

**MEMORANDUM**

**DATE:** September 7, 2001  
**TO:** Montgomery County Planning Board  
**VIA:** Joseph R. Davis, Division Chief  
 Development Review Division  
**FROM:** Linda Komes  
 Planning Department Staff  
 (301) 495-4571

**REVIEW TYPE:** Site Plan Review  
**APPLYING FOR:** Revision to an approved site plan to revise the road network and lotting pattern to reduce impervious area  
**NAME:** Hoyles Mill Village, Section 2  
**CASE #:** 8-95030C  
**REVIEW BASIS:** Section 59-D-2.6 of the Zoning Ordinance Development

**ZONE:** R-200  
**LOCATION:** West side of Schaeffer Road, approximately 5000 feet south of its intersection with Clopper Road  
**MASTER PLAN:** Germantown  
**APPLICANT:** Artery Group-Hoyles Mill Village, LLC  
**FILING DATE:** 05-14-01  
**HEARING DATE:** 09-13-01




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**STAFF RECOMMENDATION FOR 8-95030C:** Approval of 261 lots within the R-200 zone, including 20 single-family-detached (SFD) lots held in reservation, consisting of 223 SFD lots and 38 townhomes as MPDUs, with the following conditions:

1. Standard Conditions dated October 10, 1995, Appendix A
2. All previous Conditions of Approval associated with 8-95030 and 8-95030A, unless specifically amended, remain in full force and effect.
3. Prior to signature approval of the site/landscape plans the following revisions shall be made and/or information provided:
  - a. The amount of green area required per townhouse shall be added to the plans.
  - b. Details and specifications for the noise fence shall be added to the plans.

- c. A berm and additional landscape planting shall be added on Parcel B to screen the rears of Lots 9 and 10, and 18, Block Y.
  - d. MPDUs shall not be less than 18-feet-wide.
  - e. Street trees shall be added along the driveways serving Lots 57-63, Block Z, and Lots 15-21, block Y.
  - f. Additional landscape planting shall be provided to screen the rear yard of Lot 2, Block S, and Lots 9-16 and 27, Block Q.
  - g. The location of all recreation facilities shall be clearly identified on both the site and landscape plans. Complete details and specifications demonstrating full conformance with the Recreation Guidelines shall be added to the plans.
4. Compliance with the conditions of approval enumerated in the Environmental Planning Memorandum dated, September 6, 2001 (see attached in Appendix D) as follows:
- a. Imperviousness for the Section II single-family detached units and driveways may not exceed 12.588 acres or 548,333 square feet. Street, sidewalk and attached housing units with associated parking must be constructed per design shown on approved Site Plan No. 8-95030 except as amended by this plan.
  - b. Monitoring of conformance to the imperviousness limits for the single family detached portion of Section II shall be done in accordance with the December 6, 2000 agreement between the applicant and the Commission (Attachment A), except that, the 20 lots identified to be held in reserve in this agreement shall be replaced by the 20 lots identified in the August 17, 2001 letter from Toll Brothers, Inc (Attachment B). The last five lots of the 20 lots to be released will be lots 60&61, block Z, followed by lot 1, block Z, and followed by lots 1&2, block S.
  - c. If at any time the imperviousness limit is reached before building permits for all approved lots have been released, the lots for which building permits have not been released must be re-recorded as non-impervious open space. All pending use and occupancy permits will be held until such time that the open space plats are recorded.
  - d. All driveways must be designed as single car width (10 feet) from the edge of the road through the sidewalk and flared out to double car width (20 feet) in front of the garage. The maximum driveway length from the edge of the road right of way to the garage entrance shall be 25 feet. Alternate driveway design may be approved by MNCPPC Environmental Planning staff on a case-by-case basis provided any additional impervious surface is accounted for as part of the overall imperviousness limit. All sales contracts must disclose to buyers that these dimensions are imposed as a condition of the Planning Board approval.
  - e. Before issuance of the 57<sup>th</sup> building permit, applicant shall record in the land records a disclosure of the imperviousness limits and monitoring requirements to subsequent land buyers. This disclosure shall be reviewed and approved by Commission legal staff before recordation.
  - f. Applicant shall provide each prospective homebuyer with a site plan that

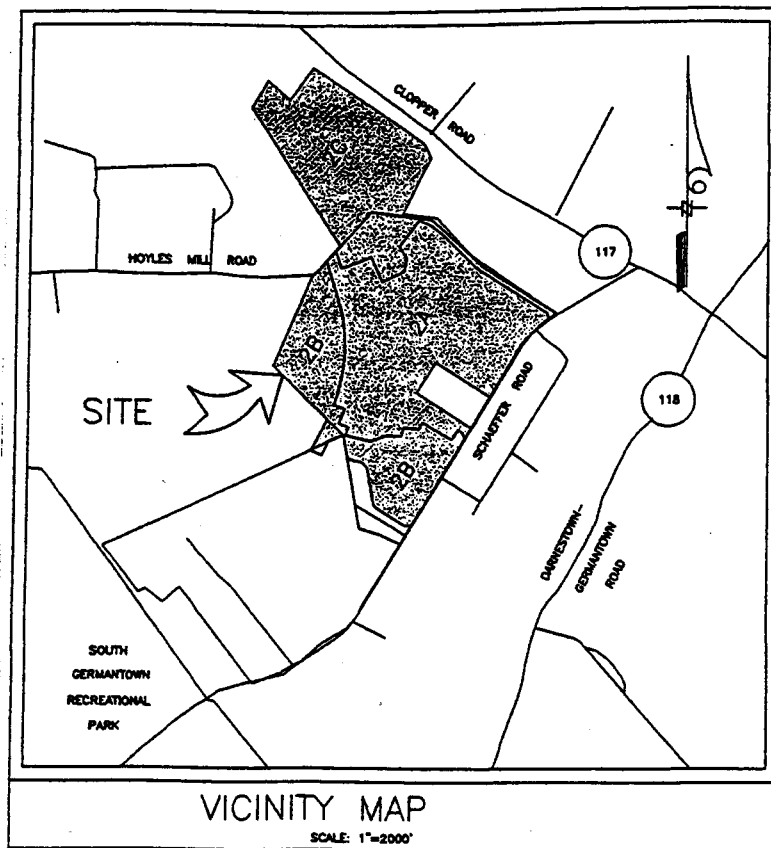
clearly illustrates house setback and sidewalk locations.

- g. Before issuance of the 57<sup>th</sup> building permit, the sidewalk shall be constructed in its final location on all model home lots.

**PROJECT DESCRIPTION: Surrounding Vicinity**

Hoyles Mill Village is located on the west side of Schaeffer Road, south of its intersection with Clopper Road, and immediately north of the South Germantown Recreational Park. Section II, which is the subject of this review, is located towards the center of the overall development.

Confronting property to the east is zoned R-200 and is developed with single-family detached homes. Section 1, of Hoyle's Mills Village, consisting of 316 lots, lies to the south of the subject section and is currently under construction. To the west is property zoned, PD-2 zoned development known as King's Crossing. To the north is Leaman Farm Road and an area of floodplain.



## **PROJECT DESCRIPTION: Site Description and Proposal**

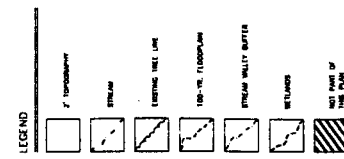
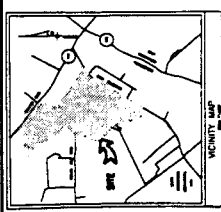
The subject property is part of a two-phase development located in Germantown within the KI-2 analysis area identified in the Germantown Master Plan. This analysis area is subject to special environmental protection measures because of the sensitivity and high quality conditions of the portion of the Little Seneca Creek stream system to which it drains. This section of Little Seneca Creek and its tributaries are classified as Use III-p waters (natural trout waters). The Hoyles Mill Village plan area contains four streams that drain to Little Seneca Creek. Two of these streams are located within the Section II area.

The special environmental protection measures recommended by the master plan are set forth in Appendix D of the master plan and are attached in APPENDIX C of this report. These measures include a site imperviousness cap, performance monitoring, stringent best management practices, and protection and enhancement of stream buffer areas. These measures were included in the approval of the original site plan.

At the time of the approval of the original site plan, the Planning Board granted a waiver of the 20% impervious cap, expanding it to 21.114% to allow for additional sidewalks which were not contemplated when assumptions regarding imperviousness were made at the time of the master plan. Section II in the original site plan approval contained 225 single family detached houses and associated driveways. The imperviousness attributed to these as part of the overall site's 21.114% imperviousness was 12.588 acres or 548,333 square feet.

The current amendment seeks to address limitations on Section II development resulting from the site imperviousness cap, and is in response to a problem, which arose during construction of the homes in Phase I of Hoyles Mill Village. While monitoring the actual size of homes constructed in Section I, staff became aware that the impervious cap had been significantly exceeded.

