final Forest Conservation Plan for 186 units, including the historic farmhouse. The historic farmhouse was destroyed by fire, reducing the number of units by one. The configuration of the historic lot, the projection of the historic view shed through the lot, and the location of existing vegetation and historic structures to remain, limits the options for placement of the replacement structure. The Applicant has worked with the Historic Preservation Commission and has been authorized by them to file an Application to amend the Site Plan to propose a new single-family detached home, as a replacement for the destroyed historic structure. The Applicant has cooperated with the Historic Preservation Commission to site the location of the replacement house outside of the historic view shed, and to comply with the Historic Preservation Commission’s requirements to provide vehicular access to the remaining and relocated historic resources on the Property. The proposed driveway for the replacement house doubles as access to the historic resources, and has been designed to tie into the existing pavement along the eastern property line. The fifteen Protected Trees proposed to be affected but retained, were anticipated to receive some impacts based on the previously approved forest conservation plan. The forest conservation plan was approved prior to the enactment of the tree variance provision of the forest conservation law. This amendment requires a tree variance for the increase in impacts to these trees. The Protected Trees will be impacted due to grading and will receive tree protection measures during construction. If the variance were

not considered, the development anticipated on this Property based on the approved Site Plan, would not occur. Staff has reviewed this Application and finds that there would be an unwarranted hardship if a variance were not considered.

Variance Findings - Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. Staff has made the following determination based on the required findings in the review of the variance request and the Final Forest Conservation Plan:

Granting of the requested variance:

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

Granting the variance will not confer a special privilege on the Applicant as the disturbance to the Protected Trees is due to the reasonable development of the Property. The Protected Trees are located within the developable area of the site, and some impacts to these trees were anticipated based on the previously approved forest conservation plan. Granting a variance request to allow land disturbance within the developable portion of the site is not unique to this Applicant. Staff believes that the granting of this variance is not a special privilege that would be denied to other applicants.

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

The need for the variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon existing site conditions, including the loss of the historic farmhouse to fire and the desire to replace it, and the Historic Preservation Commissions requirement to provide vehicular access to the remaining historic structures on the Property.

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

The need for a variance is a result of the existing conditions and the proposed site design and layout on the Property, and not 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 variance will not violate State water quality standards or cause measurable degradation in water quality. No trees located within a stream buffer, wetland or special protection area (SPA) will be impacted or removed as part of this Application.

Mitigation for Protected Trees

There is some disturbance within the critical root zones of fifteen (15) trees, but they are candidates for safe retention and will receive adequate tree protection measures. No mitigation is recommended for trees impacted but retained.

County Arborist's Recommendation on the Variance - In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was forwarded to the County Arborist. On December 8, 2014, the County Arborist provided a letter stating that (Attachment C).

Variance Recommendation - Staff recommends that the variance be granted.

Water Quality

Imperviousness

The Upper Rock Creek Special Protection Area has an 8 percent impervious limitation. The Applicant has approval for a development that creates approximately 35 acres, or 8 percent of the gross tract area, of new impervious surfaces. This imperviousness is associated with internal streets, sidewalks, driveways, building footprints, parking areas, and the hard surface trail. The 35 acres of imperviousness does not include "improvements" homeowners may make to their lots after taking possession of the units. These improvements can include patios, sheds, swimming pools, pool decks etc.

Consistent with other plans with impervious limitations, Staff requested the Applicant to enter into an impervious agreement that identified the total amount of impervious surfaces available, the number and location of lots in reservation and the last lots to be released. Staff requested a conditional approval that identifies 10 percent of the lots, or 19 single family detached single family homes, as impervious reservation lots. These lots would only become available to build upon once the applicant can demonstrate that there are sufficient impervious surfaces remaining to allow building permits to be released on these lots. The impervious lots were denoted on the certified site plan. The last five building permits are to be released in order to ensure a logical release of building permits.

This amendment withholds fewer lots, 17 instead of the previous 19, because now the project is almost halfway constructed and current reporting shows no issues with impervious limitations.

For these reasons stated above, Condition 11 was approved with the Site Plan. Specifically Conditions 11b and 11c which discuss the impervious conditions agreement and lot withholding. The Applicant agrees on keeping the conditions but would like to revise which lots are being withheld. The Applicant would like to revise the withheld lots to maintain available lots for sale during the process. Most of the current withheld lots are within the Phase I portion of the development to the north of the site and the Applicant would like to move the withheld lots to the Phase II portion. This would alleviate some technical difficulties based on delays to infrastructure improvements within the Phase II area and help maintain a base of homes to sell.

11) Impervious Surface Cap

b) Applicant to enter into an agreement with M-NCPPC for the purpose of withholding building permits for seventeen (17) ~~nineteen (19)~~ one-family detached residential lots to ensure compliance with the

impervious limitations. The 17 ~~19~~ lots shall be graphically denoted on the certified site plan. A note shall be placed on the record plat restricting issuance of building permits for the 17 ~~19~~ lots pending approval from M-NCPPC **Environmental Planning**. Building permits for the 17 ~~19~~ lots to be released one at a time, though not necessarily in the order listed. The 17 ~~19~~ lots are: Block C, Lots 1, 2, 3, 11, 12, 13, 14, 15, 16, 17, & 18, and Block B, Lot 13, 14, 15, 16, 17 & 18 ~~Block B, lots 16, 17, and 18; Block H, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16.~~

c) The certified site plan shall denote the order of the last 5 lots to be released. The last five lots to be released are, in descending order: Block B, Lots 14, 15, 16, 17, & 18 ~~Block B, lot 16; Block B, lot 17; Block B, lot 18; Block H, lot 2; and Block H, lot 3.~~

After reviewing the revised conditions Staff sees no substantial difference between the approved conditions and the revised conditions and recommends that the new conditions be adopted with this Application.

Stormwater Management

In accordance with Chapter 19, a letter, dated November 21, 2006, from the Montgomery County Department of Permitting Services found the stormwater management concept for the development to be acceptable. The stormwater management concept proposes to meet required stormwater management goals via micro-biofilters. The proposed amendment was found to be consistent with the original approval, noted above, in a letter dated December 3, 2014.

Other findings

The Application proposes no changes to the previously approved plan except for the amended conditions and changes to the historic lot. The modified conditions and changes to the historic lot do not alter any public facility, public utility, or forest easement; nor do they alter the number or shape of any lot or right-of-way, or add vehicular trips generated by this development. Staff finds that the amendment conforms to all of the findings made during the previous plan approval.

COMMUNITY OUTREACH

This Application was submitted and noticed in accordance with all Planning Board adopted procedures. As of the date of this report, Staff has not received any correspondence regarding this Application. Any correspondence received after posting of the Staff Report will be forwarded to the Planning Board for discussion at the hearing.

CONCLUSION

The Application meets all requirements established by the RNC Zone. The Application complies with Chapter 22A, the Montgomery County Forest Conservation Law and Chapter 19 regarding water resource protection. Staff recommends approval of the Site Plan Amendment with the Final Conservation Plan Amendment, subject to the conditions as outlined in this Staff Report.

Attachments:

1. Prior Resolution(s)
2. Amended Site Plan Sheets
3. Amended Final Forest Conservation Plan Sheets
4. Tree Variance Request
5. County Arborist Tree Variance Recommendation



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

MCPB No. 12-110
Preliminary Plan No. 12006032A
Preserve at Rock Creek
Date of Hearing: September 20, 2012

SEP 26 2012

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on June 6, 2007, the Planning Board, by Resolution MCPB No. 07-62, approved Preliminary Plan No. 120060320, Bowie Mill Estates, creating 186 lots on 467.84 acres of land in the RC zone, located on the northeast side of Muncaster Mill Road opposite the intersection with Needwood Road ("Subject Property") in the Upper Rock Creek master plan ("Master Plan") area; and

WHEREAS, on June 11, 2012, SM Bowie Mill, LLC ("Applicant"), filed an application for approval of an amendment to the previously approved preliminary plan(s) to modify conditions 29 and 30, and remove condition 33 from Resolution MCPB No. 07-62 on the Property; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 12006032A, Preserve at Rock Creek¹ ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated September 7, 2012, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on September 20, 2012, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

¹ The name of the project has changed since the original approval in 2007

Approved as to
Legal Sufficiency

8787 Georgia Avenue

Christina Soma 9/13/12
MNCPPC Legal Department

www.MCParkandPlanning.org

E-Mail: mcp-chairman@mncpc.org

Chairman's Office: 301.495.4605 Fax: 301.495.1320

MCPB No. 12-110
 Preliminary Plan No. 12006032A
 Preserve at Rock Creek
 Page 2

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 12006032A to modify conditions 29 and 30, and remove condition 33 from Resolution MCPB No. 07-62 by modifying the following conditions:²

29. The Applicant must maintain the viewshed as shown on the approved Preliminary Plan and on plats numbered 24252 and 24253. A viewshed to the Historic Setting, as identified on the Preliminary Plan, will be preserved and will be identified on the record plat as a protected area. No building will be allowed on the land located within the identified viewshed. Any new plantings, tree removal, or fences within the viewshed will require approval by M-NCPPC Historic Preservation Section Staff. The historic viewshed contemplated herein shall be limited to the portion of the proposed subdivision that is forward of the former Cashell Farm house (i.e. between Muncaster Mill Road and the former Historic House).

30. Prior to the issuance of the 117th building permit, the Applicant will have obtained Historic Area Work Permits from the Historic Preservation Commission and completed the relocation and stabilization of the historic barn and restoration of the stone tenant house within the Historic Setting as identified on the Preliminary Plan.

BE IT FURTHER RESOLVED, that all other Preliminary Plan conditions of approval for this project remain valid, unchanged and in full force and effect. However all conditions of approval are included below for informational purposes:

1. Unless specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan, and all findings not specifically addressed remain in effect.
2. Approval under this preliminary plan is limited to 186 lots for 186 residential dwelling units, including a minimum of 15% moderately priced dwelling units (MPDUs).
3. No clearing, grading, or recording of plats prior to site plan approval.
4. Final approval of the number and location of buildings, dwelling units, MPDUs, on-site parking, sidewalks, and bikepaths will be determined at site plan.
5. Parcels A and B, Block O, and Parcels D and F, Block N shall be recorded as either public or private rural open space. If these parcels are recorded as private rural open space, the Applicant shall grant a rural open space easement and a public use easement over the entire property to the benefit of M-NCPPC. If these parcels are recorded as public rural open space, they will be subject to a

² For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

MCPB No. 12-110
 Preliminary Plan No. 12006032A
 Preserve at Rock Creek
 Page 3

- covenant in accordance with the requirements of the zoning ordinance at the time of record plat. The determination of whether the parcels shall be held privately or publicly shall be made by the Planning Board as part of site plan review. The parcels shall include all streams, wetlands and buffers, and sufficient area outside the buffers to allow environmentally appropriate construction of the master planned hard surface trail. The parcels shall not include stormwater management ponds or facilities. Parcel A to include all land west of proposed Lot 1 and east of Bowie Mill Local Park, and to include road frontage on proposed Street C and the 8' wide hard surface connector trail to be constructed from Street C through the rural open space.
6. Applicant to construct the master planned 8' wide, hard surface trail from the northeast corner of the property in Parcel D to the northeast corner of Parcel F. Trail to include all necessary bridges and boardwalk as determined to be necessary by M-NCPPC staff. Alignment to be as agreed and approximately as set forth on the Preliminary Plan as revised on October 13, 2006. Final details regarding grading and alignment and design of the trail, and timing for construction of the trail, to be determined by time of site plan and to be acceptable to M-NCPPC staff.
 7. Applicant to construct sufficient hard surface connector trails, and loop natural surface trails, for access by the community to the master planned hard surface trail. Trail locations and details to be determined by time of site plan and be acceptable to M-NCPPC staff.
 8. Trails to be constructed to park standards and specifications, and adequate trail signage to be provided by Applicant. Design and location of signage to be coordinated between Applicant and M-NCPPC staff.
 9. Compliance with the conditions of approval for the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits, as applicable. Conditions include:
 - a. Applicant to construct a split rail fence along all lots that back or side a reforestation area.
 - b. Applicant shall develop and implement a non-native and invasive management plan for the newly planted areas within proposed Parcels A and B, Block O, and Parcels D and F, Block N. The management plan must include supplemental planting and run concurrently with the forest planting maintenance and management agreement.
 - c. Applicant to plant the afforestation area with a combination of ¾ to 1 inch caliper and 1 ½ to 2 inch caliper stock.
 - d. Applicant to plant all unforested stream buffers and place a Category I conservation easement on all retained and planted forested areas.
 - e. Applicant to begin reforestation of unforested stream buffers in the first planting season after issuance of the first sediment control permit in accordance with staff approved phasing of the planting plan.

MCPB No. 12-110
Preliminary Plan No. 12006032A
Preserve at Rock Creek
Page 4

10. Imperviousness for the 439-acre net tract not to exceed 8 percent of the gross tract area.
11. Applicant to enter into an agreement with M-NCPPC for the purpose of withholding building permits for nineteen (19) single-family detached residential lots to ensure compliance with the impervious limitations. The 19 lots shall be graphically denoted on the certified site plan. A note shall be placed on the record plat restricting issuance of building permits for the 19 lots pending approval from M-NCPPC Environmental Planning. Building permits for the 19 lots to be released one at a time.
12. The certified site plan shall denote the order of the last 5 lots to be released.
13. Applicant to place impervious coverage limitations and information pertaining to the agreement noted in Condition #10 above, on the record plat.
14. All driveways must be designed as double car width at the public right-of-way. M-NCPPC Environmental Planning Staff on a case-by-case basis may approve alternative driveway design provided any additional impervious surface is accounted for as part of the overall impervious limit.
15. The developer/builder must submit an impervious surface report to M-NCPPC Environmental Planning staff prior to issuance of the 100th, 140th, 160th, and 171st building permits. The applicant must submit an impervious report for each of the remaining building permits after the 171st building permit. The impervious reports must include: surveyed 'as-built' drawings which include dimensions for buildings, driveways, sidewalks, leadwalks, porches, patios, chimneys, welled exits, rear exits and any building feature that is two feet or less from the ground. M-NCPPC staff must review the information prior to the release of the next building permit.
16. If at any time the impervious area limit is reached before building permits for all approved lots have been issued, the lots for which building permits have not been issued must be re-recorded as non-impervious, Homeowners Association open space parcels. All pending use and occupancy permits shall be held until such time that the open space plats are recorded.
17. Upon recordation of the plat, applicant shall record in the land records a disclosure of the imperviousness limits and monitoring requirements to subsequent homebuyers. This disclosure shall be reviewed and approved by Commission legal staff before recordation.
18. Prior to approval of the certified site plan, the applicant must revise the submitted noise analysis to take into consideration the final grades for the ICC that were not previously known when the noise analysis was completed.
19. Applicant to replace the proposed board-on-board noise fence with an earthen landscape noise berm wherever possible. Locations to be determined as part of the site plan review.
20. Prior to release of the first building permit for the subdivision, the following items must be met:

MCPB No. 12-110
 Preliminary Plan No. 12006032A
 Preserve at Rock Creek
 Page 5

- a. There shall be certification from an acoustical engineer that the building shell for residential dwelling units are designed to attenuate projected exterior noise levels to an interior level of no more than 45 dBA, Ldn. Any subsequent changes in building shell materials or coverage that may affect acoustical performance shall be approved by an acoustical engineer prior to implementation.
 - b. The builder shall, in writing, commit to construct the residential units in accordance with the acoustical specifications identified by the acoustical engineer.
21. Conformance to the conditions as stated in the MCDPS letter dated November 21, 2006 approving the elements of the SPA water quality plan under its purview.
 22. Compliance with the conditions of the MCDPS stormwater management approval dated November 21, 2006.
 23. The Applicant shall revise the preliminary plan drawing to remove any realignment of existing Bowie Mill Road.
 24. The applicant shall satisfy Local Area Transportation Review as follows:
 - a. If full funding for constructing the Intercounty County Connector (ICC) between Georgia Avenue (MD 97) and I-370 (known as Contract A) is not approved in the Maryland State Highway Administration (SHA) Consolidated Transportation Program (CTP) prior the release of 50th building permit, the Applicant shall construct a separate right-turn lane on the Needwood Road approach to the intersection of Muncaster Mill Road (MD 115) opposite the Casey House-Montgomery Hospice driveway.