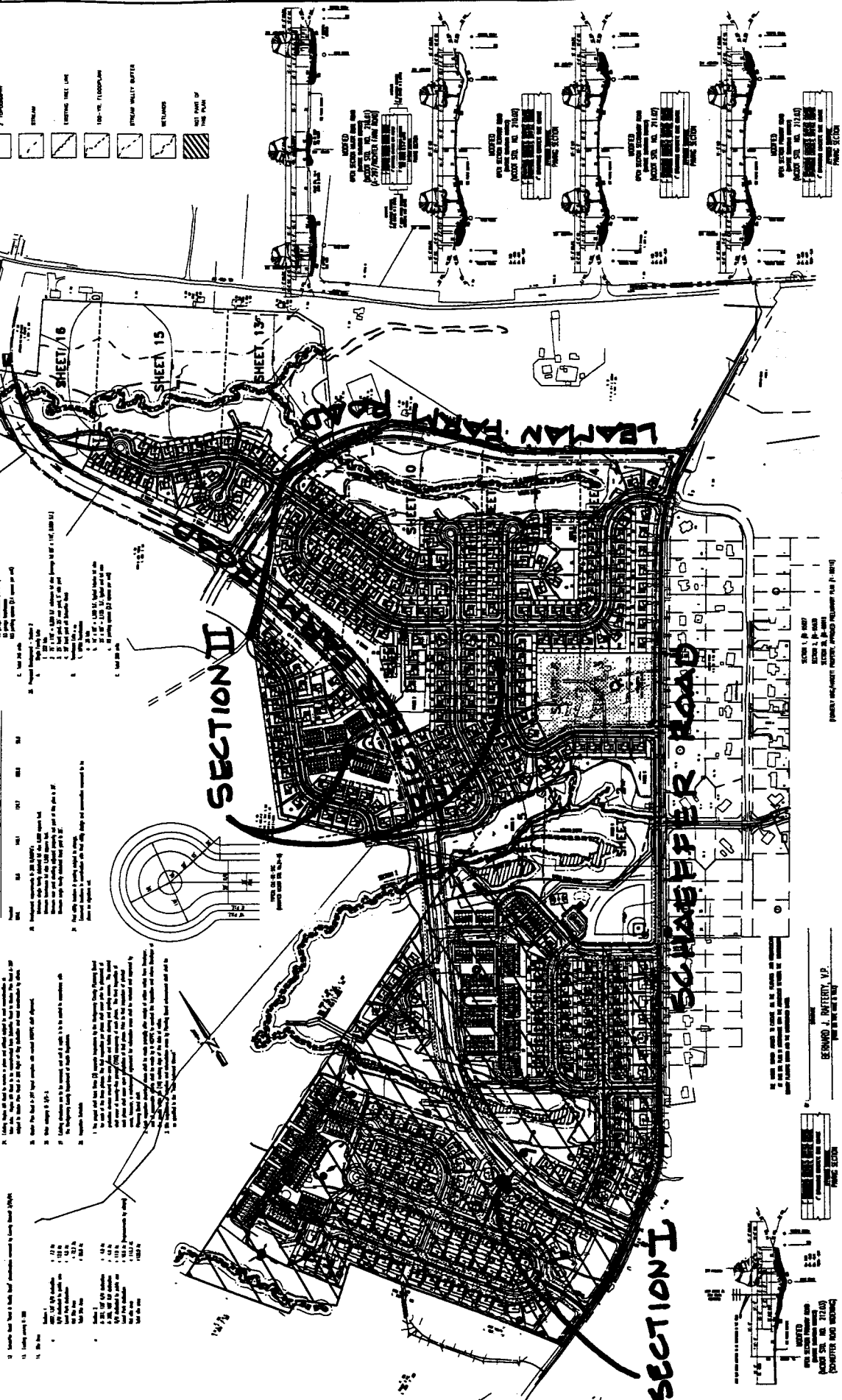
The subject revision to the site plan for Section II proposes to reduce site imperviousness by eliminating two lots, and replacing several cul-de-sacs with shared driveways and connected streets. This allows the construction of homes that are larger than those approved on the original site plan. In addition, twenty lots, as identified on the plan, will be held in reserve to ensure that the impervious cap is not exceeded while at the same time providing the builder with the needed flexibility to build homes larger than those assumed in the original impervious calculations. The overall site imperviousness requirements for the property are not changed by this revision.



**UNDEVELOPED CERTIFICATE**  
 THIS CERTIFICATE IS VALID FOR THE PERIOD OF 180 DAYS FROM THE DATE OF ISSUANCE. ANY CHANGES TO THE PLAN MUST BE APPROVED BY THE COUNTY BEFORE THE PERIOD EXPIRES.

**DEVELOPED CERTIFICATE**  
 THIS CERTIFICATE IS VALID FOR THE PERIOD OF 180 DAYS FROM THE DATE OF ISSUANCE. ANY CHANGES TO THE PLAN MUST BE APPROVED BY THE COUNTY BEFORE THE PERIOD EXPIRES.

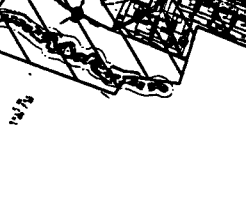
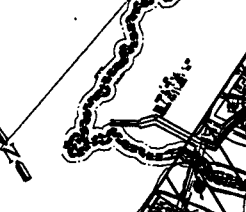
- NOTES**
1. All dimensions are in feet and inches (F'-I").
  2. All dimensions are to the centerline of the road unless otherwise noted.
  3. All dimensions are to the centerline of the road unless otherwise noted.
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SECTION	AREA (SQ. FT.)	AREA (AC.)	PERCENT
SECTION I	100,000	2.28	100.00
SECTION II	100,000	2.28	100.00
TOTAL	200,000	4.56	100.00

**NOTES**

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**SECTION I**

**SECTION II**

**LEAMAN FARM ROAD**

**EXCHANGE PIER ROAD**

**DATE: 10/15/10**

**SHEET: 1 OF 16**

**PROJECT: HOYLES MILL VILLAGE**

**CLIENT: MONTGOMERY COUNTY**

**DRAWN BY: J. B. [unreadable]**

**CHECKED BY: [unreadable]**

**APPROVED BY: [unreadable]**

**BERNARD J. BARTLEY, V.P.**

**PLANNING ARCHITECT**

## **PROJECT DESCRIPTION: Prior Approvals**

### **Preliminary Plan**

A companion application, Preliminary Plan, 1-01063, was submitted on March 25, 2001, and will be heard by the Planning Board concurrent with the subject site plan application. The original Preliminary Plan, 1-88216, was approved by the Planning Board with Conditions on June 20, 1996. On January 21, 1999 a revision to the approved Preliminary Plan, 1-88216R was approved with Conditions by the Planning Board for 579 lots on 251.90 acres. Final Plats for the property have subsequently been recorded.

The subject site plan is in substantial conformance with Preliminary Plan 1-01063 in terms of density, access, open space and lot layout. Record Plats have been recorded for all of Section II.

### **Site Plan, 8-95030**

On June 1, 1995, the Planning Board approved Site Plan 8-95030 for 259 units including 233 single-family detached units and 36 single-family attached units (MPDUs). See attached Opinion in Appendix B. On January 21, 1999 the Planning Board approved a revision to the approved Site Plan, 8-95030A. The site plan revision was in response to a change in the access to the M-NCPPC South Germantown Regional Park from Schaeffer Road. Schaeffer Road was widened from a primary residential road to a 120-foot-wide right-of-way with center medians and landscaped berms. The end result was an increase of four single-family-detached units and two single-family attached units (MPDUs).

**ANALYSIS: Conformance to Master Plan**

The Approved and Adopted 1989 Germantown Master Plan designates this site as part of analysis area KI-2. The site drains to Little Seneca Creek, a Class IV stream with existing high water quality. The Master Plan recommends specific measures and guidelines for mitigation of storm water run-off. The applicant's Forest Conservation Plan and the Sediment and Erosion control seek to implement these requirements.

**ANALYSIS: Conformance to Development Standards**

PROJECT DATA TABLE

Zoning	R-200/MPDU	
Net Tract Area of Section 2	113.3 ac.	
	<u>Permitted/ Required</u>	<u>Proposed</u>
<u>Development Standard</u>		
Density		
-Section 2 (2.44 dus/useable ac)	276	261
SFD		223
SFA (MPDUs)		38*
Setbacks		
-from internal streets	25	25
-from Schaeffer Road	50	50
-from northern boundary	20	100
-from western boundary	0	20
Minimum Net Lot Area (sf)		
-single-family detached lot	6,000	8,250
-townhouse	1,500	1,530
Max. Building Height (ft.):	40	40
Green Area per Townhouse (2,000 sf/du)	84,000	**

\* A maximum of 40% of the units in Section I and II are permitted to be townhouses. A total of 195 (34%) townhouses are proposed in Phases I and II.

\*\* This information has not been provided. It appears that this requirement has been exceeded. A condition has been included which requires that this information be provided prior to signature approval of the site plans.



## MPDU CALCULATIONS

### Sections I, II

Base Density	504 dus (251.9 ac x 2dus/ac.)
Proposed Density	577 dus*
MPDUs Required	81**
MPDUs provided in Phase I	43
MPDUs required in Phase II	38
MPDUs proposed in Phase II	38

- \* The overall maximum density permitted based on the overall acreage of Sections I and II is 614 lots. The total proposed is 577 lots.
- \*\* 577 units proposed-504 units base density =73 unit density bonus.  $73 \div 504 = 14.5\%$  or 15%.  
Up to 15% density bonus requires 14.0% (81 dus) of total units as MPDUs

## RECREATION CALCULATIONS

### Sections I and II

	<u>tots</u>	<u>children</u>	<u>teens</u>	<u>adults</u>	<u>seniors</u>
<b>Demand Points</b>					
Housing Type					
-SFD II(333)	42.9	79.2	82.5	349.3	36.3
-SFD III(51)	7.1	9.7	11.7	64.8	6.6
<u>-SFA (195)</u>	<u>33.2</u>	<u>42.9</u>	<u>35.1</u>	<u>251.6</u>	<u>13.7</u>
<b>Total</b>	<b>82.3</b>	<b>131.8</b>	<b>129.3</b>	<b>665.7</b>	<b>56.6</b>
<b>Supply Points</b>					
<u>On-Site Facilities:</u>					
Multi-age area (4)	36.0	44.0	12.0	28.0	4.0
Picnic/Sitting (1)	1.0	1.0	1.5	5.0	2.0
Pedestrian System	8.4	26.5	26.0	301.3	25.7
Natural Area	0.0	6.6	13.6	67.0	2.9
Regulation Softball	2.0	15.0	20.0	40.0	2.0
Multi-purpose Court	<u>3.0</u>	<u>10.0</u>	<u>15.0</u>	<u>10.0</u>	<u>2.5</u>
On-Site Total	50.4	103.1	88.1	450.0	39.1
<u>Off-Site Facilities*</u>					
@ Kings Crossing					
@ So.Grmntwn Reg. Park	<u>28.4</u>	<u>37.0</u>	<u>36.6</u>	<u>179.8</u>	<u>16.8</u>
Off-site Total (35% Max.)	28.4	37.0	36.6	179.8	16.8
<b>Total Supply Points</b>	<b>78.4</b>	<b>139.3</b>	<b>123.76</b>	<b>24.3</b>	<b>55.2</b>

- \* As taken from Previous Approval of 8-95030A

**FINDINGS for Site Plan Review:**

1. *The site plan is consistent with an approved development plan or a project plan for the optional method of development, if required. None is required.*
2. *The site plan meets all of the requirements of the zone in which it is located. See Project Data Table above.*
3. *The locations of the buildings and structures, the open spaces, the landscaping, recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe and efficient.*

a. **Location of Buildings**

The location of the buildings as proposed is somewhat conceptual. The houses will be sited and the lots graded based on the model type chosen by lot purchasers. The proposed house sitings as indicated are consistent and compatible with those in previously approved sections.

b. **Open Spaces**

The open space proposed is not changed from the previous approval. In the event that the impervious cap is exceeded, all or some of the lots held in reserve will be converted to permanent open space.