To construct this right-turn lane, a good faith effort shall be made to acquire the necessary additional right-of-way and easements in the south quadrant of the Needwood Road/Muncaster Mill intersection from the landowner of Parcel 927. The applicant shall deal directly and openly with the landowner to ensure full disclosure of the possible impacts to the remainder of the Parcel 927. The County will assist as necessary to obtain the additional right-of-way and easements if the applicant takes the required steps below:

- i. Furnish an appraisal for the necessary right-of-way provided by a County approved appraiser.
- ii. Make a minimum of three written offers to the landowner at or above the appraised value that are documented by certified mail.
- iii. If the applicant fails to come to an agreement with the landowner, the applicant can request County assistance in acquiring the necessary right-of-way and easements using the methods not available to private developers.

- iv. Sign an agreement of understanding with the County specifying that the Applicant shall pay all of the County's costs to acquire the right-of-way.
- b. If the ICC Contract A is fully funded for construction in SHA CTP prior to release of the 50th building permit, the applicant shall provide other transportation improvements that would account for an equal expenditure of funds (i.e., the Applicant will spend an estimated \$188,000, which is the equivalent amount of funding in 2006 dollars required to acquire the right-of-way and construct the right-turn lane on Needwood Road). The funds will be used by the Applicant to provide one or more of the following transportation improvements, in the priority order given below, until the funds are fully spent:
- i. Construct a second northwest-bound approach lane on Muncaster Mill Road at the intersection with Needwood Road to provide a separate left-turn lane as part of the Montgomery County Public School's access improvement project for Colonel Zadok Magruder High School.
 - ii. Construct a 6-foot-wide sidewalk along Muncaster Mill Road between Colonel Zadok Magruder High School and Needwood Road to improve the safety of high school students and other pedestrians walking in this area.
 - iii. Construct a shared use path (or portion thereof) along Needwood Road. This shared use path shall run along the south side of Needwood Road from Beach Drive to a point across from Oak Meadow Drive for a length of approximately 4,500 feet within a publicly controlled right-of-way.
 - iv. Contribute to an identified and approved DPWT bikeway project that is fully funded for construction in DPWT Consolidated Improvements Program (CIP) Program No. 507596, Annual Bikeway Program or another CIP Bikeway Project.

This condition shall be satisfied prior to release of the 100th building permit.

25. The applicant shall dedicate the master-planned minimum right-of-way of 300 feet for the Intercounty Connector alignment through the property as the easement/dedication lines are modified by the following plans:
- a. SHA's July 13, 2006, plans for ICC Contract A Request for Proposals.
 - b. SHA's letter dated May 12, 2006, with an attached plan sealed and signed on September 6, 2005 showing the limits of right-of-way dedication for the ICC.
26. The Applicant shall revise the preliminary plan drawing to reflect the ICC dedication as specified in Condition #24, above.

27. Applicant shall provide four-foot wide concrete sidewalks on one or both sides of the public residential streets as shown on the preliminary plan.
28. Access and improvements as required to be approved by MCDPWT prior to recordation of plat(s) and MDSHA prior to issuance of access permits.
29. The environmental setting of the J.H. Cashell historic site is reduced to include proposed Lot 1, which is 5.01 acres in size. Lot 1 includes the historic house, the stone tenant house, the proposed location for the barn that is to be relocated, and a number of significant trees to the front and sides of the historic house. This new environmental setting will be clearly identified on the final plan and the record plat.
30. The Applicant must maintain the viewshed as shown on the approved preliminary plan and on plats numbered 24252 and 24253. A viewshed to the Historic Setting, as identified on the Preliminary Plan, will be preserved and will be identified on the record plat as a protected area. No building will be allowed on the land located within the identified viewshed. Any new plantings, tree removal, or fences within the viewshed will require approval by M-NCPPC Historic Preservation Section Staff. The historic viewshed contemplated herein shall be limited to the portion of the proposed subdivision that is forward of the former Cashell Farm house (i.e. between Muncaster Mill Road and the former Historic House).
31. Prior to the issuance of the 117th building permit, the Applicant will have obtained Historic Area Work Permits from the Historic Preservation Commission and completed the relocation and stabilization of the historic barn and restoration of the stone tenant house within the Historic Setting as identified on the Preliminary Plan.
32. The Applicant will come back to the Historic Preservation Commission within six months from the date of Preliminary Plan approval with a study of the structural issues associated with the historic house and with a plan for stabilization of all historic structures to be preserved.
33. Any tree proposed for removal that is located within the environmental setting and that is 6" DBH or greater will require review and approval through the Historic Preservation Commission's Historic Area Work Permit process.
34. Any proposed construction, alterations of existing structures, or grading within the environmental setting will require review and approval through the Historic Preservation Commission's Historic Area Work Permit process.
35. Record plat to reflect delineation of all areas included in rural open space and shall note the Liber and Folio of any easement agreement or covenant over the rural open space required at the time of record plat by the zoning ordinance.
36. The record plat shall have the following note: "The land contained hereon is within an approved cluster development and subdivision or resubdivision is not permitted."

37. The record plat shall reflect delineation of a Category I Conservation Easement over all areas of stream buffer and forest conservation, except those located within any park dedication.
38. Record Plat to reflect all areas under Homeowners Association ownership and specifically designate stormwater management parcels.
39. Record plat to reflect common ingress/egress and utility easements over all shared driveways.
40. The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board Opinion.
41. Other necessary easements shall be shown on the record plat.
42. The Applicant shall comply with the conditions of approval of the MCDPWT letter dated March 22, 2006, as modified by letter of December 26, 2006, unless amended by MCDPWT.
43. The applicant shall dedicate all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan unless otherwise designated on the preliminary plan.
44. The applicant shall construct all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the preliminary plan, "To Be Constructed By _____" are excluded from this condition.
45. The Applicant shall enter into an agreement with Stephen and Elizabeth Benedek, owners of Camp Olympia, to convey a portion of land within Parcel B to the Benedeks. This agreement shall include an automatic conveyance to the recipient of the balance of Parcel B in accordance with the site plan approval and the conditions of such conveyance upon the earliest of the following events:
 - a. The time that Camp Olympia ceases to use the property as part of its operations as a commercial riding stable and summer day camp or ceases to operate altogether as a commercial riding stable and summer camp.
 - b. Forty years after the date of the deed.
 - c. At the time that all or part of the property is sold or conveyed by Benedek, other than any transfer or distribution pursuant to the terms of a Last Will or Testament provided the property continues to operate as Camp Olympia.
 - d. If the Special Exception Amendment for the Camp Olympia operation is not approved, exclusive of appeal periods, within two years of the effective date of the settlement for the adverse possession claim (December 20, 2008). This agreement shall be referenced on the record plat.
46. Applicant to construct sufficient hard surface pedestrian connections to, and provide sufficient landscape buffering for, adjacent Sequoyah Elementary School and Magruder High School. Trails and details to be determined by time of site plan and be acceptable to M-NCPPC and MCPS staff.

MCPB No. 12-110
Preliminary Plan No. 12006032A
Preserve at Rock Creek
Page 9

BE IT FURTHER RESOLVED, that having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

All of the findings made during the approval of Preliminary Plan No. 120060320 are still applicable and shall remain in full force and effect.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 36 months from its initiation date (as defined in Montgomery County Code Section 50-35(h), and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; and

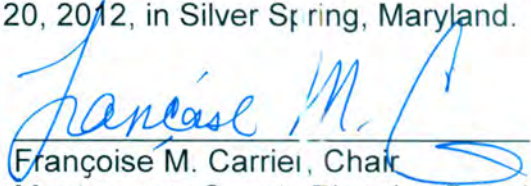
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is SEP 26 2012 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that 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 Dreyfuss, seconded by Commissioner Presley, with Vice Chair Wells-Harley and Commissioners Dreyfuss and Presley voting in favor, and Chair Carrier, and Commissioner Anderson absent, at its regular meeting held on Thursday, September 20, 2012, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board

MR. RICHARD BRUSH, MANAGER
MCDPS-WATER RES. PLAN REVIEW
255 ROCKVILLE PIKE
2ND FLOOR
ROCKVILLE, MD 20850

MR. GREG LECK
MCDOT
100 EDISON PARK DRIVE
4TH FLOOR
GIATHERSBURG, MD 20878

ATTACHMENT 1
MR. RICIA CRIVELLO, MANAGER
MCDPS-SEDIMENT/STORMWATER
INSPECTION & ENFORCEMENT
255 ROCKVILLE PIKE
2ND FLOOR
ROCKVILLE, MD 20850

MS. LISA SCHWARTZ
DHCA
100 MARYLAND AVENUE
4TH FLOOR
ROCKVILLE, MD 20850

MR. ATIQ PANJSHIRI
MCDPS-RIGHT-OF-WAY
PERMITTING
255 ROCKVILLE PIKE
2ND FLOOR
ROCKVILLE, MD 20850

MR. ESHAN MOTAZEDI
MCDPS-SITE PLAN ENFORCEMENT
255 ROCKVILLE PIKE
2ND FLOOR
ROCKVILLE, MD 20850

MS. SUSAN SCALA-DEMBY
MCDPS-ZONING
255 ROCKVILLE PIKE
2ND FLOOR
ROCKVILLE, MD 20850

MS. CHRISTINA CONTRERAS
MCDPS-LAND DEVELOPMENT
255 ROCKVILLE PIKE
2ND FLOOR
ROCKVILLE, MD 20850

MR. GENE VON GUNTEN
MCDPS-WELL & SEPTIC
255 ROCKVILLE PIKE
2ND FLOOR
ROCKVILLE, MD 20-850

MR. CHRISTOPHER ANDERSON MPDU
MANAGER, DHCA
100 MARYLAND AVENUE
4TH FLOOR
ROCKVILLE, MD 20850

MR. ALAN SOUKUP
MCDDEP-WATER RESOURCE
PLANNING
255 ROCKVILLE PIKE
2ND FLOOR
ROCKVILLE, MD 20850

SM BOWIE MILL, LLC
CARLY SCHRADER
ENGINEERING MANAGER
11111 SUNSET HILLS ROAD
SUITE 200
RESTON, VA 20190

DEWBERRY & DAVIS, LLC
RON MIJAN
203 PERRY PARKWAY
SUITE 1
GAITHERSBURG, MD 20877

LINOWES & BLOCHER, LLC
SCOTT WALLACE
200 WISCONSIN AVENUE
8TH FLOOR
BETHESDA, MD 20814

ATTACHMENT 1

Preliminary Plan Limited Amendment 12006032A: Preserve at Rock Creek
 Item #10
 September 20, 2012
 Speaker Sign-up Sheet

No.	Name & Phone Number	Email	Organization & Address
1	Carly Schrader Applicant		Stanley Martin Homes 11111 Sunset Hills Road Reston, VA 20190
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			TOTAL



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

JUN -6 2007

MCPB No. 07-62
Preliminary Plan No. 120060320
Bowie Mill Estates
Date of Hearing: January 11, 2007

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION¹

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on September 7, 2005, Oxbridge Development at Bowie Mill ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 186 lots on 467.84 acres of land located on the northeast side of Muncaster Mill Road opposite the intersection with Needwood Road ("Property" or "Subject Property"), in the Upper Rock Creek Master Plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120060320, Bowie Mill Estates ("Preliminary Plan" or "Application"); and

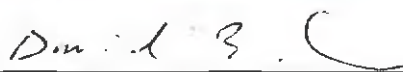
WHEREAS, Staff issued a memorandum to the Planning Board, dated December 29, 2006, setting forth its analysis and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staffs of other governmental agencies, on January 11, 2007, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

¹ This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

Approved as to
Legal Sufficiency:


M-NCPPC Legal Department

MCPB No. 07-62
Preliminary Plan No. 120060320
Bowie Mill Estates
Page 2

WHEREAS, on January 11, 2007, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Bryant; seconded by Commissioner Wellington; with a vote of 5-0, Chairman Hanson and Commissioners Bryant, Perdue, Robinson and Wellington voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120060320 to create 186 lots on 467.84 acres of land located on the northeast side of Muncaster Mill Road opposite the intersection with Needwood Road ("Property" or "Subject Property"), in the Upper Rock Creek Master Plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 186 lots for 186 residential dwelling units, including a minimum of 15% moderately priced dwelling units (MPDUs).
- 2) No clearing, grading, or recording of plats prior to site plan approval.
- 3) Final approval of the number and location of buildings, dwelling units, MPDUs, on-site parking, sidewalks, and bikepaths will be determined at site plan.
- 4) Parcels A and B, Block O, and Parcels D and F, Block N shall be recorded as either public or private rural open space. If these parcels are recorded as private rural open space, the Applicant shall grant a rural open space easement and a public use easement over the entire property to the benefit of M-NCPPC. If these parcels are recorded as public rural open space, they will be subject to a covenant in accordance with the requirements of the zoning ordinance at the time of record plat. The determination of whether the parcels shall be held privately or publicly shall be made by the Planning Board as part of site plan review. The parcels shall include all streams, wetlands and buffers, and sufficient area outside the buffers to allow environmentally appropriate construction of the master planned hard surface trail. The parcels shall not include stormwater management ponds or facilities. Parcel A to include all land west of proposed Lot 1 and east of Bowie Mill Local Park, and to include road frontage on proposed Street C and the 8' wide hard surface connector trail to be constructed from Street C through the rural open space.
- 5) Applicant to construct the master planned 8' wide, hard surface trail from the northeast corner of the property in Parcel D to the northeast corner of Parcel F. Trail to include all necessary bridges and boardwalk as determined to be necessary by M-NCPPC staff. Alignment to be as agreed and approximately as set forth on the Preliminary Plan as revised on October 13, 2006. Final details regarding grading and alignment and design of the trail, and timing for construction of the trail, to be determined by time of site plan and to be acceptable to M-NCPPC staff.

- 6) Applicant to construct sufficient hard surface connector trails, and loop natural surface trails, for access by the community to the master planned hard surface trail. Trail locations and details to be determined by time of site plan and be acceptable to M-NCPPC staff.
- 7) Trails to be constructed to park standards and specifications, and adequate trail signage to be provided by Applicant. Design and location of signage to be coordinated between Applicant and M-NCPPC staff.
- 8) Compliance with the conditions of approval for the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits, as applicable. Conditions include:
 - a. Applicant to construct a split rail fence along all lots that back or side a reforestation area.
 - b. Applicant shall develop and implement a non-native and invasive management plan for the newly planted areas within proposed Parcels A and B, Block O, and Parcels D and F, Block N. The management plan must include supplemental planting and run concurrently with the forest planting maintenance and management agreement.
 - c. Applicant to plant the afforestation area with a combination of ¾ to 1 inch caliper and 1 ½ to 2 inch caliper stock.
 - d. Applicant to plant all unforested stream buffers and place a Category I conservation easement on all retained and planted forested areas.
 - e. Applicant to begin reforestation of unforested stream buffers in the first planting season after issuance of the first sediment control permit in accordance with staff approved phasing of the planting plan.
- 9) Imperviousness for the 439-acre net tract not to exceed 8 percent of the gross tract area.
- 10) Applicant to enter into an agreement with M-NCPPC for the purpose of withholding building permits for nineteen (19) single-family detached residential lots to ensure compliance with the impervious limitations. The 19 lots shall be graphically denoted on the certified site plan. A note shall be placed on the record plat restricting issuance of building permits for the 19 lots pending approval from M-NCPPC Environmental Planning. Building permits for the 19 lots to be released one at a time.
- 11) The certified site plan shall denote the order of the last 5 lots to be released.
- 12) Applicant to place impervious coverage limitations and information pertaining to the agreement noted in Condition #10 above, on the record plat.
- 13) All driveways must be designed as double car width at the public right-of-way. M-NCPPC Environmental Planning Staff on a case-by-case basis may approve alternative driveway design provided any additional impervious surface is accounted for as part of the overall impervious limit.

- 14) The developer/builder must submit an impervious surface report to M-NCPPC Environmental Planning staff prior to issuance of the 100th, 140th, 160th, and 171st building permits. The applicant must submit an impervious report for each of the remaining building permits after the 171st building permit. The impervious reports must include: surveyed 'as-built' drawings which include dimensions for buildings, driveways, sidewalks, leadwalks, porches, patios, chimneys, welled exits, rear exits and any building feature that is two feet or less from the ground. M-NCPPC staff must review the information prior to the release of the next building permit.
- 15) If at any time the impervious area limit is reached before building permits for all approved lots have been issued, the lots for which building permits have not been issued must be re-recorded as non-impervious, Homeowners Association open space parcels. All pending use and occupancy permits shall be held until such time that the open space plats are recorded.
- 16) Upon recordation of the plat, applicant shall record in the land records a disclosure of the imperviousness limits and monitoring requirements to subsequent homebuyers. This disclosure shall be reviewed and approved by Commission legal staff before recordation.
- 17) Prior to approval of the certified site plan, the applicant must revise the submitted noise analysis to take into consideration the final grades for the ICC that were not previously known when the noise analysis was completed.
- 18) Applicant to replace the proposed board-on-board noise fence with an earthen landscape noise berm wherever possible. Locations to be determined as part of the site plan review.
- 19) Prior to release of the first building permit for the subdivision, the following items must be met:
 - a. There shall be certification from an acoustical engineer that the building shell for residential dwelling units are designed to attenuate projected exterior noise levels to an interior level of no more than 45 dBA, Ldn. Any subsequent changes in building shell materials or coverage that may affect acoustical performance shall be approved by an acoustical engineer prior to implementation.
 - b. The builder shall, in writing, commit to construct the residential units in accordance with the acoustical specifications identified by the acoustical engineer.
- 20) Conformance to the conditions as stated in the MCDPS letter dated November 21, 2006 approving the elements of the SPA water quality plan under its purview.
- 21) Compliance with the conditions of the MCDPS stormwater management approval dated November 21, 2006.
- 22) The Applicant shall revise the preliminary plan drawing to remove any realignment of existing Bowie Mill Road.

- 23) The applicant shall satisfy Local Area Transportation Review as follows:
- a. If full funding for constructing the Intercounty County Connector (ICC) between Georgia Avenue (MD 97) and I-370 (known as Contract A) is not approved in the Maryland State Highway Administration (SHA) Consolidated Transportation Program (CTP) prior the release of 50th building permit, the Applicant shall construct a separate right-turn lane on the Needwood Road approach to the intersection of Muncaster Mill Road (MD 115) opposite the Casey House-Montgomery Hospice driveway.

To construct this right-turn lane, a good faith effort shall be made to acquire the necessary additional right-of-way and easements in the south quadrant of the Needwood Road/Muncaster Mill intersection from the landowner of Parcel 927. The applicant shall deal directly and openly with the landowner to ensure full disclosure of the possible impacts to the remainder of the Parcel 927. The County will assist as necessary to obtain the additional right-of-way and easements if the applicant takes the required steps below:

- i. Furnish an appraisal for the necessary right-of-way provided by a County approved appraiser.
 - ii. Make a minimum of three written offers to the landowner at or above the appraised value that are documented by certified mail.
 - iii. If the applicant fails to come to an agreement with the landowner, the applicant can request County assistance in acquiring the necessary right-of-way and easements using the methods not available to private developers.
 - iv. Sign an agreement of understanding with the County specifying that the Applicant shall pay all of the County's costs to acquire the right-of-way.
- b. If the ICC Contract A is fully funded for construction in SHA CTP prior to release of the 50th building permit, the applicant shall provide other transportation improvements that would account for an equal expenditure of funds (i.e., the Applicant will spend an estimated \$188,000, which is the equivalent amount of funding in 2006 dollars required to acquire the right-of-way and construct the right-turn lane on Needwood Road). The funds will be used by the Applicant to provide one or more of the following transportation improvements, in the priority order given below, until the funds are fully spent:
- i. Construct a second northwest-bound approach lane on Muncaster Mill Road at the intersection with Needwood Road to provide a separate left-turn lane as part of the Montgomery

MCPB No. 07-62
 Preliminary Plan No. 120060320
 Bowie Mill Estates
 Page 6

- County Public School's access improvement project for Colonel Zadok Magruder High School.
- ii. Construct a 6-foot-wide sidewalk along Muncaster Mill Road between Colonel Zadok Magruder High School and Needwood Road to improve the safety of high school students and other pedestrians walking in this area.
- iii. Construct a shared use path (or portion thereof) along Needwood Road. This shared use path shall run along the south side of Needwood Road from Beach Drive to a point across from Oak Meadow Drive for a length of approximately 4,500 feet within a publicly controlled right-of-way.
- iv. Contribute to an identified and approved DPWT bikeway project that is fully funded for construction in DPWT Consolidated Improvements Program (CIP) Program No. 507596, Annual Bikeway Program or another CIP Bikeway Project.

This condition shall be satisfied prior to release of the 100th building permit.

- 24) The applicant shall dedicate the master-planned minimum right-of-way of 300 feet for the Intercounty Connector alignment through the property as the easement/dedication lines are modified by the following plans:
 - a. SHA's July 13, 2006, plans for ICC Contract A Request for Proposals.
 - b. SHA's letter dated May 12, 2006, with an attached plan sealed and signed on September 6, 2005 showing the limits of right-of-way dedication for the ICC.
- 25) The Applicant shall revise the preliminary plan drawing to reflect the ICC dedication as specified in Condition #24, above.
- 26) Applicant shall provide four-foot wide concrete sidewalks on one or both sides of the public residential streets as shown on the preliminary plan.
- 27) Access and improvements as required to be approved by MCDPWT prior to recordation of plat(s) and MDSHA prior to issuance of access permits.
- 28) The environmental setting of the J.H. Cashell historic site is reduced to include proposed Lot 1, which is 5.01 acres in size. Lot 1 includes the historic house, the stone tenant house, the proposed location for the barn that is to be relocated, and a number of significant trees to the front and sides of the historic house. This new environmental setting will be clearly identified on the final plan and the record plat.
- 29) A viewshed to the historic site, as identified on the Preliminary Plan, will be preserved and will be identified on the record plat as a protected area. No building will be allowed on the land located within the identified viewshed. Any new plantings, tree removal, or fences within the viewshed

- will require approval by M-NCPPC Historic Preservation Section staff. The historic viewshed contemplated herein shall be limited to the portion of the proposed subdivision that is forward of the house (i.e. between Muncaster Mill Road and the Historic House).
- 30) The Applicant will relocate one historic barn (identified on the Preliminary Plan) onto Lot 1. The owner will obtain a Historic Area Work Permit from the Historic Preservation Commission for relocation of the structure.
 - 31) The Applicant will relocate the existing stone pillars (identified on the Preliminary Plan) and position them at the driveway entrance to the historic house on Lot 1.
 - 32) The Applicant will come back to the Historic Preservation Commission within six months from the date of Preliminary Plan approval with a study of the structural issues associated with the historic house and with a plan for stabilization of all historic structures to be preserved.
 - 33) The Applicant will have substantially completed the rehabilitation of the historic house on the site by the time that the 60th occupancy permit is issued for the overall project.
 - 34) Any tree proposed for removal that is located within the environmental setting and that is 6" DBH or greater will require review and approval through the Historic Preservation Commission's Historic Area Work Permit process.
 - 35) Any proposed construction, alterations of existing structures, or grading within the environmental setting will require review and approval through the Historic Preservation Commission's Historic Area Work Permit process.
 - 36) Record plat to reflect delineation of all areas included in rural open space and shall note the Liber and Folio of any easement agreement or covenant over the rural open space required at the time of record plat by the zoning ordinance.
 - 37) The record plat shall have the following note: "The land contained hereon is within an approved cluster development and subdivision or resubdivision is not permitted."
 - 38) The record plat shall reflect delineation of a Category I Conservation Easement over all areas of stream buffer and forest conservation, except those located within any park dedication.
 - 39) Record Plat to reflect all areas under Homeowners Association ownership and specifically designate stormwater management parcels.
 - 40) Record plat to reflect common ingress/egress and utility easements over all shared driveways.
 - 41) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board Opinion.
 - 42) Other necessary easements shall be shown on the record plat.

- 43) The Applicant shall comply with the conditions of approval of the MCDPWT letter dated March 22, 2006, as modified by letter of December 26, 2006, unless amended by MCDPWT.
- 44) The applicant shall dedicate all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan unless otherwise designated on the preliminary plan.
- 45) The applicant shall construct all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the preliminary plan, "To Be Constructed By _____" are excluded from this condition.
- 46) The Applicant shall enter into an agreement with Stephen and Elizabeth Benedek, owners of Camp Olympia, to convey a portion of land within Parcel B to the Benedeks. This agreement shall include an automatic conveyance to the recipient of the balance of Parcel B in accordance with the site plan approval and the conditions of such conveyance upon the earliest of the following events:
- a. The time that Camp Olympia ceases to use the property as part of its operations as a commercial riding stable and summer day camp or ceases to operate altogether as a commercial riding stable and summer camp.
 - b. Forty years after the date of the deed.
 - c. At the time that all or part of the property is sold or conveyed by Benedek, other than any transfer or distribution pursuant to the terms of a Last Will or Testament provided the property continues to operate as Camp Olympia.
 - d. If the Special Exception Amendment for the Camp Olympia operation is not approved, exclusive of appeal periods, within two years of the effective date of the settlement for the adverse possession claim (December 20, 2008).
- This agreement shall be referenced on the record plat.
- 47) Applicant to construct sufficient hard surface pedestrian connections to, and provide sufficient landscape buffering for, adjacent Sequoyah Elementary School and Magruder High School. Trails and details to be determined by time of site plan and be acceptable to M-NCPPC and MCPS staff.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the master plan.*

The Upper Rock Creek Master Plan made specific recommendations for this property, noted in the Plan as the Dungan and Casey properties for its owners at the time. The recommendations are accompanied by guidelines that were designed to be applied to the development of this property. The Master Plan's primary recommendation was that development on the Casey property be combined with that on the adjacent Dungan property, that all houses be built on the Casey property and that the Dungan property be retained in its entirety as open space. The Board finds that proposed preliminary plan adheres to this recommendation.

The Master Plan recommended a density of 0.33 units to the acre for the properties. As drafts of the Plan moved through the review process, separate policy discussions on the appropriateness of expanding the Moderately Priced Dwelling Unit program to the Rural Neighborhood Cluster and other "large-lot" zones also were underway. The Plan acknowledged these discussions—and the possibility of an ultimate decision to expand the MPDU program—by setting out an allowable density of 0.4 units to the acre if MPDUs were required as part of the property's development. The Council decided in 2005 to expand the MPDU program to the large lot zones and MPDUs therefore are required as part of this preliminary plan. The 186 units proposed as part of this preliminary plan represent a density of 0.4 units to the acre, as recommended in the Master Plan. Fifteen percent of those units—28 in total—are MPDUs. The Board finds that the preliminary plan conforms to the density recommended in the Master Plan, including MPDUs.

In addition to its recommendation for development density, the Master Plan listed the following guidelines for development:

"Cluster development in two areas—between the schools and away from the valley of the northern unnamed tributary, and, in the southern part of the property, between Magruder High School and the ICC right-of-way;"

The Board finds that the proposed subdivision clusters development between the schools and away from stream valley areas as envisioned in the master plan. The plan includes two residential clusters: one located south of Magruder High School and north of the ICC right-of-way; and one north of the high school in an area between Magruder, Sequoyah Elementary School, and Bowie Mill Road. The plan includes almost 293 acres, or 67 percent of the approximately 440 acres of usable land, as designated public or private rural open space. The open space includes the stream valley along the North Branch of Rock Creek, and all land south of the ICC.

“Enhance compatibility by maintaining areas adjacent to existing communities as rural open space or developing those areas with lots of similar size to those in the adjoining neighborhood;”

The northern portion of the Casey property adjoins an existing residential neighborhood along Foggy Lane. Seven properties directly abut the Casey property, and they range in size from two to nine acres. The proposed plan locates nine properties along the shared property line. The smallest of the nine is approximately 1.5 acres and the largest is 2.85 acres. The Board finds that the relationship between existing and proposed lots along this property line will be appropriate based on the similarities in lot sizes and numbers.

“Provide substantial variation in lots sizes, as required by the RNC Zone development standards; cluster neighborhoods should offer the broadest possible range of lot sizes.”

Sixty-one percent of the proposed lots are less than half an acre in size, and forty percent are between 15,000 and 20,000 square feet in size. The plan includes some significantly smaller MPDU lots at one end of the lot size spectrum, and some lots—about 12 percent of the total—that would range from three quarters of an acre to about five acres in size. The plan avoids “cookie-cutter” lots in favor of a range of lot sizes that include some relatively small and relative large lots at either end of the spectrum, with most lots lying in the middle. The Planning Board finds that the subdivision provides substantial variation in lot sizes as anticipated by the Master Plan.