The stormwater management concept for the proposed development was approved with conditions by the Montgomery County Department of Permitting Services (DPS), and remains unchanged by the subject revision.

c. **Landscaping and Lighting**

Landscaping on the site consists primarily of street trees and screen planting. Several conditions have been added which require that additional planting be provided along flag lot driveways and in areas where additional planting is necessary to better screen the rear yard areas of lots from public view.

d. **Recreation**

Recreation demand is satisfied as shown in the recreation calculations table above.

e. **Vehicular and Pedestrian Circulation**

Apart from the elimination of three previously approved short cul-de-sac streets and the proposal to connect two cul-de-sacs the road network remains exactly the same as that previously approved. The proposed change is an improvement to the overall vehicular and pedestrian circulation system.

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

The proposed structures and uses are compatible with the existing and proposed adjacent residential. Landscape buffers are proposed in areas of the site where necessary to screen views of rear yards of homes and will, along with the setbacks, ensure compatibility.

5. *The site plan meets all applicable requirements of Chapter 22A regarding forest conservation as previously approved.*

## **APPENDIX**

- A. Standard conditions of Approval
- B. Previous Planning Board Opinions
- C. Appendix D from Germantown Masterplan
- D. Agency comments

**APPENDIX A: STANDARD CONDITIONS OF APPROVAL DATED 10-10-95:**

1. Submit a Site Plan Enforcement Agreement, Development Review Program and Homeowner Association Documents for review and approval prior to approval of the signature set as follows:
  - a. Development Program to include a phasing schedule as follows:
    - 1) Streets tree planting must progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets.
    - 2) Community-wide pedestrian pathways and recreation facilities must be completed prior to seventy percent occupancy (156 permits) of each phase of the development.
    - 3) Clearing and grading to correspond to the construction phasing, to minimize soil erosion.
    - 4) Coordination of each section of the development and roads.
    - 5) Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, and impervious cap monitoring schedule.
  - b. Site Plan Enforcement Agreement to delineate impervious cap monitoring schedule and plan as set forth in Office of General Counsel letter (Rosenfeld to Sears, dated December 6, 2000).
2. Signature set of site, landscape/lighting, forest conservation and sediment and erosion Control plans to include for staff review prior to approval by Montgomery County Department of Permitting Services (DPS):
  - a. Undisturbed stream buffers.
  - b. Limits of disturbance.
  - c. Methods and locations of tree protection.
  - d. Forest Conservation areas.
  - e. Relocation of stormwater facility outfalls from pond away from forest preservation or other environmentally sensitive areas.
  - f. Conditions of DPS Stormwater Management Concept approval.
  - g. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
  - h. The development program inspection schedule.
  - i. Conservation easement boundary.
  - j. Streets trees 50 feet on center along all public streets.
  - k. Details for and location of noise fencing to attenuate current noise levels to no more than 60 dBA Ldn for the outdoor back yard area of homes along Richter Farm Road and Leaman Farm Road.
  - l. Location of outfalls away from tree preservation areas.
3. Forest Conservation Plan shall satisfy all conditions of approval prior to recording of plat and DPS issuance of sediment and erosion control permit.
4. No clearing or grading prior to M-NCPPC approval of signature set of plans.

M-NCPPC



## MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

## MONTGOMERY COUNTY PLANNING BOARD

## O P I N I O N

**DATE MAILED:** February 26, 1999

**SITE PLAN REVIEW:** #8-95027A and #8-95030A

**PROJECT:** Hoyles Mill Village

*Action: Approval subject to conditions. Motion was made by Commissioner Bryant, seconded by Commissioner Purdue, with a vote of 4-0, Commissioners Bryant, Holmes, Hussmann, and Purdue voting for. Commissioner Richardson was absent.*

The date of this written opinion is February 26, 1999, (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal, as provided in the Maryland Rules of Procedure, on or before March 28, 1999, (which is thirty days from the date of this written opinion). If no administrative appeal is timely filed, then this site plan shall remain valid for as long as Preliminary Plan #1- 1-88216R is valid, or until the expiration of the project's APFO approval, as provided in Section 59-D-3.8.

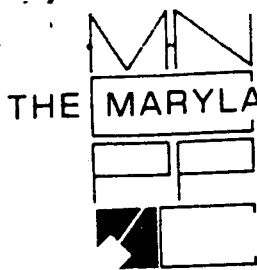
On January 21, 1999, Site Plan Review #8-95027A and # 8-95030A was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based on the testimony and evidence presented and on the staff report which is made a part hereof, the Montgomery County Planning Board finds:

1. The Site Plan is consistent with the approved development plan or a project plan for the optional method of development, if required;
2. The Site Plan meets all of the requirements of the zone in which it is located;
3. The locations of the buildings and structures, the open spaces, the landscaping, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient;

4. Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development;
5. The site plan meets all applicable requirements of Chapter 22A regarding forest conservation.

The Montgomery County Planning Board APPROVES Site Plan Review #8-95027A and #8-95030A which consists of Phase I : 159 SFD, 114 Townhouses and 43 MPDU Townhouses and Phase II : 225 SFD and 38 MPDU Townhouses for a total of 579 dwelling units subject to the following conditions:

1. The conditions of approval that were part of the original approvals for Site Plan #8-95027 and #8-95030 remain in effect with this amendment.
2. Along Schaeffer Road in the area where house locations have been deleted, the proposed berms shall be 5 to 6 feet above street grade or equivalent height to satisfy noise attenuation requirements for the rear yards of the proposed Hoyles Mill Village. The berms shall be naturalistic in appearance with varied height and width and not linear or block-like. Landscaping shall provide buffering to the housing within the proposed subdivision and its design and placement shall be coordinated with any proposed Schaeffer Road landscaping, if feasible due to timing.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
8787 Georgia Avenue • Silver Spring Maryland 20910-3760

MONTGOMERY COUNTY PLANNING BOARD

O P I N I O N

DATE MAILED: August 1, 1995

SITE PLAN REVIEW #8-95030

PROJECT: HOYLES MILL VILLAGE SECTION 2

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Action: Approval subject to conditions. Motion was made by Commissioner Aron, seconded by Commissioner Holmes, with a vote of 5-0, Commissioners Aron, Holmes, Hussmann, Richardson and Baptiste voting for.

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The date of this written opinion is August 1, 1995 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal, as provided in the Maryland Rules of Procedure, on or before August 31, 1995 (which is thirty days from the date of this written opinion). If no administrative appeal is filed, then the validity period of this site plan is tied to the phased validity periods established in the underlying preliminary plan. The underlying preliminary plan was approved in three different phases. Phase I consisting of 459 units was approved on December 9, 1993 and will remain valid until February 7, 1997. Phase II was approved on June 30, 1994 for an additional 100 units (559 total units) and will remain valid until September 8, 1997. Phase III consisting of the final 10 units (569 total units) was approved by the Planning Board on September 29, 1994 and will remain valid until December 23, 1997. Prior to the expiration of these validity periods, a final record plat for all property delineated on the approved preliminary plan must be recorded or a request for an extension must be filed.

On February 7, 1995, Greenberg Germantown Limited Partnership submitted an application for the approval of a site plan for property in the R-200 zone. The application was designated Site Plan Review #8-95030.

On June 1, 1995, Site Plan Review #8-95030 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based on the testimony and evidence presented by the

staff and on the staff report with modifications to the conditions hereby adopted by the Montgomery County Planning Board, and which is make a part hereof, the Montgomery County Planning Board finds:

1. The Site Plan meets all of the requirements of the zone in which it is located.
2. The locations of the buildings and structures, the open spaces, the landscaping, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient.
3. Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.

The Montgomery County Planning Board approves Site Plan Review #8-95030 as follows:

Staff recommends APPROVAL of Site Plan #8-95030 for 259 units including 223 single family detached units and 36 townhouses (including 36 MPDU's), subject to the following conditions:

1. Submit a Site Plan Enforcement Agreement, Development Program, and Homeowners Association Documents for review and approval prior to approval of the signature set as follows:
  - a. Development Program to include a phasing schedule as follows:
    - 1) Street tree planting must progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets;
    - 2) Community-wide pedestrian pathways and recreation facilities must be completed prior to seventy percent occupancy of each phase of the development. Pathways between units must be completed prior to occupancy of adjacent units;
    - 3) Clearing and grading schedule;
    - 4) Required site inspections of retention and reforestation areas by M-NCPPC enforcement staff as specified in the "Trees Technical Manual";
    - 5) Submit financial security for reforestation planting prior to clearing and grading;
    - 6) Maintenance agreement for reforestation areas to be reviewed and approved by M-NCPPC staff prior to first inspection of planted areas.
  - b. Enforcement Agreement to reference stream quality



monitoring agreement and stormwater management facility maintenance agreement;

- c. Site Plan Enforcement Agreement to include an element requiring each Applicant/Builder of a project or a portion of a project identified in Table I to construct or participate in the construction of each particular transportation improvement referenced in the Germantown West Improvements/Development Phasing Program ("Phasing Program") consistent with the terms and conditions imposed upon the project pursuant to its preliminary plan approval by the Planning Board. This requirement does not increase or decrease the responsibility of any Applicant with respect to the construction of a transportation improvement, each Applicant remains obligated to construct or participate in the cost of constructing an improvement consistent with the preliminary plan for the project ("Required Improvements"). The enforcement agreement shall provide that if an applicant/builder of another project identified on Table I, as may be amended from time to time, has undertaken construction of all or a portion of the Required Improvements attributable to Applicant at the time Applicant files for an initial building permit tied to such Required Improvements, Applicant must pay a pro rata share of all costs and expenses associated with the Required Improvements prior to or contemporaneous with an application for building permits.