“Size and locate lots to ensure compatibility with existing development and preservation of rural views;”

“Preserve existing views from Bowie Mill and Muncaster Mill roads by locating large lots, conservation lots or open space with a significant and varied landscape along the roads;”

The proposed plan preserves views from both Bowie Mill Road and Muncaster Mill Road by separating proposed lots from the roadways with open spaces that are between 75-300 feet wide. Portions of the wider buffers contain stormwater management areas, but at least 75-feet of open space is provided between the road and the stormwater facilities. Along Bowie Mill Road views are further protected by existing grade differences and proposed landscaping. The buffering along Muncaster Mill Road is not enhanced by existing topography, but dense landscaping is proposed. The Board finds the proposed open spaces along the roadways to be adequate pending final review as part of the required site plan.

“Concentrate rural open space in the eastern part of the property that drains to the North Branch, dedicate appropriate portions of this area to parkland and include in this contiguous open space a “loop” trail that connects to the proposed North Branch trail corridor in this area;”

The plan includes the eastern portion of the property in rural open space, which includes two unnamed tributaries of North Branch and their stream valleys. As delineated on the preliminary plan, the North Branch trail corridor is close enough to the edge of the proposed community to eliminate the need for the loop trail system envisioned by the Master Plan. The proposed plan shows shorter connecting trails from each cluster community as well as from Sequoyah Elementary School to create the loop recommended in the master plan. The Board finds that the proposed plan provides a concentration of open space adjacent to the North Branch stream valley that includes the master planned trail corridor, and appropriate interconnecting trails to the proposed community.

“Incorporate open space into the clustered community to enhance the undeveloped nature of contiguous open space while providing residents with nearby recreation;”

Several community open space areas are incorporated into the preliminary plan, including three active play areas and one green space for passive use. These open space areas are located prominently along community streets in locations, which maximize their view from entrances into the community. The environmental setting of the historic house on the property, while privately owned, also provides open space views for residents of the southern cluster community. The Board finds the preliminary plan incorporates open spaces that will provide recreation opportunities for the community. Further review of the location and adequacy of these areas will be done as part of the site plan.

“Require dedication to parkland of areas needed for access to trails in the North Branch Stream Valley Park and for expansion of Bowie Mill Local Park.”

The Board finds that expansion of Bowie Mill Local Park will be accommodated through the proposed dedication of approximately three acres of land adjacent to Sequoyah Elementary School and Bowie Mill Local Park. As noted above, the Board further finds that the design of the North Branch trail corridor locates the trail relatively near residential clusters, and appropriate connecting trails have been provided.

- 2. Public facilities will be adequate to support and service the area of the proposed subdivision.*

MCPB No. 07-62
Preliminary Plan No. 120060320
Bowie Mill Estates
Page 12

Proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed public improvements. The proposed vehicular access points are from Muncaster Mill Road and Bowie Mill Road. Ride-On route 53 operates along the entire length of Bowie Mill Road and along Muncaster Mill Road as far south as Colonel Zadok Magruder High School. Pedestrian connections are proposed within this residential development and to the adjoining Colonel Zadok Magruder High School and Sequoyah Elementary School.

The proposed subdivision will generate 136 morning peak-hour and 174 evening peak-hour trips. A traffic study was required to satisfy Local Area Transportation Review (LATR) because the proposed residential development generates 30 or more total peak-hour trips during the weekday morning and evening peak hours. Based on the traffic study, one intersection, at Muncaster Mill Road and Needwood road, will have Critical Lane Volumes (CLVs) that exceed the congestion standard of 1,400 CLV established for the Rural Policy Areas. The intersection capacity will be increased by constructing the separate right-turn lane on the Needwood Road approach that results in reducing the CLV below the 1,400 standard. Therefore, the Planning Board finds that public facilities will be adequate to support and service the area of the proposed subdivision.

If the ICC is fully funded for construction between Georgia Avenue and I-370, the through peak-hour trips along Muncaster Mill Road would have an alternative travel route. The ICC Travel Analysis, Technical Report, dated November 2004, quantitatively analyzed the projected traffic changes on the existing roadway network if the ICC was constructed. The average daily traffic (ADT) along Muncaster Mill Road was projected to decrease by at least 10% with the ICC being an alternative travel route. In addition, the traffic study projected approximately 1,000 peak-hour trips approaching from each direction along Muncaster Mill Road at the intersection with Needwood Road. Thus with ICC construction funding, approximately 100 (i.e., 10% of 1,000) through, peak-hour trips could be diverted from this intersection. A reduction of approximately 100 peak-hour trips would be sufficient to satisfy Local Area Transportation Review. Based on this analysis, the Planning Board further finds that if the referenced section of the ICC is fully funded prior to 50th building permit being issued for the development, the Applicant should contribute the funds that would have been spent on a right-turn lane on northbound Needwood Lane, to other roadway improvements as outlined in the Planning Board's conditions of approval.

- 3. The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

MCPB No. _____ 07-62
Preliminary Plan No. 120060320
Bowie Mill Estates
Page 13

Based on the evidence of record, the Planning Board finds that the size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision and that the application meets all other applicable sections of the Subdivision Regulations. The lots also meet the requirements for the RNC zone as specified in the Zoning Ordinance. And, as proposed, the lots meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The application was reviewed by other applicable county agencies, all of whom recommended approval of the plan.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

Since this application is utilizing an RNC-MPDU optional method of development, the preliminary forest conservation plan preserves existing forested areas in compliance with the minimum onsite forest retention requirements of Section 22A-12(f), in addition to other standard requirements of the Forest Conservation Law. The plan also includes planting of more than 25 acres of unforested stream buffers. The Planning Board has placed a condition of approval requiring the construction of a split rail fence at the rear of lots backing to planting areas. This is to both protect the forest plantings from homeowner encroachment, and also to clearly delineate the Category I Forest Conservation Easements and rural open space areas.

The Environmental Guidelines require accelerated reforestation of stream valley buffers for this property, and the Planning Board has placed a condition requiring planting to occur during the first planting season after issuance of the first sediment control permit. A five-year maintenance period is required for all forest plantings in Special Protection Areas per the Environmental Guidelines.

Throughout the NRI/FSD review process and subsequent site visits by Environmental Planning and Natural Resource staff numerous invasive and exotic species were found in the stream buffers, existing forests and especially on the Dungan property. Therefore, the Planning Board has placed an additional conditional of approval requiring the applicant to develop and implement an invasive and exotic management control program to run concurrently with the required maintenance and management agreement. The management control program must include supplemental planting. By developing and implementing an invasive management plan, newly planted trees will have a better chance of survival and should begin to shade out the competing vegetation. An invasive management program is necessary to prevent the entire area designated for reforestation and Park dedication from becoming overwhelmed with invasive material.

5. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

The MCDPS Stormwater Management Section approved the stormwater management concept for the project on November 21, 2006, which includes a system of linked best management practices (BMPs). Channel protection measures for this site will be provided via extended detention dry ponds. Quality control will be provided via a combination of structural and non-structural measures that include dry wells, surface sand filters, bio-filters, dry swales and grassed channels.

6. *The Application satisfies environmental guidelines, forest conservation and site imperviousness requirements for Special Protection Areas (SPAs).*

Water quality plans are required as part of the Special Protection Area regulations. 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 has reviewed and conditionally approved the elements of the final water quality plan under their purview. The Planning Board finds that the environmental guidelines for special protection areas, forest conservation requirements, and site imperviousness requirements are satisfied.

The environmental guidelines for SPAs require examination of many tools to maximize achievement of site performance goals. In this instance, the protection of environmentally sensitive areas with naturalized buffers is required. The natural resource inventory for the Casey-Dungan properties identified environmental buffers including, wetlands and wetland buffers, floodplains, and streams and stream valley buffers. The application proposes a few encroachments into the environmental buffers. The encroachments include hard surface paths, stormwater management outfalls, and two stormwater management facilities.

In the case of the hard surface path, the Board finds that the amount of encroachment into the buffers is acceptable because the total encroachment has been minimized, the trail is pulled as far as possible from the stream and wetlands, and the encroachment will not result in any forest removal. The Planning Board also finds that buffer encroachment for certain stormwater management outfalls is acceptable because it facilitates necessary design features that will prevent the stormwater discharges from being erosive. Finally, the Planning Board finds that the location of certain stormwater management

MCPB No. _____ 07-62
Preliminary Plan No. 120060320
Bowie Mill Estates
Page 15

facilities within the environmental buffer to treat runoff associated with the hard surface trail and a roadway, are acceptable. The Board finds that the facilities are necessary to control water quality and that the total area of encroachment for these facilities has been minimized.

To meet the SPA forest conservation requirements, the Board finds that the preliminary forest conservation plan is inadequate because it does not include reforestation of all unforested stream buffer areas. Therefore, the Board finds that the final forest conservation plan must be revised to include this reforestation. The one exception to this requirement is a section of unforested buffer that the applicant will use for wetland mitigation. The Board finds that all environmental buffer areas must either be dedicated as part of parkland, or placed in conservation easements to ensure their protection.

The Upper Rock Creek SPA has an 8 percent impervious limitation. The proposed development creates approximately 35 acres, or 8 percent of the gross tract area, of new impervious surfaces. This imperviousness is associated with internal streets, sidewalks, driveways, building footprints, parking areas, and the hard surface trail. The Planning Board finds that the development satisfies the SPA impervious surface requirements.

7. *The proposed over length cul-de-sac is appropriate for this subdivision.*

The roadway design for the property includes the creation of a 2,400 foot long cul-de-sac along the northern property boundary. Per Section 50-26(d) of the Montgomery County Code, a cul-de-sac road should be no longer than 500 feet unless a greater length is justified by reason of property shape, size, topography, large lot size, or improved street alignment. It is the Planning Board's finding that the proposed cul-de-sac is justified because of the presence of a stream valley buffer and associated topography which eliminates the possibility of looping the road around without environmental damage. The surrounding properties are recorded lots or stream valley park, and also do not provide an opportunity to connect the roadway. Therefore, the Planning Board finds the design of the road as an over length cul-de-sac is acceptable.

8. *Notice of this application and hearing was adequate.*

An issue was raised at the Hearing concerning the noticing of the subject application. The Planning Board finds, based on the evidence of record, that notice of the subject application and hearing was adequate and in accordance with the Planning Board's rules.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-

MCPB No. 07-62
Preliminary Plan No. 120060320
Bowie Mill Estates
Page 16

35(h), as amended) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that the date of this Resolution is JUN -6 2007 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

At its regular meeting, held on Thursday, May 17, 2007, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission ADOPTED the above Resolution, on motion of Commissioner Robinson, seconded by Commissioner Bryant, with Commissioners Hanson, Perdue, Bryant, Robinson and Wellington present and voting in favor. This Resolution constitutes the final decision of the Planning Board, and memorializes the Board's findings of fact and conclusions of law for Preliminary Plan No. 120060320, Bowie Mill Estates



Royce Hanson, Chairman
Montgomery County Planning Board

Thomas F. & Kathleen Specht
17225 Beauvoir Boulevard
Derwood, MD 20855

Benjamin P. Chu & Betty Yang
6000 Willow Hill Lane
Rockville, MD 20855

John Koutsos, Et Al
6001 Willow Hill Lane
Rockville, MD 20855

Steven Friedman
2000 L St. NW, Suite 675
Washington, DC 20036-4900

Board of Education
850 Hungerford Drive
Rockville, MD 20850

Maryland National Capitol Park
& Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910

Stephen & E. Benedek
5511 Muncaster Mill Road
Rockville, MD 20855

State of Maryland
580 Taylor Avenue
Tawes Building
Annapolis, MD 21401

National Korean United
Methodist Church
2181 Baltimore Road
Rockville, MD 20851

Ronald S. & S.F. Salameh
5510 Muncaster Mill Road
Rockville, MD 20855

Venna J. Alfred, Trust
5520 Muncaster Mill Road
Rockville, MD 20855

James J. & Beverly A. Haggerty
5617 Lake Christopher Drive
Rockville, MD 20855

Michael R. & F.T. McGlaughlin
5540 Muncaster Mill Road
Rockville, MD 20855

Luis A. Terry
5841 Muncaster Mill Road
Rockville, MD 20855

Jerry B. & J.D. Wills
5650 Muncaster Mill Road
Rockville, MD 20855

Sophin & Savdy Y. Keng
5700 Avery Park Drive
Rockville, MD 20855

Ernst & M. Lutz
5701 Avery Park Drive
Rockville, MD 20855

Nadine Shahbaz
14081 Saddle River Drive
North Potomac, MD 20878

Malcolm M. & A.K. Lingwood
16230 Grist Mill Drive
Rockville, MD 20855

Vincent S. & Angela Kluth
5821 Muncaster Mill Road
Derwood, MD 20855

Beth Messiah Synagogue
c/o Michael Bryan
7714 Heritage Farm Drive
Gaithersburg, MD 20886

Trans Gas Pipe Line Corporation
c/o Ad Valorem Tax Dept.
P.O. Box 2400
Tulsa, OK 74102-2400

Rishi P. & A. Ohri
5936 Muncaster Mill Road
Derwood, MD 20855

Duane & J. Brewster
5940 Muncaster Mill Road
Derwood, MD 20855

Veena J. Alfred
5520 Muncaster Mill Road
Derwood, MD 20855

Bruce R. & C. M. Clark
5708 Foggy Lane
Rockville, MD 20855

Michael L. & B. L. Kirkland
5704 Foggy Lane
Rockville, MD 20855

Jonathan M. & S.J. Jacobs
5616 Foggy Lane
Rockville, MD 20855

John D. & C. A. Flickinger
5612 Foggy Lane
Olney, MD 20832

Charles A. & M. J. Mattes
5608 Foggy Lane
Rockville, MD 20855

Robert A. & J. M. Perry
5604 Foggy Lane
Rockville, MD 20855

Timothy & M. A. Cummins
5600 Foggy Lane
Derwood, MD 20855

Montgomery County EOB
101 Monroe Street
Rockville, MD 20850

Malcolm M. & A. K. Lingwood
16230 Grist Mill Drive
Rockville, MD 20855

Montgomery Hospices Society, Inc.
1450 Research Blvd., #310
Rockville, MD 20850

Montgomery Hospices Society, Inc.
1355 Piccard Drive, Suite 100
Rockville, MD 20850

Zide O. Anani
6000 Muncaster Mill Rd
Derwood MD 20855-1621

Pastor & E.R. Farinas
5550 Munaster Mill Road
Rockville MD 20855

Larry A. & M.M. Cartano,
5600 Muncaster Mill RD
Rockville MD 20855-1827

Kerry L. Allen
16109 Avery Rd
Derwood MD 20855-1700

Despina Doulaveris
16110 Avery Rd
Rockville, MD 20855

Richard A.Tate
5800 Muncaster Mill Rd
Rockville, MD 20855-1732

Mona Jean Combs
5820 Muncaster Mill Rd.
Rockville MD 20855-1732

Francois T. & M. B. Wurah,
5840 Muncaster Mill Rd
Rockville, MD 20855-1732

K. R. & J. Valluripalli
5705 Avery Park Dr.
Rockville MD 20855-1739

N J Graham Yoou
5825 Rolling Dr.
Derwood MD 20855-2407

Harry E. & C.L. Shipe
5912 Muncaster Mill Rd
Rockville, MD 20855-1734

Jonathan N. & D.J. Jackson
5918 Muncaster Mill Rd
Derwood MD 20855-1734

Raymundo & M. Flores
5924 Muncaster Mill Rd.
Derwood MD 20855-1734

Regis E. & R. H. E. Finn
5930 Muncaster Mill Rd
Derwood, MD 20855

Rishi P. & A. Ohri
5936 Muncaster Mill Rd
Derwood MD 20855

Veena J. Alfred
5520 Muncaster Mill Rd.
Derwood MD 20855-1825

Erika Velasquez
6004 Muncaster Mill Rd.
Derwood MD 20855-1621

Mr. & Mrs. Tober
12532 Fostoria Way
Darnestown, MD 20878

Rapeeporn Agkaraungkul
6008 Muncaster Mill Rd.
Rockville MD 20855-1621

Carlos A. & Josiane C. Goncalves
6010 Muncaster Mill Rd.
Rockville MD 20855-1621

Duncan Mcvey
6016 Muncaster Mill Rd.
Derwood MD 20855-1621

Tawoos Kazerouni
6100 Muncaster Mill Rd.
Derwood MD 20855

Raymond E. Dungan, Et Al
2120 L Street, NW
Suite 800
Washington, DC 20037

M-NCP & PC
Attn: Angela P. Brown
8787 Georgia Avenue
Silver Spring, Md. 20910-3716



Applicant Mailing List
Bowie Mill Estates (1-06032)

Dewberry & Davis, LLC
203 Perry Pkwy, #1
Gaithersburg, MD 20877

Oxbridge Dev. Bowie Mill, L.C.
600 Jefferson Plaza, #550
Rockville, MD 20852

Linowes & Blocher, LLP
7200 Wisconsin Ave., #800
Bethesda, MD 20814

Mr. & Mrs. Tober
12532 Fostoria Way
Darnestown, MD 20878

*Change of Address
of
Citizen*

AVERY® 5160® 



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

MCPB No. 07-109
Site Plan No. 820060110
The Preserve at Rock Creek (Formerly Bowie Mill Estates)
Dates of Hearing: May 24, 2007, and June 28, 2007

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review site plan applications; and

WHEREAS, on September 7, 2005, Oxbridge Development at Bowie Mill, LLC, ("Applicant") filed an application for approval of a site plan for 158 one-family detached and 28 one-family attached residential units, including a minimum of 15% (28) Moderately Priced Dwelling Units (MPDUs) ("Site Plan" or "Plan") on 438.2 acres of RNC-zoned land, located at the east side of the intersection of Muncaster Mill and Bowie Mill Roads ("Property" or "Subject Property"); and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820060110, The Preserve at Rock Creek (formerly Bowie Mill Estates); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated April 27, 2007 and revised June 18, 2007, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staffs of other governmental agencies, on May 24, 2007, and June 28, 2007, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, on May 24, 2007, and June 28, 2007, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

APPROVED AS TO LEGAL SUFFICIENCY

[Signature] 230 Aug 07
MNCPPC LEGAL DEPARTMENT

MCPB No. 07-109
Site Plan No. 820060110
The Preserve at Rock Creek (Formerly Bowie Mill Estates)
Page 2

WHEREAS, on June 28, 2007, the Planning Board approved the Application subject to conditions on the motion of Commissioner Wellington, seconded by Commissioner Robinson, with a vote of 3-0, with Commissioners Hanson, Robinson, and Wellington voting in favor and Commissioners Bryant and Perdue absent.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board APPROVES Site Plan No. 820060110 for 158 one-family detached and 28 one-family attached residential units, including a minimum of 15% (28) Moderately Priced Dwelling Units (MPDUs), on 438.2 gross acres in the RNC Zone, subject to the following conditions:

1) Preliminary Plan Conformance

The proposed development shall comply with the conditions of approval for Preliminary Plan 120060320, approved by the Planning Board on January 11, 2007;

2) Site Plan

The orientation of the front of each building shall match that shown on the approved site plan;

3) Landscaping

Provide additional screening from Muncaster Mill Road for units backing on to that road. The screening shall consist of a mix of evergreen and deciduous trees and perennial shrubs to complement the rural character of the existing landscape buffers in the area;

4) Recreation Facilities

- a) Ensure that all play equipment is certified by the National Playground Safety Institute and in conformance with M-NCPPC Recreation Guidelines;
- b) Recreation facilities shall consist of paved and unpaved walking trails, open play areas, playgrounds, and seating and picnic areas, as shown on the Site Plan;

5) Rural Open Space

- a) The applicant will dedicate Parcels D, F, and G, Block N, and Parcels A and B, Block O, to M-NCPPC as rural open space. If provided for in accordance with the provisions of the Zoning Ordinance at the time of record plat, M-NCPPC will preserve these Parcels in perpetuity as rural open space by application of a covenant in a recordable form approved by the Planning Board within 30 days of dedication to M-NCPPC by the Applicant;

MCPB No. 07-109

Site Plan No. 820060110

The Preserve at Rock Creek (Formerly Bowie Mill Estates)

Page 3

- b) The applicant will dedicate Parcel A, Block A, Parcel A, Block E, Parcels B and G, Block F, and Parcels A and C, Block M, to the Home Owners' Association (HOA) as rural open space. Prior to record plat, the Applicant will grant an easement to M-NCPPC, in a recordable form approved by the Planning Board, preserving these Parcels in perpetuity as rural open space;
- c) The applicant shall provide landscaping on Parcel A, Block M, to screen the residential units backing onto Bowie Mill Road;

6) Common Open Space

- a) The applicant will provide common open space, exclusive of all area counted as Rural Open Space, for common use by the residents of the neighborhood;
- b) The common open space shall include open play areas, "pocket parks" with play and seating areas, and linear open space adjacent to the Magruder High School athletic fields, as laid out on the Site Plan;

7) M-NCPPC Park Facility

The applicant shall comply with the following conditions of approval from M-NCPPC-Park Planning and Research Analysis in the memorandum dated April 5, 2007:

- a) Proposed Parcels D, F, and G, Block N, and Parcels A and B, Block O, to be dedicated to M-NCPPC as set forth on the Site Plan for use as parkland in accordance with the Upper Rock Creek Master Plan. Dedicated parcels to include all streams, wetlands and buffers, and sufficient area outside the buffers to allow environmentally appropriate construction of the required trails. Dedicated areas not to include stormwater management ponds or facilities. Parcel A to include all land west of proposed Lot 1 and east of Bowie Mill Local Park, and to include road frontage on proposed Street C and the 8-foot wide hard surface connector trail to be constructed from Street C through the dedicated parkland. Land is to be conveyed by the time of record plat for the project areas that include the dedicated parkland and adjacent roads and lots. Dedicated property shall be conveyed free of any trash and unnatural debris and park boundaries to be adequately staked and signed to delineate between parkland and private property;
- b) Applicant to engineer and construct the master planned 8-foot wide, hard surface trail from the northeast corner of the property in Parcel D, Block N, to the northeast corner of Parcel F, Block N. Trail to include all necessary bridges and boardwalk as determined by M-NCPPC staff. The alignment shall be approximately as set forth on the Site Plan. Final details regarding grading, alignment and construction specifications for the trail, and timing for

construction of the trail, to be determined by the time of the Certified Site Plan and to be acceptable to M-NCPPC staff;

- c) Applicant to engineer and construct sufficient hard surface connector trails, and loop natural surface trails, approximately as set forth on the Site Plan, for access by the community to the master planned hard surface trail. Final details regarding grading, alignment and construction specifications for the trails, and timing for construction of the trails, to be determined by the Certified Site Plan, and to be acceptable to M-NCPPC staff;
 - d) Trails to be constructed to park standards and specifications after obtaining appropriate park permits. Adequate trail signage to be provided by Applicant. Design and location of signage to be coordinated between Applicant and M-NCPPC staff;
- 8) Maintenance Responsibility
 The applicant or HOA shall be responsible for maintaining site recreation areas, internal pathways, and all other site plan features not conveyed to M-NCPPC;
- 9) Noise
- a) Prior to approval of the certified site plan, the applicant must revise the submitted noise analysis to take into consideration the final grades for the ICC that were not previously known when the noise analysis was completed;
 - b) Applicant to replace the proposed board-on-board noise fence with a landscaped earthen noise berm, the final dimensions of which shall be approved by Development Review and Environmental Planning staff, to be located within the HOA Parcel B and to extend along the eastern edge of the stormwater Parcel A immediately behind lots 3-5 on Block B. As necessary, this berm may include an additional wooden fence not taller than 6 feet above the top of the berm;
 - c) Prior to release of the first building permit for the subdivision, the following items must be met:
 - i) There shall be certification from an acoustical engineer that the building shell for residential dwelling units are designed to attenuate projected exterior noise levels to an interior level of no more than 45 dBA, Ldn. Any subsequent changes in building shell materials or coverage that may affect acoustical performance shall be approved by an acoustical engineer prior to implementation;
 - ii) The builder shall commit in writing to construct the residential units in accordance with the acoustical specifications identified by the acoustical engineer;

MCPB No. 07-109
Site Plan No. 820060110
The Preserve at Rock Creek (Formerly Bowie Mill Estates)
Page 5

10) Historic Preservation

Comply with the historic preservation requirements contained in the approved Preliminary Plan;

11) Impervious Surface Cap

The applicant shall meet the following conditions of approval from M-NCPPC-Environmental Planning in the memorandum dated March 29, 2007:

- a) Imperviousness for the 438.2-acre tract not to exceed 8 percent of the gross tract area, or 1,530,873 square feet;
- b) Applicant to enter into an agreement with M-NCPPC for the purpose of withholding building permits for nineteen (19) one-family detached residential lots to ensure compliance with the impervious limitations. The 19 lots shall be graphically denoted on the certified site plan. A note shall be placed on the record plat restricting issuance of building permits for the 19 lots pending approval from M-NCPPC Environmental Planning. Building permits for the 19 lots to be released one at a time, though not necessarily in the order listed. The 19 lots are: Block B, lots 16, 17, and 18; Block H, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16;
- c) The certified site plan shall denote the order of the last 5 lots to be released. The last five lots to be released are, in descending order: Block B, lot 16; Block B, lot 17; Block B, lot 18; Block H, lot 2; and Block H, lot 3;
- d) Applicant to place impervious coverage limitations and information pertaining to the above agreement on the record plat(s);
- e) All driveways must be designed as double car width at the public right-of-way. M-NCPPC Environmental Planning Staff, on a case-by-case basis, may approve alternative driveway designs provided any additional impervious surface is accounted for as part of the overall impervious limit;
- f) The developer/builder must submit an impervious surface report to M-NCPPC Environmental Planning staff prior to issuance of the 100th, 140th, 160th and 171st building permits. The applicant must submit an impervious report for each of the remaining building permits after the 171st building permit. The impervious reports must include: surveyed 'as-built' drawings which include dimensions for buildings, driveways, sidewalks, leadwalks, porches, patios, chimneys, welled exits, rear exits and any building feature that is two feet or less from the ground. M-NCPPC staff must review the information prior to the release of the subsequent building permit;

MCPB No. 07-109
Site Plan No. 820060110
The Preserve at Rock Creek (Formerly Bowie Mill Estates)
Page 6

- g) If at any time the impervious area limit is reached before building permits for all approved lots have been issued, the lots for which building permits have not been issued must be re-recorded as non-impervious, Homeowners Association open space parcels. All pending use and occupancy permits shall be held until such as that the open space plats are recorded;
- h) Upon recordation of the plat, applicant shall record in the land records a disclosure of the imperviousness limits and monitoring requirements to subsequent homebuyers. This disclosure shall be reviewed and approved by Commission legal staff before recordation;

12) Moderately Priced Dwelling Units (MPDUs)

- a) The proposed development shall provide 28 MPDUs on-site (15 percent of the total number of units) in accordance with Chapter 25A. The applicant is receiving a density bonus of 0.2 FAR (as recommended by the Upper Rock Creek Area Master Plan, p. 15);
- b) Evenly distribute the total number of required MPDUs between the phases of construction. The applicant shall build MPDUs concurrently with the other units in the phase, ensuring compliance with the MPDU requirements within each phase and for the project as a whole;
- c) The Applicant shall enter into an Agreement to Build the MPDUs with DHCA before certified site plan;

13) Lighting

- a) Provide a lighting distribution and photometric plan with summary report and tabulations to conform to IESNA standards for residential development;
- b) All private light fixtures shall be full cut-off fixtures;
- c) Deflectors shall be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties;
- d) Illumination levels shall not exceed 0.5 footcandles (fc) at any property line abutting county roads;
- e) The height of the light poles shall not exceed 12 feet including the mounting base;

MCPB No. 07-109
 Site Plan No. 820060110
 The Preserve at Rock Creek (Formerly Bowie Mill Estates)
 Page 7

14) Forest Conservation

- a) As stated in the memorandum from M-NCPPC-Environmental Planning dated March 29, 2007, the applicant shall comply with the conditions of approval of the final forest conservation plan. The applicant shall satisfy all conditions of approval before recording of the record plat(s) or MCDPS issuance of erosion and sediment control permits. Conditions include but are not limited to:
- i) Applicant to construct a 2- or 3-rail split rail fence along all lots that back or side a reforestation area;
 - ii) Applicant shall develop and implement a non-native and invasive management plan for the newly planted areas to be dedicated to the Parks Department. The management plan must include supplemental planting and run concurrently with the forest planting maintenance and management agreement;
 - iii) Applicant to plant the afforestation area with a combination of $\frac{3}{4}$ to 1 inch caliper and 1 $\frac{1}{2}$ to 2 inch caliper stock;
 - iv) Applicant to plant all unforested stream buffers and place a category I conservation easements on all retained and planted forested areas;
 - v) Applicant to begin reforestation of unforested stream buffers in the first planting season after issuance of the first sediment control permit;

15) Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated November 21, 2006, unless amended by the Montgomery County Department of Permitting Services;

16) Common Open Space Covenant

Record plat of subdivision shall reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant shall provide verification to M-NCPPC staff prior to issuance of the 130th building permit that Applicant's recorded Homeowners Association Documents incorporate by reference the Covenant;

17) Development Program

- a) Applicant shall construct the proposed development in accordance with the Development Program. A Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of the certified site plan. The Development Program shall include a phasing schedule as follows:

MCPB No. 07-109

Site Plan No. 820060110

The Preserve at Rock Creek (Formerly Bowie Mill Estates)

Page 8

- i) Street tree planting shall progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets;
- ii) Community-wide pedestrian pathways and recreation facilities associated with each phase shall be completed as construction of each phase is completed;
- iii) Recreation facilities for each phase shall be completed concurrently with the buildings and infrastructure of that phase;
- iv) Clearing and grading shall correspond to the construction phasing, to minimize soil erosion;
- v) Provide each section of the development with necessary roads;
- vi) Phasing of construction, dedications, stormwater management, sediment/erosion control, recreation facilities, forestation, community paths, trip mitigation or other features;

18) Clearing and Grading

No clearing or grading prior to M-NCPPC approval of certified site plans;

19) Certified Site Plan

Prior to certified site plan approval, the following revisions shall be included and/or information provided, subject to staff review and approval:

- a) Development program, inspection schedule, revised data table, and Site Plan Resolution;
- b) Limits of disturbance;
- c) Methods and locations of tree protection;
- d) Include standards for accessory buildings in development standards table;
- e) A revised noise study for the ICC section bisecting the site;
- f) Replace the noise wall shown on the proposed plan with a landscaped berm, as described in condition 9 above. Provide details of berm and fence;
- g) Provide a street lighting and neighborhood photometric plan;
- h) Revise the street lighting detail to provide full cut-off fixtures;
- i) Graphically denote on the site plan the lots reserved for verification of compliance with the 8% impervious surface limit;
- j) Label all MPDUs on the Site Plan;
- k) Provide a phasing diagram demonstrating phase and project compliance with the MPDU requirements. Phasing to be consistent with DHCA's Agreement to Build;
- l) Revise the table entitled "Parcels to be Dedicated to HOA" on sheet 1 of 42 of the Site Plan to label the following parcels as "Rural Open Space": Block A,

MCPB No. 07-109
 Site Plan No. 820060110
 The Preserve at Rock Creek (Formerly Bowie Mill Estates)
 Page 9

Parcel A; Block E, Parcel A; Block F, Parcel B; and Block M, Parcel A and Parcel C;

- m) Provide details and specifications of all recreation facility play equipment, seating, etc.;

BE IT FURTHER RESOLVED that all site development elements as shown on The Preserve at Rock Creek (formerly Bowie Mill Estates) drawings stamped by the M-NCPPC on April 13, 2007, and June 15, 2007, shall be required, except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff, which the Planning Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Site Plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development if required, unless the Planning Board expressly modifies any element of the project plan.*

An approved development plan or a project plan is not required for the subject development.