The parties shall agree to appropriate formulas and calculations for determining pro rata shares. The agreement may provide that the Planning Department should monitor pro rata payments and is authorized to withhold release of a building permit in the event a share has not been paid. The agreement shall provide that the Applicant will cooperate with other developers and not unreasonably delay respective development proposals, including dedication of right-of-way, provided that the requesting party provides appropriate reimbursement to the Applicant.

- d. Homeowners Association Documents to include provisions for inspection and maintenance of SWM facilities per the Approved and Adopted Germantown Master Plan recommendations and guidelines, Appendix D.
2. Submit a phasing plan as follows:
    - a. Phasing for all clearing and grading that will correspond to the construction schedule and reduce soil erosion;
    - b. Phasing of each section of the development which reflects

phasing of required roadway improvements;

- c. Phasing of stormwater management facilities and recreation facilities.
3. Incorporate the following items into the signature set landscaping plan:
    - a. Street trees 45 feet on center along all public streets;
    - b. Planting within the stormwater management facilities.
  4. The following information must be shown on the signature set of all plans and be incorporated into the sediment and erosion control plan for staff review prior to approval by MCDEP:
    - a. Stream buffers;
    - b. Limit of disturbance line;
    - c. Methods and location of tree protection;
    - d. Forest retention and reforestation areas;
    - e. Conservation easements.
  5. Type I conservation easement to include all stream buffers, wetland, floodplain and forest conservation areas. Easement must be delineated on the record plat.
  6. Provide noise attenuation as follows:
    - a. Construct noise berms to attenuate current noise levels to not exceed 60 dBA Ldn for the outdoor rear yard area of homes located on either side of Richter Farm Road (A-297) and future Hoyles Mill Road (A-298);
    - b. Show design and final location of berms on signature set of site plans.
  7. Incorporate the following items into the final stormwater management and sediment control plans for EPD staff review and approval prior to MCDEP approval of the plans and issuance of permits:
    - a. Limits of disturbance for grading of stormwater management ponds 4 and 5 a minimum of 50 feet from the stream channels;
    - b. Sediment traps and associated grading outside of stream buffers except in the location of permanent ponds 4 and 5.

8. Signature set of plans to clearly show roadway improvements.
9. Final stream quality monitoring program to be approved prior to sign off of the signature set of plans. Final program to be based upon the parameters outlined in the staff draft document, "Water Quality Monitoring Program for Hoyles Mill Village", of May, 1995.
10. Applicant to enter into an agreement with Planning Board to conform to Approved and Adopted Germantown Master Plan, Appendix D guidelines and recommendations with respect to inspection of clearing, grading, and stabilization activities at the site and to inspection and maintenance of stormwater management facilities.
11. Storm drain along the stream valley at the end of proposed Tapwood Road East shall be relocated so that there is no disturbance within the designated stream valley buffer.
12. No clearing or grading prior to Planning Department approval of signature set of plans.
13. Compliance with Forest Conservation Plan. Prior to approval of signature set of site plans, revise Forest Conservation Plan to include:
  - a. Tree Protection Plan which incorporates the final locations of sediment and erosion control devices and stormwater management facilities;
  - b. Reforestation Planting Plan including planting of 2" caliper trees in reforestation areas along the stream channels adjacent to the stormwater quantity control ponds.
14. Agreement with the Planning Board to construct road improvements as follows:
  - a. Construct Hoyles Mill Road (A-298) as a two-lane road with an eight(8) foot bikepath, from the western property line north of Richter Farm Road (A-297) to twenty (20) feet east of the intersection of A-298 and Black Kettle Drive. This condition is contingent upon the construction of the adjacent development (Kings Crossing) by others. If the development is not constructed or near construction at the time the Hoyles Mill Village improvements are to be made, the developer will be required to grade the roadway and provide a Public Improvement Easement (PIE).
  - b. The developer shall be required to improve Hoyles Mill Road from the twenty (20) feet east of the intersection

of A-298 and Black Kettle Drive to Schaeffer Road. Discussions with the MCDOT have determined the developer may choose one of the following improvements, and still meet MCDOT requirements:

- 1) Widen Hoyles Mill Road to twenty (20) feet, providing a shoulder and drainage ditch on the southern side of the road.
- 2) Widen Hoyles Mill Road to twenty-one (21) feet, providing a rolled curb on the southern side of the road.

# Appendix D

## Water Quality Standards and Criteria for Development

The quality of Little Seneca Creek, particularly the segment downstream of Lake Seneca, will be directly affected by development of the land area that drains to it. The quality and use of this stream will be directly affected by development that occurs on Analysis Areas KI-2 and NE-1.

The intent of the Master Plan is to establish a balance between two objectives in Germantown—first, to provide housing at appropriate Corridor City densities, and secondly, to protect the high water quality of selected streams. Environmental performance criteria have been established in response to both of these objectives. In Analysis Areas KI-2 and NE-1 these criteria require the use of extraordinary best management practices.

Without adherence to the performance criteria and extraordinary best management practices, the maximum residential density recommended for Analysis Area KI-2 would be one unit per two acres.

The intent of the performance criteria is to permit residential development to occur up to the density limit of the R-200 or PD-2 zoning classification (2.4 units per acre), if a package of environmental mitigation measures is implemented which meets the stated criteria. *If the performance standards and criteria cannot be met, then the mitigation measures must be strengthened and/or the development intensity reduced to a level consistent with the criteria.* This site-specific approach provides developers an opportunity to develop a package of mitigation measures that will allow more dwelling units than could be built without those mitigation

measures. The mitigation package would respond to the unique environmental characteristics of the property: soils, slopes, geology, extent and nature of vegetation, relationship to natural drainage courses, etc.

Development and other land disturbances in Analysis Areas KI-2 and NE-1, because of their proximity to and potential impact on the existing high water quality of Little Seneca Creek, deserve special attention and should be conducted in accordance with the guidelines and requirements set forth below.

These guidelines and requirements are organized in three sections:

- D-1 Those which are specific to the environmental situation of Analysis Areas KI-2 and NE-1.
- D-2 Proposed additions to the subdivision regulations and related "Guidelines for the Protection of Slopes and Stream Valleys," to be renamed "Guidelines for Environmental Management in Montgomery County."
- D-3 Proposed amendments to the County's Stormwater Management and Sediment Control Regulations administered by the Department of Environmental Protection.

Sections D-2 and D-3 are incorporated in this Master Plan until such time as new regulations incorporating the substance of these amendments are officially adopted.

# D-1: Master Plan Specific Guidelines

## MASTER PLAN PERFORMANCE STANDARDS<sup>1</sup>

The following standards shall be met by the developer in Analysis Areas KI-2 and NE-1 to assist in maintaining the existing high water quality.

### Imperviousness

Overall, development shall not result in more than 20 percent total impervious surface (e.g., structures, roadways, parking areas, paths).

### Stream Buffer

- a. A minimum stream buffer of 150 feet on each bank of a tributary perennial stream and a minimum stream buffer from each bank of the mainstem of Little Seneca Creek are required.
- b. Additional buffer width greater than the minimum set forth above may be required based on factors including:
  - protection of mature forest stands or other areas of environmental value such as wetlands;
  - types and density of vegetative cover and soil holding ability; and
  - slope of land adjacent to the stream or defining the stream valley.
- c. The stream buffer shall remain undisturbed, with the exception of reforestation, bank stabilization, stormwater management facilities, and road and utility crossings. Stream access should be carefully managed to protect water quality.

### Vegetation and Tree Cover

- a. All disturbed areas shall be revegetated as soon as possible as recommended by the Montgomery County Soil Conservation District. Emphasis should be placed on reforestation of disturbed areas.
- b. In cooperation with the M-NCPPC Environmental Planning Division and the forestry and fisheries divisions of the Maryland Department of Natural Resources, the devel-

oper shall prepare and implement a reforestation plan for the stream buffer area. The primary objectives of reforestation are to provide shade and cooler water temperature and additional sediment and nutrient removal from stormwater runoff. Standards for revegetation of the stream buffer are set forth in the Subdivision Regulations.

### Steep Slopes

- a. Physical development should avoid areas where the slope equals or exceeds 15 percent. Steep slopes (i.e., 15 percent or more) should be incorporated into the site's open space. Wooded slopes equal to or greater than 15 percent should not be disturbed.
- b. Additional measures (as recommended by M-NCPPC in consultation with DEP) may be required where moderately or severely erodible soils exist.

## SUGGESTED BEST MANAGEMENT PRACTICES

Best management practices (BMPs) shall be utilized, as outlined in the "Guidelines for Environmental Management in Montgomery County," to reduce sediment and pollutant loading in receiving streams.

## IMPACT ASSESSMENT REQUIREMENTS

### Performance Monitoring

Performance monitoring and reporting must be conducted by the developer or his agent to ensure that existing high water quality is maintained. The scope, location and timing of such monitoring and reporting is set forth in the proposed "Guidelines for Environmental Quality in Montgomery County."

### Environmental Impact Analysis

In order for the Montgomery County Planning Department to evaluate a development proposal, applicants for development in the KI-2 and NE-1 analysis areas shall submit an environmental analysis of the natural features, the impact of the proposed development on water quality, and the proposed mitigation measures. The scope of the analysis is set forth in the environmental impact analysis requirements of the proposed "Guidelines for Environmental Quality in Montgomery County."

<sup>1</sup> Variances from the Master Plan Standards, Best Management Practices, and Impact Assessment Requirements may be granted on a case-by-case basis by the Montgomery County Planning Board if it can be demonstrated that other measures, with innovative BMP's, would maintain the existing high water quality of Little Seneca Creek.

## D-2: Proposed Amendment and Guidelines

This section sets forth a proposed amendment to the Montgomery County Subdivision Regulation and the establishment of "Guidelines for Environmental Management in Montgomery County."

### SUBDIVISION REGULATIONS

The following paragraph is recommended by staff for inclusion in the Subdivision Regulations. Guidelines for achieving County-wide watershed objectives will be adopted by the Planning Board with specific reference in Section 50-32(e) of the Subdivision Regulations.

*The Board may require environmental management measures that it finds necessary to protect the water quality of County streams in the context of the development density proposed or approved. Such measures may include the delineation and protection of slopes, stream buffers, and wetlands, as well as the utilization of best management practices. For areas designated in area or functional master plans as requiring special protection, or in other areas defined in the Guidelines as environmentally sensitive, additional measures such as environmental impact analysis, afforestation, reforestation,<sup>2</sup> and performance monitoring may be required. Where appropriate, enforcement shall be through binding agreement between the applicant and M-NCPPC ensuring implementation of all required measures. The Board shall publish "Guidelines for Environmental Management in Montgomery County" to provide guidance for the implementation of these measures.*

### GUIDELINES FOR ENVIRONMENTAL MANAGEMENT IN MONTGOMERY COUNTY

The current staff slope and stream buffer guidelines will be expanded and retitled, "Guidelines for Environmental Management in Montgomery County."

The following guidelines are divided into two sections based on the following criteria of applicability: Section I shall be required for all preliminary subdivision and site plans. Section II would only be required when an environmentally sensitive or special protection area has been identified in:

- 2 Afforestation means the establishment of a tree cover on an area from which it has always or very long been absent, or the planting of open areas which are not presently in tree cover. Reforestation means the replanting of trees on recently forested land.

- 1) A master plan, functional master plan, Comprehensive Ten-Year Water and Sewerage Plan, or watershed technical study;
- 2) Areas that are within Class III watersheds and/or subwatersheds;
- 3) Within the Little Seneca Creek Watershed; and
- 4) In proposed subdivision plans where field investigations have identified the presence or predominance of any of the following environmental features:
  - unique wetland, seeps, springs, bogs, recharge areas, or sole source aquifer.
  - tree coverage on more than 30% of the site and this environmentally sensitive area cannot be incorporated into open space.
  - steep areas with erodible soil, including an area with 20% of the land having greater than 25% slope, and an area with 30% of the land being greater than 15% slope.
  - where dwellings are proposed on fill or floodplain soil.
  - proposal associated with high degree of imperviousness (greater than 30%) that will result in further deterioration of the receiving waters, especially where state's anti-degradation policy may apply.
  - subdivision proposals greater than 100 acres in size and with 400 feet of Class III and Class IV streams.
  - commercial, industrial, and institutional development dealing with hazardous substances.

### GUIDELINES FOR ALL AREAS (Required for all subdivisions)

#### Performance Standards

*The following standards shall be applied to all plans:*

- *Streams, springs, and seeps shall be maintained in a natural condition whenever possible so that the hydraulic regimen and State water quality standards for receiving waters can be maintained.*
- *Deposition of any material such as excavated rock, topsoil, stumps and shrubs, and building material within the designated stream buffer on the preliminary/site plan is prohibited.*

## Best Management Practices

As required under, and to conform to, applicable County and State laws and regulations, the applicant shall identify best management practices (BMPs) to reduce sediment and pollutant loading in receiving streams. Additional BMPs may be recommended on a case-by-case basis. The BMPs shall be incorporated into the Stormwater Management Concept Plan required with the preliminary plan submission:

- A State waterway permit from the Water Resources Administration must be obtained before any construction or alteration:
  - (a) in Class III streams;
  - (b) in Class IV streams with watersheds greater than 100 acres; or
  - (c) in Class I streams with watersheds greater than 400 acres.

Any necessary permits from federal or state government (e.g., Section 401 or 404 permits) must be obtained before any disturbance of wetlands or waters.

- To maximize the potential use and success of infiltration techniques, buildings, parking lots and other development should be located on soils with a low infiltration capacity, to the extent feasible. Pervious soils should be maintained as open space, conservation easements, parkland, or stormwater facility sites to the greatest extent consistent with other land use and zoning objectives. Parking lots should not be located within the stream buffer or 100 year ultimate floodplain.
- When a development site consists of both cropland and forestland, it is preferable to develop the area of cropland.
- Road and public utility stream crossings and stream buffer encroachments should be minimized. Where stream crossings and buffer encroachments must occur, they should be placed away from environmentally sensitive areas, and combined to minimize disruption in the stream valley. Clear bridge spans should be used to cross watercourses whenever possible, particularly in Class III and IV watersheds. Culverts may be permitted on a case-by-case basis if it can be demonstrated that the benefits would outweigh any negative impacts.
- Sewer mains and pumping stations should be sited and constructed in such a manner as to protect ground and surface waters. Sewer lines and pumping stations should be located as far as practical from streams while still maintaining needed elevations and gradients to provide reliable service.
- Wherever possible, natural drainage systems should be utilized instead of hydraulically efficient structural drainage. No modification of existing natural drainage should occur except for bank stabilization,

swales, habitat improvement measures, and unavoidable infrastructure improvements (roads, sewer lines, stormwater management, etc.).

- To the extent feasible, natural drainage ways should be shaded in Class III and IV streams to prevent high temperature stormwater from being discharged into the receiving streams.
- Additional erosion control measures (as recommended by M-NCPPC staff in consultation with DEP) may be utilized where moderately or severely eroded soils exist.
- Use of porous materials is encouraged in large parking areas to limit impervious surface, particularly in areas of occasional use.

## GUIDELINES FOR SENSITIVE AREAS

(Required only under certain circumstances)

The items contained in this section would only be required when an environmentally sensitive or special protection area has been identified in a master plan, functional master plan, Comprehensive Ten-Year Water and Sewerage Plan, or watershed technical study; or

Any combination or all of the following items may be required depending on the specific property being evaluated.

## Environmental Impact Analysis

In order for the planning staff to evaluate a development proposal, applicants for development may be required to submit an environmental analysis of the natural features, the impact of the proposed development, and the proposed mitigation measures. Appropriate analyses and models should be utilized to assess impacts and efficiency of mitigation measures. Depending on the location and type of development, the applicant may be required to provide information including but not limited to any or all of the following items:

### Analysis of Natural Features

- a. Topography:
  - natural terrain of the site; and
  - slopes that equal or exceed 15 percent.
- b. Soils/Geology:
  - soil types including drainage characteristics, susceptibility to erosion, and areas of moderate and severe erodibility, including erodibility factor (K);
    - depth of seasonal high water table (for individual water and sewerage systems);
    - geologic conditions; and
    - areas suitable for infiltration.
- c. Vegetation:
  - inventory of site vegetation emphasizing streamside vegetation; and
  - wetland areas, mature wooded areas, and areas demonstrating stress (erosion, poor soils, steep slopes, etc.).



- d. **Physical Habitat (Stream Environment):**
- presence or absence of perennial/intermittent streams;
  - stream characteristics:
    - location and base flow of receiving stream;
    - stream gradient;
    - substrata;
    - habitat suitability for trout, other game fish, and their supporting organisms;
    - biological conditions, including existing macroinvertebrate populations (i.e., species composition and abundance) and phytoplankton populations;
    - stream bank condition; and
    - areas of channel or streambed erosion.
- e. **Groundwater:**
- groundwater characteristics (e.g., depth, yield, and storage) for individual water systems;
  - location and characteristics of springs and recharge areas.
- f. **Hydraulics:**
- existing drainage area and drainage characteristics of the site;
  - existing and future channel velocities; and
  - ultimate 100-year floodplain as defined by M-NCPPC/FEMA 1"=200' maps plus 25' building restriction line.
- g. **Water Quality:**
- existing water quality data through baseline monitoring.

#### **Analysis of Proposed Development**

- a. **Size and Location of Development:**
- proximity of physical development to the stream channels;
  - proximity to headwaters for perennial/intermittent streams, springs and wetlands;
  - area of physical development (i.e., ground coverage including buildings, roads, parking areas, walks, and other transportation ways); and
  - estimate of impervious surface.
- b. **Proposed Stormwater Management Plan:**
- stormwater management concept plan including the types of conveyance and measures to augment groundwater recharge to maintain sufficient base flow of streams.
- c. **Proposed Sewerage and Water Systems:**
- proximity of water and sewer lines to the stream channels; and
  - location of pumping stations and force mains.
- d. **Proposed Site Maintenance Plan:**

- erosion and sediment control measures recommended for use during and after construction; and
  - proposed management plans for land application of substances (e.g., fertilizers, pesticides, etc.) and the deposition of residuals (e.g., refuse, vegetative debris, etc.).
- e. **Impact on Water Quality as Measured by the Following:**
- temperature;
  - dissolved oxygen concentration;
  - turbidity;
  - fecal coliform density;
  - biological oxygen demand;
  - nutrients (soluble and insoluble);
  - pH;
  - toxics (including heavy metals); and
  - total residual chlorine.

In addition, the analysis should identify and describe proposed measures to mitigate or eliminate impacts of the above parameters due to the development.