2. *The Site Plan meets all of the requirements of the zone in which it is located and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The Site Plan meets all of the requirements of the RNC zone as demonstrated in the project Data Table below.

Requirements of the RNC Zone

The Staff Report contains a data table that lists the Zoning Ordinance required development standards and the developments standards proposed for approval. The Board finds, based on the aforementioned data table, and other uncontested evidence and testimony of record, that the Application meets all of the applicable requirements of the RNC Zone. The following data table sets forth the development standards approved by the Planning Board and binding on the Applicant.

Data Table

Development Standard Approved by the
 Planning Board and Binding on the Applicant

Max. Density of Development (du/a)	0.4 (w/ 15% MPDUs)
Min. Net Lot Area (sf.) - Townhouses:	2,241-15,275
- One-family Detached	12,500 – 91,071
Min. Building Setbacks, Townhouse & One-Family Detached (ft.)	
from street ROW	30 min.
rear yard	20 min.
rear yard (adj. property not being developed under RNC optional method)	30 min.
side yard	8 min.
side yard (adj. property not being developed under RNC optional method)	8 min.
Min. Lot Width - at street line (ft.)	25 min.
Max. Building Height (ft.):*	35 max.
*as measured per 59-A-2.1	
Max. Lot Coverage - one-family detached (%)	35 max.
Rural Open Space (% of Net Tract Area)	65.15
(ac.)	285.4986
Parking, Off-Street -	
Dwelling, one-family (@ 2/unit)	316 min.
Townhouse (@ 2/unit)	28 min.
Total	344 min.

3. *The locations of the buildings and structures, the open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*
- a. Locations of buildings and structures

The plan proposes 186 one-family residences, both attached and detached, including one historic house. The historic house, relocated barn, and historical environment setting are located on the original site of the

home on the southern portion of the development. It has prominent street frontage along the main entrance road to the community. The 186 units include 28 MPDUs in 3- and 4-unit townhouse strings. The MPDUs are well distributed throughout the community and around amenities. Finally, the site plan indicates the orientation of each proposed residential building on its lot. This arrangement reinforces the street grid, contributing to the safety and neighborhood feel of the community. Additionally, several units near the southern entrance, though setback from the road, front onto Muncaster Mill Road, improving the conformance with the intent of the zone and other housing along Muncaster Mill Road. The locations of buildings and structures are arranged in an adequate, safe, and efficient manner on the site.

b. Open Spaces

The plan proposes over 285 acres of rural open space, 65.15% of the tract area, in addition to a variety of recreation facilities, facilitating structured and unstructured recreational activities. The rural open space is located primarily on the eastern and southern portions of the site, with extension along the edges of the community to Muncaster Mill and Bowie Mill Roads to enhance the rural character of the development as a whole. The open space provided on site is adequate, safe, and efficient.

c. Landscaping and Lighting

The proposed landscaping on site includes street trees for all public streets and a mix of shade and evergreen trees and flowering shrubs for the recreational areas. It also provides screening between Bowie Mill and Muncaster Mill Roads and the backs of houses in the development, promoting compatibility between the new and existing housing. Similarly, the landscape plan for the parcel between the Magruder High School athletic fields and the residential units will reinforce the connection and relationship between the school and the neighborhood.

The lighting plan will feature full cut-off luminaires mounted on 12-foot poles along the streets and in public use (though not Rural Open Space) areas. These lights will greatly minimize light trespass into the adjacent residential community.

The landscaping and lighting provide for adequate, safe, and efficient use by residents.

d. Recreation Facilities

MCPB No. 07-109

Site Plan No. 820060110

The Preserve at Rock Creek (Formerly Bowie Mill Estates)

Page 12

In addition to the 285 acres of rural open space, the site plan provides a variety of recreation facilities, including playgrounds for each age group, several picnic and seating areas, and multiple open play areas, facilitating structured and unstructured recreational activities. The amount of recreational facilities the site provides exceeds the recommendation of the 1992 Recreation Guidelines. No off-site facilities are being credited towards meeting this guideline. The recreation facilities provided on site are adequate, safe, and efficient.

e. Pedestrian and Vehicular Circulation Systems

Vehicular Circulation

The proposed site plan provides access to the community via Muncaster Mill Road and Bowie Mill Road. Within the development a network of public roads provide circulation for residents and visitors to the public parkland. Near the entrance from Muncaster Mill Road, one private drive provides access to a small cluster of homes. Each lot provides its own off-street parking.

Pedestrian Circulation

Within the community, sidewalks provide circulation to each of the homes and recreation areas. Hard- and soft-surface walkways connect the sidewalks to the neighboring schools and to the park trail system on the eastern portion of the site.

Vehicular and pedestrian circulation is safe, adequate, and efficient.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The proposed buildings and lots are compatible with surrounding land uses, primarily one-family residential buildings of one to two stories. The MPDUs, in townhouse configurations, are designed generally to resemble their market-rate one-family dwelling counterparts. The three-unit configuration has end units with entrances on the side, such that in concert with the architectural design of the façade, the only front door typically seen from the street is that of the middle unit. For the larger lots on the northern boundary of the site, the reduced number of lots enhances compatibility with the adjacent lots in keeping with the Rural Neighborhood Cluster zone and the Upper Rock Creek Master Plan.

The building heights, sizes, and locations and the site landscaping and lighting are commodious and compatible with adjacent residential uses.

MCPB No. 07-109
Site Plan No. 820060110
The Preserve at Rock Creek (Formerly Bowie Mill Estates)
Page 13

- 5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

Forest Conservation

The applicant will meet the requirements of Section 22A-12(f) by preserving forest on site. The applicant is also required to plant more than 25 acres of unforested stream buffers.

Water Quality

MCDPS has reviewed and conditionally approved the elements of the final water quality plan under their purview. The stormwater management plan requires water quality control and quantity control to be provided through an extensive system of linked Best Management Practices (BMPs). Channel protection measures for this site will be provided via extended detention dry ponds. Quality control will be provided via a combination of structural and non-structural measures that include dry wells, surface sand filters, bio-filters, dry swales and grassed channels. All open section streets will have a two-foot wide flat bottom to provide water quality pretreatment. Sediment control will be addressed through a combination of traps and basins, earth dikes, and super silt fencing.

BE IT FURTHER RESOLVED, that this resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED, that this site plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that the date of this Resolution is SEP 21 2007 (which is the date that this resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).



MCPB No. 07-109
Site Plan No. 820060110
The Preserve at Rock Creek (Formerly Bowie Mill Estates)
Page 14

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

At its regular meeting, held on Thursday, September 6, 2007, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on motion of Commissioner Robinson, seconded by Commissioner Bryant, with Commissioners Hanson, Bryant, and Robinson voting in favor, and Commissioners Cryor and Lynch abstaining, ADOPTED the above Resolution, which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for Site Plan No. 820060110-The Preserve at Rock Creek (Formerly Bowie Mill Estates).



Royce Hanson, Chairman
Montgomery County Planning Board

SITE PLAN PRESERVE AT ROCK CREEK

8TH ELECTION DISTRICT

MONTGOMERY COUNTY, MARYLAND

NOTES

NO CLAIMS OR OTHER PROBLEMS TO MONTGOMERY COUNTY APPROVAL OF THIS PLAN.

PARCELS FOR RURAL OPEN SPACE A. DUNGAN PROPERTY

Parcel No.	Area (Ac.)
B	21.183
C	4.911
D	4.911
E	4.911
F	4.911
G	4.911
H	4.911
I	4.911
J	4.911
K	4.911
L	4.911
M	4.911
N	4.911
O	4.911
P	4.911
Q	4.911
R	4.911
S	4.911
T	4.911
U	4.911
V	4.911
W	4.911
X	4.911
Y	4.911
Z	4.911
Subtotal	110.565

B. CASEY PROPERTY

Parcel No.	Area (Ac.)
1	1.111
2	2.786
3	11.243
4	11.243
5	11.243
6	11.243
7	11.243
8	11.243
9	11.243
10	11.243
11	11.243
12	11.243
13	11.243
14	11.243
15	11.243
16	11.243
17	11.243
18	11.243
19	11.243
20	11.243
21	11.243
22	11.243
23	11.243
24	11.243
25	11.243
26	11.243
27	11.243
28	11.243
29	11.243
30	11.243
31	11.243
32	11.243
33	11.243
34	11.243
35	11.243
36	11.243
37	11.243
38	11.243
39	11.243
40	11.243
41	11.243
42	11.243
Subtotal	174.979



PARCELS INCLUDED:

- PARCEL P600-CASEY
- PARCEL N746-CASEY
- PARCEL N438-CASEY ICC
- PARCEL P707-DUNGAN
- PARCEL P400-DUNGAN
- PARCEL N466-DUNGAN ICC

SHEET INDEX

Sheet No.	Description
1	COVER SHEET
2	PRELIMINARY PLAN RESOLUTION
3	SITE PLAN RESOLUTION AND BSM CONCEPT APPROVAL LETTER
4	DEVELOPMENT PROGRAM AND CHINA LETTER
5	200-SCALE COMPOSITE PLAN
6	NOTES AND DETAILS AND IMPERVIOUS AREA COMPUTATIONS
7	SITE PLAN
8	J.P. CASHEL HISTORICAL SITE ENVIRONMENTAL SETTING
9	TRIAL PLAN BY BSM FORD II
10	TRIAL PLAN ABOVE DUNGAN PROPERTY & MDCPPC PARK
11	PROPERTY LINE
12	PLANS, OPEN SPACE

MDCPPC/MDCPPC SITE PLAN INSPECTION SCHEDULE

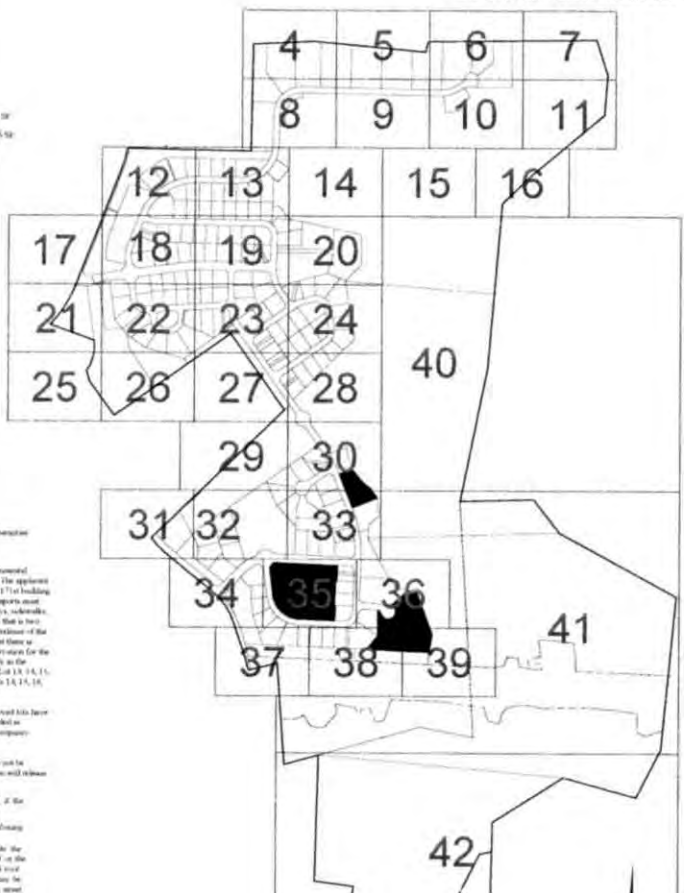
Inspection/Approve Signature	Date	Task Performed
		PRELIMINARY PLAN RESOLUTION
		SITE PLAN RESOLUTION AND BSM CONCEPT APPROVAL LETTER
		DEVELOPMENT PROGRAM AND CHINA LETTER
		200-SCALE COMPOSITE PLAN
		NOTES AND DETAILS AND IMPERVIOUS AREA COMPUTATIONS
		SITE PLAN
		J.P. CASHEL HISTORICAL SITE ENVIRONMENTAL SETTING
		TRIAL PLAN BY BSM FORD II
		TRIAL PLAN ABOVE DUNGAN PROPERTY & MDCPPC PARK
		PROPERTY LINE
		PLANS, OPEN SPACE

PROPERTY AREAS

Area	Area (Ac.)
Casey Property Area	174.979
Dungan Property Area	110.565
Subtotal	285.544

GENERAL NOTES

1. Show Foot Area
2. Case Property (see boundary survey)
3. Dungan Property (see boundary survey)
4. Case Property (see boundary survey)
5. Dungan Property (see boundary survey)
6. Case Property (see boundary survey)
7. Dungan Property (see boundary survey)
8. Case Property (see boundary survey)
9. Dungan Property (see boundary survey)
10. Case Property (see boundary survey)
11. Dungan Property (see boundary survey)
12. Case Property (see boundary survey)
13. Dungan Property (see boundary survey)
14. Case Property (see boundary survey)
15. Dungan Property (see boundary survey)
16. Case Property (see boundary survey)
17. Dungan Property (see boundary survey)
18. Case Property (see boundary survey)
19. Dungan Property (see boundary survey)
20. Case Property (see boundary survey)
21. Dungan Property (see boundary survey)
22. Case Property (see boundary survey)
23. Dungan Property (see boundary survey)
24. Case Property (see boundary survey)
25. Dungan Property (see boundary survey)
26. Case Property (see boundary survey)
27. Dungan Property (see boundary survey)
28. Case Property (see boundary survey)
29. Dungan Property (see boundary survey)
30. Case Property (see boundary survey)
31. Dungan Property (see boundary survey)
32. Case Property (see boundary survey)
33. Dungan Property (see boundary survey)
34. Case Property (see boundary survey)
35. Dungan Property (see boundary survey)
36. Case Property (see boundary survey)
37. Dungan Property (see boundary survey)
38. Case Property (see boundary survey)
39. Dungan Property (see boundary survey)
40. Case Property (see boundary survey)
41. Dungan Property (see boundary survey)
42. Case Property (see boundary survey)