#### **Afforestation/Reforestation**

- At the direction of the Board, the applicant shall develop and implement an afforestation/reforestation plan for the stream buffer area, in cooperation with the M-NCPPC Environmental Planning Division, Montgomery County Department of Parks, and the Forestry, Park, and Wildlife Service of the Maryland Department of Natural Resources. The primary objectives of afforestation/reforestation are to provide shade and cooler water temperature, additional sediment and nutrient removal from stormwater runoff, and improved wildlife habitat. The emphasis shall be placed on locating larger caliper trees and dense shrubs within the buffer area closest to the stream. Other areas of the buffer shall be allowed to reforest naturally.
- Where development occurs on cropland, former croplands outside of the developed areas should be afforested. The type and extent of afforestation/reforestation would be reviewed on a case-by-case basis and during the preliminary/site plan stage.

#### **Performance Monitoring**

Performance monitoring and reporting may be required of the applicant or his agent at the direction of the Planning Board to ensure that existing high water quality is maintained during and after development activity. The monitoring results shall be used to collect baseline data on existing water quality, to estimate the likely impact of development on water quality, and to assess actual impact on water quality during construction and at project completion. Monitoring data shall be reported to the M-NCPPC Environmental Planning Division. The scope, location and timing of monitoring

and reporting is provided below. The Board may at its discretion waive or add other requirements to the scope.

- The applicant (or the M-NCPPC as an agent of the applicant with applicant funding) shall provide bi-monthly (i.e., every two months) grab samples with field measurements of flow, pH, turbidity, temperature, and dissolved oxygen; and laboratory analyses of major pollutant constituents as specified by prior agreement in the approval of preliminary/site plans. Quarterly reports shall be provided to the M-NCPPC Environmental Planning Division.
- For projects constructed in the Class III and IV watersheds, monitoring and reporting shall begin at the initiation of grading and continue for a period of 18 months after the development is completed.
- Monitoring and reporting will be conducted in a manner to provide needed data on best management practices. A minimum of three samples will be collected during each sampling session, including one at the upper reaches of the development site, one at the development site, and one at the lower reaches of the development site. At least eight of the bi-monthly samples must be collected during storm flow resulting from rainfall events of 0.75 inches or greater.
- The applicant may be required to conduct biological monitoring in combination with physical monitoring. Biological monitoring shall be conducted for aquatic invertebrates to determine the overall impact of development on the stream system (indicator organisms can provide information of the extremes of pollution experienced by a stream system). Bio-assay testing shall be conducted prior to grading, during construction and at completion of the development project. Scheduling of testing during construction shall be determined as part of the subdivision/site plan approval.
- The analysis shall be conducted at the applicant's expense and in coordination with the M-NCPPC. The applicant will be responsible for selecting a state certified analytical laboratory and for using standard field sample collection methods.

### **Sediment and Erosion Control Best Management Practices**

All disturbed areas should be revegetated as soon as possible as recommended by the Montgomery County Soil Conservation District. Emphasis should be placed on reforestation of disturbed areas.

### **Development Agreement**

When required by the Planning Board, the applicant/owners of the property shall enter into a binding agreement with the M-NCPPC to ensure that the development is constructed in accordance with the appropriate standards and requirements contained herein and other County environmental standards, and the stormwater management facilities are properly constructed and maintained.

The monitoring, maintenance, and enforcement agreement is to be submitted for approval with the record plat submission. An executed copy is to be recorded with the first record plats. In addition, there is to be appropriate language included in the Homeowners Association documentation referencing the covenant and the obligations to be undertaken by the Homeowners Association. During construction, and for the first four years following of construction, the responsibility for compliance with the agreement will remain with the developer. Thereafter, the Homeowners Association shall assume responsibility.

As part of this agreement:

The applicant must:

- provide bi-weekly certification to M-NCPPC (with copy to DEP) during construction from an independent professional engineer that the clearing, grading and stabilization of the site are proceeding in accordance with the Maryland Standards and Specifications for Soil Erosion and Sediment Control.
- establish and maintain a cash escrow fund to finance the inspection and maintenance of the stormwater management (SWM) facilities.
- initiate and pay for bi-annual inspection, maintenance, and certification to DEP, ensuring that the facilities remain in proper working condition in accordance with the approved design standards.
- ensure that the stormwater management facilities are constructed in accordance with State and County sediment control practices and with the performance criteria and standards listed herein.
- grant the necessary easements allowing the county access to the facility in order to inspect and/or repair the facilities and verify engineer's certification.

The homeowners association must:

- maintain the stormwater maintenance fund at a predetermined level by assessing homeowners a portion of the association dues; measures to protect the water quality from misapplication of fertilizer and pesticide, improper refuse collection, vegetative debris, and animal wastes should be considered and adopted into the operating policies or covenants of the homeowner's association.

Both applicant and homeowners association must agree to:

- conduct conveyance system cleaning as often as necessary so the catch basins and ditches perform according to design standards.
- maintain the facilities in accordance with the agreement.

If not, the County may perform all necessary repair and maintenance work, and the County may assess the developer/homeowners association or the cash escrow fund for the costs of the work and any applicable penalties.

# D-3: Proposed Stormwater & Sediment Control Amendments

## RECOMMENDED CHANGES TO STORMWATER REGULATIONS

**Recommendation #1:** Amend Section 1.8 to include the following definitions: (Definitions Apply to ALL WATERS)

**Stream Buffer**—An undisturbed strip of natural vegetation contiguous with and parallel to the bank of a perennial stream (base flow channel) which is intended to:

- Protect hydraulically adjacent slope areas;
- Maintain or improve the water temperature regime/water quality of a stream;
- Protect wetlands;
- Complement regulations pertaining to the 100-year ultimate floodplain;
- Provide or maintain wildlife habitat, open space, or both;
- Complement on-site erosion/sediment control measures and stormwater management measures by serving as a backup natural filter/trap; and
- Provide for the esthetic enhancement of stream valley areas.

**Nontidal Wetland**—An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

**Recommendation #2:** Amend Section 2.A.1.b to add a sentence at the end of the first paragraph (ending with the word "Manual") to read:

The Director may require applicants to submit soil boring information sufficient to demonstrate thorough analysis of the feasibility of stormwater management infiltration practices.

**Recommendation #3:** Amend Section 2.A.1. to add a new Subsection 2.A.1.c as follows:

**c. Protection of Stream Buffer Areas**

(1) Applicants are required to delineate stream buffer areas on stormwater management (SM) Concept Plans and

related SM structural design documents submitted to DEP. (ALL WATERS)

- (a) For those properties that go through M-NCPPC subdivision review and/or site plan review, the delineated stream buffer area shall be that approved by the Montgomery County Planning Board as part of subdivision or site plan approval.
- (b) For lots recorded prior to April 1983, applicants must delineate stream buffer areas on the SM Concept Plan. Applicant proposed stream buffer delineations must be based on and consistent with the County's adopted "Guidelines for the Protection of Stream Buffer Areas." The Director may, after opportunity for comment from the M-NCPPC, waive this requirement in cases where its imposition would eliminate opportunities for development of previously approved and recorded lots or when other circumstances warrant.<sup>3</sup>

(2) The SM Concept Plan submission shall include information necessary to document compliance with the County's "Guidelines." (ALL WATERS)

(3) Grading and construction work involving permanent disturbances to stream buffer vegetation is prohibited in stream buffers delineated pursuant to Section 2.A.1.c.(1).(b). Construction of roads, bridges, drainage and stormwater management facilities, sewer lines, other utilities, trails, bike paths, etc. is exempt from this restriction. The Director may also waive this restriction if unusual circumstances warrant and stream protection objectives will not be jeopardized. (ALL WATERS)

(4) Reforestation, through natural succession, is required within stream buffers delineated pursuant to Section 2.A.1.c.(1).(b). As considerations of water quality, steep slopes, or other environmental conditions warrant, the Director may require additional plantings to accelerate reforestation within sensitive portions of the buffer area. Reforestation needs on M-NCPPC managed parkland will be determined by the Montgomery County Department of Parks. On other public lands, reforestation requirements for stream buffers, delineated in accordance with Section 2.A.1.c.(1).(b), will be determined by DEP upon consultation with the cognizant public agency.

(5) DEP may require the applicant to install preventative and/or remedial stream channel protection measures, such as gabions and other stream bank stabilization techniques, upstream and downstream of stormwater manage-

<sup>3</sup> Criteria defining conditions for the granting of waivers to stream buffer requirements will be developed by DEP in consultation with M-NCPPC staff.

ment facilities. DEP will coordinate, with the Department of Parks, the review of stream channel protection measures proposed for location on or adjacent to M-NCPPC managed park property. For facilities proposed for location on M-NCPPC managed park property, the Department of Parks will review and approve SM facilities before final approval by DEP. (ALL WATERS)

(6) Stream buffer requirements in the adopted "Stream Buffer Guidelines" apply to all streams which either produce a perennial flow, have greater than 30-acre drainage areas, or are designated on the latest operative version of the 1": 200' scale topographic maps prepared by the M-NCPPC. In cases where more than one of these conditions exist, the most restrictive condition applies. (ALL WATERS)

**Recommendation #4:** Amend Section 2.A.1 to add a new Subsection 2.A.1.d. as follows:

**d. Protection of Natural Springs and Seeps**

(1) Stormwater Management (SM) Concept Plans shall identify all natural surface springs and seeps on the development site. Surface springs and seeps will not be piped unless extraordinary circumstances warrant the granting of a waiver of this requirement by the Director. DEP will inform applicants and closely coordinate with the M-NCPPC in instances where pending decisions on waivers could affect an applicant's ability to meet applicable conditions of subdivision as approved by the Planning Board. (ALL WATERS)

(2) Wherever feasible, surface springs and seeps should be diverted around SM structures and designs incorporated into SM Concept Plans that prevent temperature elevation of natural spring and seep discharges. (ALL WATERS)

**e. Control of Runoff Velocities**

Drainage systems shall be designed to reduce runoff velocities at outlets to non-erosive rates down to 4 feet/second or less as conditions warrant. Drainage systems may include: dutch drains; drainage swales with check dams; stone-filled ditches; use of log check dams in small streams; and parallel pipes. (ALL WATERS)

**f. Protection of Habitat Access for Aquatic Life**

Construction of SM structures in wetlands and/or construction of in-stream SM structures which may prevent or impede natural movement of aquatic life will be done in conformance with State and Federal statutes and regulations. (ALL WATERS)

**g. Coordination of SM Facilities Impacting Public Park Lanes**

DEP will coordinate, with the Department of Parks, the review of SM facilities proposed for location on or adjacent to M-NCPPC-managed park property. For SM facilities which have discharge outfalls on or within 50' of tributary drainage to M-NCPPC-managed park property, Department of Parks approval of the discharge outfall is required prior to final approval by DEP. For SM facilities proposed for location on M-NCPPC-managed park property, the Department of Parks

will review and approval SM facilities before final approval by DEP. (ALL WATERS)

**Recommendation #5:** Amend Section 4.B.2 to revise coverage of fee structure for water quality waivers. Revisions would be based upon the following concept: (ALL WATERS)

- Revise regulations affecting water quality waivers to include fees covering all residential land use densities equal to or greater than 1.0 dwelling units/2.0 acres. (ALL WATERS)
- DEP will develop a new table for assessing waiver fees based upon zoning, related typical imperviousness, estimated runoff, and/or estimated pollutant loading (in lbs./acre/year).