LOT SIZES AND TYPES

Lot No.	Area (Ac.)	Area (Sq. Ft.)	Number
4	1.111	4,811	10
5	2.786	12,174	10
6	11.243	48,909	10
7	11.243	48,909	10
8	11.243	48,909	10
9	11.243	48,909	10
10	11.243	48,909	10
11	11.243	48,909	10
12	11.243	48,909	10
13	11.243	48,909	10
14	11.243	48,909	10
15	11.243	48,909	10
16	11.243	48,909	10
17	11.243	48,909	10
18	11.243	48,909	10
19	11.243	48,909	10
20	11.243	48,909	10
21	11.243	48,909	10
22	11.243	48,909	10
23	11.243	48,909	10
24	11.243	48,909	10
25	11.243	48,909	10
26	11.243	48,909	10
27	11.243	48,909	10
28	11.243	48,909	10
29	11.243	48,909	10
30	11.243	48,909	10
31	11.243	48,909	10
32	11.243	48,909	10
33	11.243	48,909	10
34	11.243	48,909	10
35	11.243	48,909	10
36	11.243	48,909	10
37	11.243	48,909	10
38	11.243	48,909	10
39	11.243	48,909	10
40	11.243	48,909	10
41	11.243	48,909	10
42	11.243	48,909	10
Total			100

GENERAL NOTES

1. Show Foot Area
2. Case Property (see boundary survey)
3. Dungan Property (see boundary survey)
4. Case Property (see boundary survey)
5. Dungan Property (see boundary survey)
6. Case Property (see boundary survey)
7. Dungan Property (see boundary survey)
8. Case Property (see boundary survey)
9. Dungan Property (see boundary survey)
10. Case Property (see boundary survey)
11. Dungan Property (see boundary survey)
12. Case Property (see boundary survey)
13. Dungan Property (see boundary survey)
14. Case Property (see boundary survey)
15. Dungan Property (see boundary survey)
16. Case Property (see boundary survey)
17. Dungan Property (see boundary survey)
18. Case Property (see boundary survey)
19. Dungan Property (see boundary survey)
20. Case Property (see boundary survey)
21. Dungan Property (see boundary survey)
22. Case Property (see boundary survey)
23. Dungan Property (see boundary survey)
24. Case Property (see boundary survey)
25. Dungan Property (see boundary survey)
26. Case Property (see boundary survey)
27. Dungan Property (see boundary survey)
28. Case Property (see boundary survey)
29. Dungan Property (see boundary survey)
30. Case Property (see boundary survey)
31. Dungan Property (see boundary survey)
32. Case Property (see boundary survey)
33. Dungan Property (see boundary survey)
34. Case Property (see boundary survey)
35. Dungan Property (see boundary survey)
36. Case Property (see boundary survey)
37. Dungan Property (see boundary survey)
38. Case Property (see boundary survey)
39. Dungan Property (see boundary survey)
40. Case Property (see boundary survey)
41. Dungan Property (see boundary survey)
42. Case Property (see boundary survey)

CERTIFICATE OF ASSURANCE SYSTEM

I HEREBY CERTIFY THAT THE BOUNDARY LINE DATA AND TO BE APPROPRIATE DATA ARE ACCURATELY REPRESENTED HEREON AND THAT THE PROPERTY IS NOT SUBJECT TO ANY OTHER INTERESTS OR ENCUMBRANCES THAT WOULD AFFECT THE PROPERTY OR THE PROJECT.

DATE: _____ **DATE:** _____

AMENDMENT B TO PLAN

1. MODIFICATION TO LOT 35 TO PROVIDE A REPLACEMENT DWELLING FOR THE 100-400' PARCEL AS SHOWN IN THE ATTACHED PLAN.

2. MODIFICATION TO EXISTING SPACES TO ACCOMMODATE THE REPLACEMENT DWELLING.

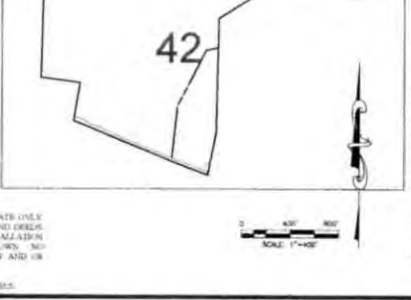
3. MODIFICATION TO STREET LIGHT LOCATION.

4. RETURN TO RECREATION LOT LOCATION.

BARRIERS & UTILITY NOTES

1. THE LOCATION OF BARRIERS BETWEEN LOTS IS APPROXIMATE ONLY. INFORMATION HAS BEEN TAKEN FROM AVAILABLE PLATS AND DEEDS. THIS PLAN SHOULD NOT BE USED FOR THE PLANNING OR INSTALLATION OF ANY UTILITY WITH RESPECT TO THE BARRIERS SHOWN HEREON.

2. OBSTRUCTION IS MADE OR PARCELS AS TO THE ACCURACY AND OR COMPLETENESS OF THE BARRIERS SHOWN HEREON.



REVISIONS

NO.	DESCRIPTION	BY	DATE
1	REVISIONS TO THE ORIGINAL PLAN	DM	08.10.14

Dewberry

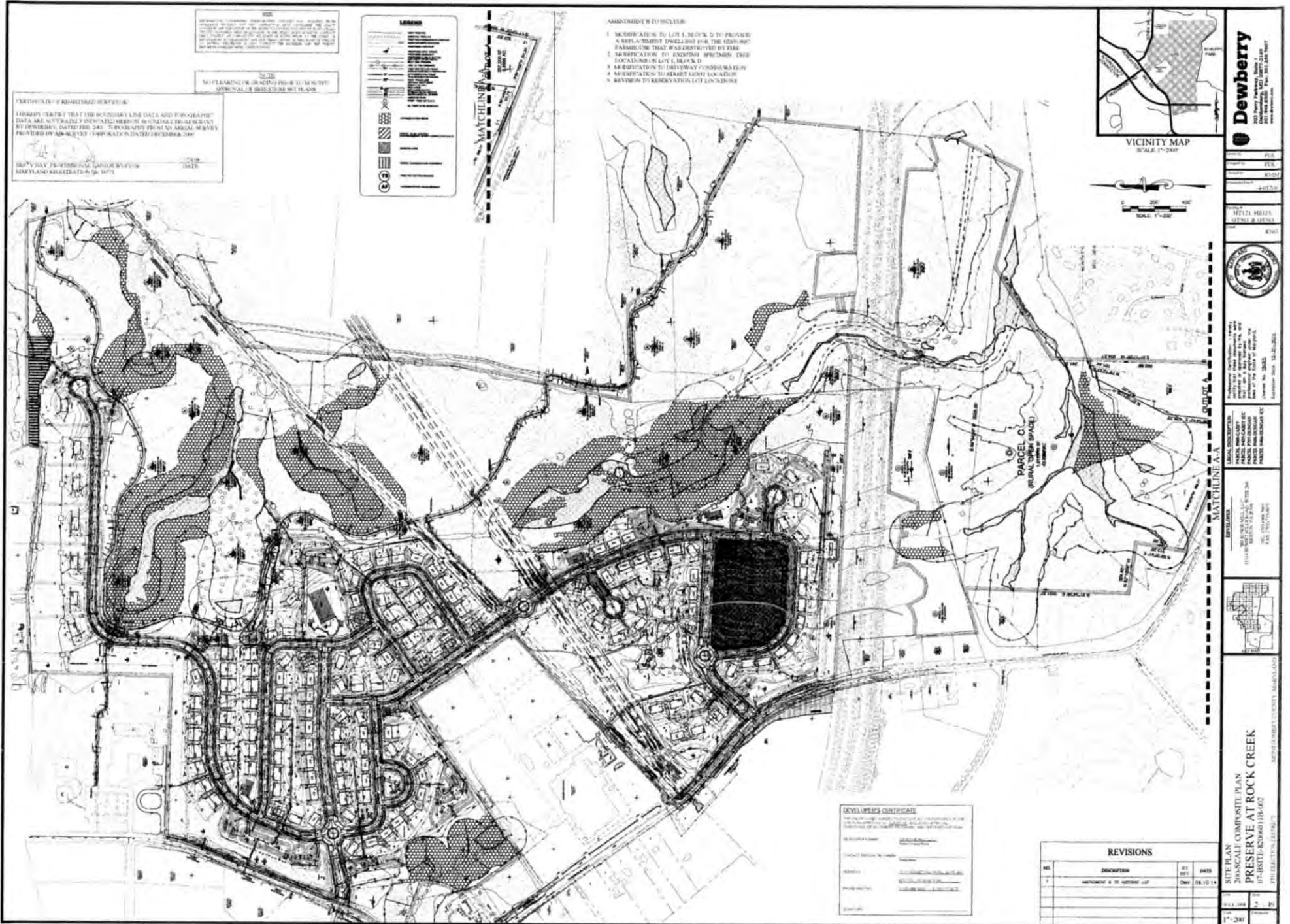
11111 ROCK CREEK DRIVE, SUITE 200, ROCKVILLE, MD 20850

TEL: 301.251.1000 FAX: 301.251.1001

PROJECT: SITE PLAN PRESERVE AT ROCK CREEK

DATE: 08/10/14

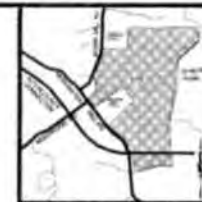
SCALE: 1" = 40'



FINAL FOREST CONSERVATION PLAN PRESERVE AT ROCK CREEK

8TH ELECTION DISTRICT

MONTGOMERY COUNTY, MARYLAND



ACKNOWLEDGEMENT

1. MONTGOMERY COUNTY DEPARTMENT OF PLANNING AND ZONING...
2. THE NATION'S FOREST SERVICE...
3. THE MARYLAND DEPARTMENT OF GENERAL SERVICES...

ACKNOWLEDGEMENT

1. THE MONTGOMERY COUNTY DEPARTMENT OF PLANNING AND ZONING...
2. THE NATION'S FOREST SERVICE...
3. THE MARYLAND DEPARTMENT OF GENERAL SERVICES...

OWNER - DEVELOPER
MR. DAVID W. HARRIS
11111 BROADWAY, SUITE 300
ROCKVILLE, MD 20853
TEL: 301-981-1111
FAX: 301-981-1112

EXISTING PARCELS INCLUDED:
PARCEL P600-CASEY
PARCEL N764-CASEY
PARCEL N439-CASEY ICC
PARCEL P707-DUNGAN
PARCEL P400-DUNGAN
PARCEL N466-DUNGAN ICC

SHEET NOTES
1. THIS SHEET SHOWS ONLY THE
2. THE STATE OF MARYLAND...
3. THE NATION'S FOREST SERVICE...

- GENERAL NOTES**
1. ...
 2. ...
 3. ...
 4. ...
 5. ...
 6. ...
 7. ...
 8. ...



- FOREST CONSERVATION PLAN NOTES**
1. ...
 2. ...
 3. ...
 4. ...
 5. ...
 6. ...
 7. ...
 8. ...
 9. ...
 10. ...
 11. ...
 12. ...
 13. ...
 14. ...
 15. ...



DEVELOPER'S CERTIFICATE

I hereby certify that the information contained in the above description is true and correct to the best of my knowledge and belief.

REVISIONS

NO.	DESCRIPTION	BY	DATE
1

DEVELOPER'S CERTIFICATE

I hereby certify that the information contained in the above description is true and correct to the best of my knowledge and belief.



Dewberry Consultants LLC
 203 Perry Parkway, Suite 1
 Gaithersburg, MD 20877-2169
 301.948.8300
 301.258.7607 fax
 www.dewberry.com

November 7, 2014

Joshua Penn
 M-NCPPC
 Area 3 Planning Department
 8787 Georgia Avenue
 Silver Spring, MD 20910

RE: Preserve at Rock Creek (aka Bowie Mill Estates)
 Request for Tree Variance
 Site Plan No. 82006011B

Dear Mr. Penn,

On behalf of the applicant, SM Bowie Mill, LLC, we are requesting a Variance from the provisions of Section 22A-21 of the Montgomery County Forest Conservation Law and Section 5-1607(c)(2)(ii) – Natural Resources Article of the Maryland Annotated Code, to allow for the disturbance or removal of “trees that are part of a historic site or associated with a historic structure.” This Variance is being submitted for review and approval in conjunction with Amended Site Plan and Final Forest Conservation Plan #82006011B

Background

This Variance request is needed to address the proposed disturbance to trees located on the remnant historic lot (Lot 1, Block D) found on the Preserve at Rock Creek subdivision. The property is inventoried as #M22-25 and is known as the J.H. Cashell Farm (Grantham Farm). The Applicant wishes to revise the Site, Landscape and Forest Conservation Plans for the subject property to modify changes to the historic lot which includes the removal of the fire damaged farmhouse and its proposed replacement dwelling. Since the approval and certification of the original Site Plan and Final Forest Conservation Plan (#82006010) in 2009, the historic farmhouse that was proposed for preservation was destroyed by fire and the extent of the damage to the remnant foundation prohibits its utilization for re-construction. The applicant has consulted with the Historic Preservation Commission (HPC) and has been authorized to proceed with the amendment submission which proposes a single-family detached home, as a replacement, to be located along the proposed street frontage of Achille Lane, outside of the historic view shed. The proposed building will be consistent in appearance to the historic farmhouse, and will be sited in a manner that requires only minor adjustments to the previously approved Limits of Disturbance.

The driveway apron and access will be relocated to provide access to the proposed replacement house and the existing gravel driveway will be slightly realigned to provide access to the existing tenant house and the historic barn(s) located at the rear of the property. The Site Plan, Final Forest Conservation Plan and Landscape Plan are also being amended to reflect the proposed changes.

The currently approved Final Forest Conservation Plan was approved prior to the requirements established by the Section 5-1607(c)(2)(ii) – Natural Resources Article of the Maryland Annotated Code. Therefore, we are presenting the Critical Root Zone (CRZ) disturbances as a comparison of the originally approved disturbances with the proposed disturbances required for this amendment. The area of interest involves a remnant tree line located along the south side of the existing driveway that serves the historic



M-NCPPC Area 3 Planning Department
RE: Preserve at Rock Creek (aka Bowie Mill Estates) - Request for Tree Variance
November 7, 2014
Page 2 of 6

site, adjacent to the southern property line. The trees within the area were field located, tagged and inventoried by JM Forestry Services, LLC on or about 10/8/2014 and subsequently field surveyed by Dewberry Consultants LLC.