**Recommendation #6:** Move Sections 5.B and 5.C to become new Sections 5.D and 5.E respectively. Create a new Section 5.B as follows:

**B. County Stormwater Management Objectives by Water Use Class**

**1. General Water Use Protection Objectives**

County water quality control requirements are designed to support water use classifications designated in State Water Quality Standards and the nutrient reduction goals of the 1987 Chesapeake Bay Agreement. This is accomplished through: (a) policies set forth in the Comprehensive Ten-Year Water Supply and Sewerage Systems Plan; (b) County approved and adopted master plans, functional master plans, and watershed studies; (c) stream valley park acquisition; (d) careful siting of development through application of zoning powers and subdivision regulations; and (e) implementation of County Stormwater Management and Sediment Control regulations. Maryland also exercises regulatory and programmatic responsibilities in some of these areas. (ALL WATERS)

**2. Class I Streams**

Class I streams are protected to support general aquatic life, recreational opportunities, and agricultural, industrial and public water supply. County SM requirements seek to control peak runoff flows while removing nutrients, sediments, and other pollutants to the extent practicable. Infiltration measures, flow attenuation using swales and natural depressions, and "wet" ponds are the preferred order of SM controls. Where such measures are infeasible or impractical and wetlands protection considerations outweigh the benefits of wet ponds, "dry" SM ponds are generally acceptable. (CLASS I)

**2a. Class I Watersheds Draining Public Water Supply Reservoirs**

In watersheds which drain both to Class I streams and to public water supply (PWS) reservoirs, the primary concerns are the control of excessive sediment and nutrient

discharges. Sedimentation reduces reservoir storage capacity. Excess nutrients accelerate reservoir eutrophication, increase drinking water treatment costs, and reduce sport fishery potential and general recreational appeal. Preferred solutions are infiltration practices, capable of maintaining high levels of sediment and nutrient removal over a long term, and wet ponds. (CLASS I Waters That Are Also Tributary to PWS Reservoirs)

### 3. Class III and Class IV Trout Waters

Watersheds draining Class III and Class IV streams, require special SM approaches. In Class III streams, maintenance of high dissolved oxygen levels and cool temperatures is critical throughout the spring and summer seasons due to the permanent and reproducing nature of the trout fishery. Emphasis is on maximum use of on-site infiltration controls to remove pollutants and moderate temperatures before runoff is returned, as groundwater inflow, to streams. Other cooling techniques include reducing site impervious area and increasing shade area. (CLASS III)

Wet and dry ponds may not be located to discharge to Class III waters except as authorized by the Water Resources Administration of the Maryland Department of Natural Resources (DNR). The Director may further restrict the use of DNR-approved wet ponds unless the applicant can demonstrate that discharges will not adversely affect stream temperatures, significantly disturb wetlands, or impede fish migration and spawning. (CLASS III)

In Class IV streams, dissolved oxygen and temperature concerns are limited primarily to early spring when trout are annually restocked to support recreational fishing. SM control methods are similar to those used to protect Class III streams. Infiltration remains the preferred SM method. However, wet ponds or other control measures are not generally discouraged if designs and shading techniques provide a necessary level of temperature moderation. (CLASS IV)

The issuance of stormwater management waivers for areas tributary to Class III watersheds is strictly limited and, for Class IV watersheds, discouraged. (CLASS III AND IV)

#### 3a. Watersheds Having Class III or Class IV Designations Which Drain to Public Water Supply Reservoirs

Where a Class III or Class IV watershed drains to both a trout stream and a PWS reservoir, the trout stream classification is applied in developing a SM Concept Plan. Infiltration is the preferred management method for temperature moderation and reduction of sediment and nutrient inputs. If acceptable to the state regulatory agencies, the Director may agree to the applicant's use of other alternate innovative SM controls (e.g., wet ponds with special discharge controls to moderate temperature). (CLASS III and IV Waters Which Are Also Tributary to PWS Reservoirs)

Recommendation #7: Create a new Section 5.c. as follows:

#### C. Requirements and Criteria for Areas Tributary to Class III and Class IV Waters and to Public Water Supply (PWS) Reservoirs

(NOTE: A table would be used here that includes the specific requirements listed below and identifies the applicable water use class as noted here at the end of each proposed requirement here in the margin: III, IV, and PWS.)

1. The Stormwater Management (SM) Concept plan shall indicate the selection of infiltration or other appropriate SM measures leading to drainage conveyance systems. These measures shall be designed to infiltrate the "first flush" of runoff (initial 1/2" runoff) to capture and remove pollutants dissolved or suspended in runoff to the extent feasible. SM measures such as infiltration trenches, vegetated swales with check dams, vegetated filter strips, and oil and grit separators are acceptable to DEP. Infiltration measures acceptable to DEP are identified in Maryland's Standards and Specifications. (All CLASS III Waters Plus CLASS IV Waters in Little Seneca Watershed)

2. Wet or dry ponds cannot be located to discharge to Class III Waters unless specifically authorized by MD DNR. Temperature and dissolved oxygen content from proposed pond discharges may not cause violations to stream receiving water standards specified in Maryland Water Quality Standards. For DNR-approved wet ponds discharging to Class III waters and for all wet ponds discharging to Class IV Waters, the Director may further regulate the placement, design, and maximum drainage areas served as follows:

- a. SM Concept Plans shall place emphasis on maximum use of on-site control options. (CLASS III)
- b. Drainage areas serving wet ponds shall not exceed 250 acres. (CLASS III and IV)

3. If wet ponds are proposed in the SM Concept Plan, they shall be designed, where feasible, to facilitate shading by tree canopy to help lower pond and discharge temperatures as needed to maintain downstream receiving water standards. DEP may also require mature tree preservation and/or reforestation with specified species, sizes, and densities. (CLASS III and IV)

4. Because of the high levels of nutrient and sediment control provided, the use of wet ponds and SM infiltration measures is encouraged in watersheds that drain to public water supply reservoirs and that are not also designated as Class III streams. (CLASS I and IV WATERS Tributary to PWS Reservoirs)

5. Extended detention times for SM impoundments without a permanent pool (e.g., "dry ponds") must not exceed 24 hours. (CLASS III and CLASS IV Waters in the Little Seneca Watershed)

6. When dry pond structures are proposed for construction in open wetlands or in open stream valleys with

perennial base flows, special additional measures may be required to ensure the integrity of the natural ecosystem. These measures may include:

- a. leaving the existing land contours, natural vegetation, and base flow channels undisturbed wherever feasible;
- b. limiting land disturbance areas to construction of the embankment and release structures only; and
- c. shading of the base flow channel with special plantings. (CLASS III and IV)

7. The installation of any in-stream structures that will prevent or inhibit the natural movement of aquatic life is prohibited, unless it can be demonstrated that the benefits of such in-stream structures would significantly outweigh any negative impacts.

(Applies to all CLASS III and CLASS IV Waters in the Little Seneca Watershed. On a case-by-case basis, the Director may also apply this requirement to other Class I or Class IV waters where severe impediments to unique spawning or aquatic life migration needs may result.)

8. Fines for violation of SM requirements in Class III or Class IV waters or in areas with drainage to public water supply reservoirs are double the fines for first time violations of these regulations. (CLASS III and IV Waters; ALL WATERS Tributary to PWS Reservoirs)

(NOTE: The County lacks authority, under the current County Code, to enforce this. A Code amendment would be needed.)

9. Use of maximum landscaping is encouraged, to the extent feasible, to reduce runoff and increase shading of impervious areas. For residential subdivisions having lot sizes of two (2) acres or greater, use of open section roads is also required. (All CLASS III Waters Plus CLASS IV Waters in Little Seneca Watershed)

10. Off-site SM structures must be dry ponds that include additional design features and/or facilities which protect or provide natural or man-made wetlands, shallow ponded areas, marsh, etc. (CLASS III)

11. When preferred SM practices are provided infeasible or impractical, DEP may require the applicant to install oil and grit separators as part of public storm drainage systems. If DEP requires this, the applicant will be required to sign a maintenance agreement which assigns all long-term maintenance responsibilities to an appropriate organization having a direct interest in the affected property. (CLASS III and IV Waters; ALL WATERS Tributary to PWS Reservoirs)

## RECOMMENDED CHANGES TO SEDIMENT CONTROL REGULATIONS

(NOTE: Amendments in these areas are under consideration. However, suggested phrasing of regulatory language has not yet been developed.)