Variance Trees

This Variance requests the disturbance of 15 trees within the historic lot. The total disturbance proposed is only 1,656 square feet divided among 3 locations. These trees were previously disturbed per the approved Final Forest Conservation Plan, thus in this request, we include information about the current disturbance and total disturbance to each of these trees. New disturbance affects the CRZ of these trees between 1 -20% of its original CRZ. All trees included in this variance are to be preserved. While one tree (#H50) exceeds 33% total CRZ disturbance, the previously approved LOD allowed for 49% CRZ disturbance and the proposed disturbance increase by approximately 15 square feet or 1%.

Refer to the following table and the Amended Final Forest Conservation Plan:

Tree #	Common Name	Latin Name	Diameter at Breast Height (DBH)	Condition Rating	Comments	CRZ Area (SF)	Originally Approved CRZ disturbance prior to Tree Variance Regulations		Total Proposed CRZ disturbance proposed per Site plan Amendment B		Net Change in CRZ disturbance from Originally Approved to Site Plan Amendment B		Proposed Action
							Square Feet (SF)	Percentage (%)	Square Feet (SF)	Percentage (%)	Square Feet (SF)	Percentage (%)	
H20	Basswood	<i>Tilia americana</i>	17.1	Fair	Trunk & top damage, dieback; possible cavity	2,066.93	47.10	3%	73.82	4%	26.72	1%	Preserved
H23	Basswood	<i>Tilia americana</i>	10.6	Poor	Root, trunk & top damage, dieback; possible cavity	794.23	70.96	9%	130.29	17%	59.33	8%	Preserved
H27	Black Walnut	<i>Juglans nigra</i>	17.4	Good	Root, trunk & top damage, dieback	2,140.09	263.30	13%	639.93	30%	376.63	17%	Preserved
H30	Black Walnut	<i>Juglans nigra</i>	19.0	Good	Trunk & top damage, dieback	2,551.76	12.81	1%	181.28	8%	168.47	7%	Preserved
H33	Black Walnut	<i>Juglans nigra</i>	17.4	Good	Trunk & top damage, dieback	2,140.09	145.01	7%	561.95	27%	416.94	20%	Preserved
H37	Black Walnut	<i>Juglans nigra</i>	20.5	Good	Trunk & top damage, dieback	2,970.58	559.23	19%	904.58	31%	345.35	12%	Preserved
H40	Basswood	<i>Tilia americana</i>	8.6	Good	Trunk & top damage, dieback	522.79	18.20	4%	31.00	6%	12.80	2%	Preserved
H43	Basswood	<i>Tilia americana</i>	33.0	Poor	Root, trunk & top damage, cavities, dieback	7,697.71	1,116.22	15%	1,359.35	18%	243.13	3%	Preserved
H49	Black Cherry	<i>Prunus serotina</i>	16.2	Poor	Multi stem measured below fork (DBH 8.4" & 10.5")	1,855.08	564.30	31%	567.10	31%	2.80	0%	Preserved
H50	Black Walnut	<i>Juglans nigra</i>	13.0	Fair	Root, trunk & top damage, dieback	1,194.59	573.81	49%	588.51	50%	14.70	1%	Preserved
H51	Yellow Poplar	<i>Liriodendron tulipifera</i>	15.8	Excellent	Trunk & top damage, dieback	1,764.61	486.04	28%	531.78	31%	45.74	3%	Preserved
H53	Yellow Poplar	<i>Liriodendron tulipifera</i>	14.1	Excellent	Top damage, dieback	1,405.31	315.51	23%	448.20	32%	132.69	9%	Preserved
H58	Ginkgo	<i>Ginkgo biloba</i>	40.0	Fair	Root, trunk & top damage	11,309.76	1,558.00	14%	2,282.55	21%	724.55	7%	Preserved
H59	Ginkgo	<i>Ginkgo biloba</i>	35.3	Fair	Root, trunk & top damage	8,808.11	2,402.77	23%	2,703.31	31%	682.54	8%	Preserved
H60	Red Maple	<i>Acer rubrum</i>	33.8	Poor	Root, trunk & top damage, possible cavity	8,075.45	2,413.39	30%	2,434.54	30%	21.15	0%	Preserved

M-NCPPC Area 3 Planning Department
 RE: Preserve at Rock Creek (aka Bowie Mill Estates) - Request for Tree Variance
 November 7, 2014
 Page 4 of 6

Explanation of Proposed Disturbances to Individual Trees

Specimen Tree #H20 (17.1" d.b.h. Basswood)

An increase of 26.72 SF (or an additional 1%) of Critical Root Zone (CRZ) disturbance is required to facilitate the installation of the adjacent stormdrain and grading. Tree is to be preserved.

Specimen Tree #H23 (10.6" d.b.h. Basswood)

An increase of 59.33 SF (or an additional 8%) of Critical Root Zone (CRZ) disturbance is required to facilitate the installation of the adjacent stormdrain and grading. Tree is to be preserved.

Specimen Tree #H27 (17.4" d.b.h. Black Walnut)

An increase of 376.63 SF (or an additional 17%) of Critical Root Zone (CRZ) disturbance is required to facilitate the installation of the adjacent stormdrain and grading. Tree is to be preserved.

Specimen Tree #H30 (19.0" d.b.h. Black Walnut)

An increase of 168.47 SF (or an additional 7%) of Critical Root Zone (CRZ) disturbance is required to facilitate the installation of the adjacent stormdrain and grading. Tree is to be preserved.

Specimen Tree #H33 (17.4" d.b.h. Black Walnut)

An increase of 416.94 SF (or an additional 20%) of Critical Root Zone (CRZ) disturbance is required to facilitate the installation of the adjacent stormdrain and grading. Tree is to be preserved.

Specimen Tree #H37 (20.5" d.b.h. Black Walnut)

An increase of 345.35 SF (or an additional 12%) of Critical Root Zone (CRZ) disturbance is required to facilitate the installation of the adjacent stormdrain and grading. Tree is to be preserved.

Specimen Tree #H40 (8.6" d.b.h. Basswood)

An increase of 12.80SF (or an additional 2%) of Critical Root Zone (CRZ) disturbance is required to facilitate the installation of the adjacent stormdrain and grading. Tree is to be preserved.

Specimen Tree #H43 (33.0" d.b.h. Basswood)

An increase of 243.13SF (or an additional 3%) of Critical Root Zone (CRZ) disturbance is required to facilitate the installation of the adjacent stormdrain and grading. Tree is to be preserved.

Specimen Tree #H49 (16.2" d.b.h. Black Cherry)

An increase of 2.80 SF (or an additional <1%) of Critical Root Zone (CRZ) disturbance is required to facilitate the installation of the adjacent stormdrain, replacement house and associated grading. Tree is to be preserved.

Specimen Tree #H50 (13.0" d.b.h. Black Walnut)

An increase of 14.70 SF (or an additional 1%) of Critical Root Zone (CRZ) disturbance is required to facilitate the installation of the adjacent stormdrain, replacement house and associated grading. Although the total CRZ disturbance in excess of 33%, and is typically considered removed by industry

M-NCPPC Area 3 Planning Department
 RE: Preserve at Rock Creek (aka Bowie Mill Estates) - Request for Tree Variance
 November 7, 2014
 Page 5 of 6

practice, the tree is to be preserved since the previous approved LOD allowed for 49% of the CRZ to be removed and the proposed increase of 14.70 square feet is an additional 1%.

Specimen Tree #H51 (15.8" d.b.h Yellow Poplar)

An increase of 45.74 SF (or an additional 3%) of Critical Root Zone (CRZ) disturbance is required to facilitate the installation of the adjacent stormdrain, replacement house and associated grading. Tree is to be preserved.

Specimen Tree #H53 (14.1" d.b.h Yellow Poplar)

An increase of 132.69 SF (or an additional 9%) of Critical Root Zone (CRZ) disturbance is required to facilitate the installation of the adjacent stormdrain, replacement house and associated grading.

Specimen Tree #H58 (40.0" d.b.h Ginko)

An increase of 724.55 SF (or an additional 7%) of Critical Root Zone (CRZ) disturbance is required to facilitate the installation of driveway re-alignment. Tree is to be preserved.

Specimen Tree #H59 (35.3" d.b.h Ginko)

An increase of 682.54SF (or an additional 8%) of Critical Root Zone (CRZ) disturbance is required to facilitate the installation of driveway re-alignment. Tree is to be preserved.

Specimen Tree #H60 (33.8" d.b.h Red Maple)

An increase of 21.15 SF (or an additional <1%) of Critical Root Zone (CRZ) disturbance is required to facilitate the installation of driveway re-alignment. Tree is to be preserved.

Pursuant to Chapter 22A-21(b) of the Montgomery County Code, a written request may be submitted to request a variance from the Chapter or any regulation adopted under it if it is demonstrated that enforcement would result in unwarranted hardship to the person. Under 22A-21 (b) *Application Requirements*, states that an 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 violated 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.**

We provide the following justification:

(1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;

The approved site plan proposed a total of 186 units for the subdivision including the historic farmhouse. With the loss of the historic house, the applicant proposes to replace the house to maintain the number of approved units. As mentioned previously, the applicant has consulted with the Historic Preservation Commission and has been authorized to proceed with the amendment

M-NCPPC Area 3 Planning Department
 RE: Preserve at Rock Creek (aka Bowie Mill Estates) - Request for Tree Variance
 November 7, 2014
 Page 6 of 6

submission which proposes a single-family detached home, as a replacement, to be located along the proposed street frontage of Achille Lane, outside of the historic view shed. The house will be consistent in appearance to the historic farmhouse, and will be sited in a manner that requires only minor adjustment. The proposed house has been sited in a location and in a manner on the historic lot that avoids any unnecessary disturbance to existing vegetation.

Due to the configuration of the historic lot, the projection of the historic view shed through the lot, and the location of existing vegetation throughout the lot, there are not many options for proposing a replacement structure. The Applicant has work with HPC to propose a feasible solution.

(2) Describe how enforcement of this Chapter will deprive the landowner of rights commonly enjoyed by others in similar areas

If the proposed tree impacts are not allowed, the proposed replacement house will not be able to be built. In addition, HPC has required vehicular access to the remaining and relocated historic resources located centrally on the lot. The proposed driveway for the replacement house doubles as access to the resources and ties into the existing pavement along the eastern property line.

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

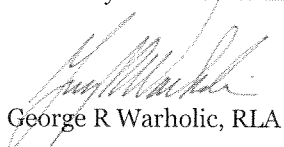
The project has a Stormwater Management Plan #215574 (June 6, 2010 – Phase I) & (May 10, 2012 – Phase II) and Approved Sediment Control Plan #232190 (June 6, 2010 - Phase I) and #237147 (May 10, 2012 Phase II) that were reviewed and approved by the Montgomery County Department of Permitting Services. The changes proposed in this variance request will comply with current SWM laws and practices and will not result in measurable degradation in water quality.

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

With the historic site being recorded as a buildable lot (Lot 1, Block D of the Preserve at Rock Creek subdivision) it is permitted to accommodate the replacement dwelling.

Thank you for your consideration of this Variance request. We believe that the supporting information provide with this letter justifies the need to disturb trees located on a historic site. Please free to contact me at 301-337-2863 if you have any questions.

Respectfully Submitted,
 Dewberry Consultants LLC



George R Warholic, RLA

Encl..

1. Sheet 30 from Final Forest Conservation plan 82006011B
2. Montgomery County Historic Preservation Commission Staff Report on Historic Area Work Permit



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Fariba Kassiri
Acting Director

December 8, 2014

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

RE: Preserve at Rock Creek, (Bowie Mill Estates), ePlans 82006011B, application for site plan amendment accepted on 9/10/2014

Dear Mr. Anderson:

All applications for a variance from the requirements of Chapter 22A of the County Code submitted after October 1, 2009 are subject to Section 22A-12(b)(3). Accordingly, given that the application for the above referenced request was submitted after that date and must comply with Chapter 22A, and the Montgomery County Planning Department ("Planning Department") has completed all review required under applicable law, I am providing the following recommendation pertaining to this request for a variance.

Section 22A-21(d) of the Forest Conservation Law states that a variance must not be granted if granting the request:

1. Will confer on the applicant a special privilege that would be denied to other applicants;
2. Is based on conditions or circumstances which are the result of the actions by the applicant;
3. Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or
4. Will violate State water quality standards or cause measurable degradation in water quality.

Applying the above conditions to the plan submitted by the applicant, I make the following findings as the result of my review:

1. The granting of a variance in this case would not confer a special privilege on this applicant that would be denied other applicants as long as the same criteria are applied in each case. Therefore, the variance can be granted under this criterion.
2. Based on a discussion on March 19, 2010 between representatives of the County, the Planning Department, and the Maryland Department of Natural Resources Forest Service, the disturbance of trees, or other vegetation, as a result of development activity is not, in and of itself, interpreted as a condition or circumstance that is the result of the actions by the applicant. Therefore, the

Division of Environmental Policy & Compliance

Casey Anderson
December 8, 2014
Page 2

variance can be granted under this criterion, as long as appropriate mitigation is provided for the resources disturbed.

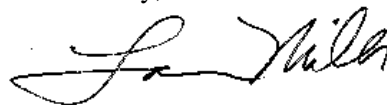
3. The disturbance of trees, or other vegetation, by the applicant does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. Therefore, the variance can be granted under this criterion.
4. The disturbance of trees, or other vegetation, by the applicant will not result in a violation of State water quality standards or cause measurable degradation in water quality. Therefore, the variance can be granted under this criterion.

Therefore, I recommend a finding by the Planning Board that this applicant qualifies for a variance conditioned upon the applicant mitigating for the loss of resources due to removal or disturbance to trees, and other vegetation, subject to the law based on the limits of disturbance (LOD) recommended during the review by the Planning Department. In the case of removal, the entire area of the critical root zone (CRZ) should be included in mitigation calculations regardless of the location of the CRZ (i.e., even that portion of the CRZ located on an adjacent property). When trees are disturbed, any area within the CRZ where the roots are severed, compacted, etc., such that the roots are not functioning as they were before the disturbance must be mitigated. Exceptions should not be allowed for trees in poor or hazardous condition because the loss of CRZ eliminates the future potential of the area to support a tree or provide stormwater management. Tree protection techniques implemented according to industry standards, such as trimming branches or installing temporary mulch mats to limit soil compaction during construction without permanently reducing the critical root zone, are acceptable mitigation to limit disturbance. Techniques such as root pruning should be used to improve survival rates of impacted trees but they should not be considered mitigation for the permanent loss of critical root zone. I recommend requiring mitigation based on the number of square feet of the critical root zone lost or disturbed. The mitigation can be met using any currently acceptable method under Chapter 22A of the Montgomery County Code.

In the event that minor revisions to the impacts to trees subject to variance provisions are approved by the Planning Department, the mitigation requirements outlined above should apply to the removal or disturbance to the CRZ of all trees subject to the law as a result of the revised LOD.

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

Sincerely,



Laura Miller
County Arborist

cc: Mary Jo Kishter, Senior Planner