1. Require that stream buffer areas, designated on Stormwater Management (SM) Concept Plans be also designated on sediment control (SC) plans submitted to DEP (ALL WATERS)

- a. For those properties that go through M-NCPPC subdivision review and/or site plan review, the designated stream buffer area shall be that officially adopted by the Montgomery County Planning Board as part of subdivision or site plan approval.
- b. For lots recorded prior to April, 1983, applicants must identify, on the sediment control plan, proposed stream buffer areas. Applicant proposed stream buffer delineations must be based upon and consistent with the County's adopted "Guidelines for the Protection of Stream Buffer Areas." The Director may, after opportunity for comment from the M-NCPPC, waive this requirement in cases where its imposition would eliminate opportunities for development of previously approved and recorded lots or when other circumstances warrant.<sup>4</sup>

2. Temporary sediment control in stream buffer areas is discouraged. However, temporary SC controls may be acceptable to DEP when applicants clearly demonstrate that use of the buffer area represents the best method of sediment control and that reforestation provisions will be implemented. (ALL WATERS)

3. Indicate that DEP is responsible for enforcing the stream buffer areas as designated on the applicant's sediment control plan and SM Concept Plan. (ALL WATERS)

4. Increase trapping storage volume requirements to 3600 cu. ft./acre (1800 cu. ft./acre to be temporarily stored for 24 hours; 1800 cu. ft./acre to be permanently stored in pipe outlet traps, sediment basins, and rip-rap outlet traps with dewatering devices). (ALL WATERS)

5. Explore possible avenues for tripling of fines for violations in drainage to special waters. There would appear to be good environmental justification for this in Class III waters and economic justification as well in drainage up-

4 Criteria defining conditions for the granting of waivers to stream buffer requirements will be developed by DEP in consultation with M-NCPPC staff.

*stream of water supply reservoirs and County off-site SM facilities. (CLASS III and IV Waters; All WATERS Tributary to PWS Reservoirs)*

**(NOTE: County lacks authority, under the current County Code, to enforce this. A Code amendment would be needed.)**

**6. Add the below regulations to implement the recommendations previously stated in this Appendix concerning sediment control that are not already addressed in existing sediment control regulations, in draft floodplain and SM regulations (regarding stream buffer protection), or in M-NCPPC draft tree preservation legislation and regulations.**

- a. Clearing and grading shall be planned and phased to expose the minimum practicable land areas at any one time during development. (ALL WATERS)**
- b. Avoid unnecessary clearing. (ALL WATERS)**
- c. Require that topsoil temporarily removed from a construction site be stored and redistributed in accordance with practices**

*approved by the Montgomery Soil Conservation District. (CLASS III and IV Waters; ALL WATERS Tributary to PSW Reservoirs)*

**7. Require special plantings on graded slopes in excess of 25%. Require use of graded slope benches for every 15 feet in elevation change. Review grading plans to limit concentrated flows and provide sheet flow drainage. (ALL WATERS)**

**8. Prohibit, except for road embankments, constructed slopes in excess of 3:1 located in or immediately adjacent to stream buffer areas (CLASS III and IV Waters; ALL WATERS Tributary to PWS Reservoirs)**

**9. Indicate that DEP will coordinate, with the Montgomery County Department of Parks, the review of sediment control devices proposed for location on or having drainage immediately adjacent to M-NCPPC managed parkland. The Department of Parks will review and approve SC devices proposed for location on M-NCPPC managed park property before final approval by DEP. (ALL WATERS)**

M-NCPPC



## MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

September 6, 2001

**Memorandum**

TO: Linda Komes  
Development Review Division

FROM: Cathy Conlon *CACone*  
Countywide Planning Division-Environmental Planning

SUBJECT: Hoyles Mill Village, Section II (Estates at Woodcliffe Park),  
Site Plan No. 8-95030C and Preliminary Plan No. 1-01063

**Recommendation**

Environmental Planning staff have reviewed the above-referenced site and preliminary plan revisions and recommend approval subject to the previously approved conditions with addition of the following conditions:

1. Imperviousness for the Section II single family detached units and driveways may not exceed 12.588 acres or 548,333 square feet. Street, sidewalk and attached housing units with associated parking must be constructed per design shown on approved Site Plan No. 8-95030 except as amended by this plan.
2. Monitoring of conformance to the imperviousness limits for the single family detached portion of Section II shall be done in accordance with the December 6, 2000 agreement between the applicant and the Commission (Attachment A), except that, the 20 lots identified to be held in reserve in this agreement shall be replaced by the 20 lots identified in the August 17, 2001 letter from Toll Brothers, Inc (Attachment B). The last five lots of the 20 lots to be released will be lots 60&61, block Z, followed by lot 1, block Z, and followed by lots 1&2, block S.
3. If at any time the imperviousness limit is reached before building permits for all approved lots have been released the lots for which building permits have not been released must be re-recorded as non-impervious open space. All pending use and occupancy permits will be held until such time that the open space plats are recorded.
4. All driveways must be designed as single car width (10 feet) from the edge of the road through the sidewalk and flared out to double car width( 20 feet) in front of the garage. The maximum driveway length



- from the edge of the road right of way to the garage entrance shall be 25 feet. Alternate driveway design may be approved by MNCPPC Environmental Planning staff on a case by case basis provided any additional impervious surface is accounted for as part of the overall imperviousness limit. All sales contracts must disclose to buyers that these dimensions are imposed as a condition of the Planning Board approval.
5. Before issuance of the 57<sup>th</sup> building permit, applicant shall record in the land records a disclosure of the imperviousness limits and monitoring requirements to subsequent land buyers. This disclosure shall be reviewed and approved by Commission legal staff before recordation.
  6. Applicant shall provide each prospective home buyer with a site plan that clearly illustrates house setback and sidewalk locations.
  7. Prior to issuance of the 57<sup>th</sup> building permit, the sidewalk shall be constructed in its final location on all model home lots.

## **Discussion**

The subject property is part of a two phase development located in Germantown within the KI-2 analysis area identified in the Germantown Master Plan. This analysis area is subject to special environmental protection measures because of the sensitivity and high quality conditions of the portion of the Little Seneca Creek stream system to which it drains. This section of Little Seneca Creek and its tributaries are classified as Use III-p waters (natural trout waters). The Hoyles Mill Village plan area contains four streams that drain to Little Seneca Creek. Two of these streams are located within the Section II area.

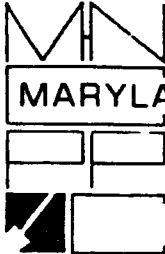
The special environmental protection measures recommended by the master plan are set forth in Appendix D of the plan. These measures include a site imperviousness cap, performance monitoring, stringent best management practices, and protection and enhancement of stream buffer areas. These measures were included in the approval of the original site plan. The current amendment has been proposed to address limitations on the Section II development resulting from the site imperviousness cap.

The master plan sets a site imperviousness cap of 20 percent for all properties within the KI-2 analysis area. The Hoyles Mill Village plan received a waiver of this requirement up to 21.114% imperviousness because the additional impervious area resulted from increased sidewalk standards that were not in place at the time master plan assumptions for imperviousness were made. Section II in the original site plan approval contained 225 single family detached houses and associated driveways. The imperviousness attributed to these as part of the overall site's 21.114% imperviousness was 12.588 acres or 548,333 square feet.

The revision to the site plan proposes to reduce site imperviousness by eliminating two lots, and replacing several cul-de-sacs with shared driveways and connected streets. The same area of imperviousness would then be applied to the size of houses or driveways within Section II to provide additional flexibility. The overall site imperviousness requirements for the property are not changed by this revision. Based upon staff's monitoring of actual house sizes being constructed in Section I of this development, and on other plans with imperviousness caps, additional flexibility will be needed to construct Section II. In fact, a significant overage in the imperviousness constructed as part of Section I still needs to be accounted for as part of future Board action on the adjacent Hargett Property (as noted in Attachment A).

The conditions recommended by this memo clarify the imperviousness requirements for this section of the plan and modify the previously approved protocol for monitoring compliance with the requirements. Overages in the imperviousness for Section II should be avoided with the requirement for reservation of 20 lots. Staff has discussed with the applicant the possibility of offsetting higher levels of imperviousness than this plan allows by providing acceptable hydrologic best management practices. Staff is willing to consider such alternatives as part of another amendment to the plan should the applicant choose to pursue them.

CAC:cc



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

OFFICE OF  
THE GENERAL COUNSEL

(301) 495-4646  
FAX (301) 495-2173

December 6, 2000

Barbara A. Sears, Esquire  
Linowes and Blocher LLP  
1010 Wayne Avenue, 10th Floor  
Silver Spring, Maryland 20910-5600

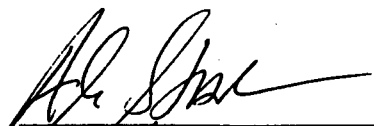
RE: Hoyles Mill Village, Phases 1 and 2; Site Plan Nos. 8-95027, 8-95030

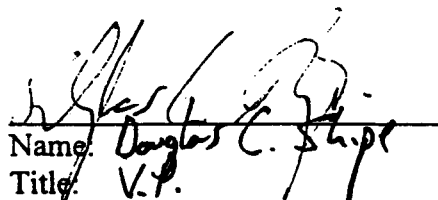
Dear Ms. Sears:

I am writing in response to your November 28, 2000 letter to Charles Loehr, proposing a means to allow Toll Brothers, Inc. ("Toll") and Artery Hoyles Mill LLC ("Artery") to go to closing on December 1, 2000 (copy attached as Exhibit "A"). The Commission is willing to agree to the terms of the letter subject to the following modifications:

1. To deal with any impervious area issues associated with Section 1, Artery agrees to execute and record a restrictive covenant for the Hargett Parcel, containing approximately 6 acres as shown on Exhibit "B" ("Hargett Parcel"). The covenant shall be binding on successors and assigns and shall provide that no clearing, grading or construction shall be undertaken on the Hargett Parcel until the impervious issues on Section 1 of the above-referenced property are resolved between Artery and the Commission.
2. Toll Brothers must provide to the Commission monitoring reports for Section 2 development at stages that correspond to the release of the 56th, 112th and 168th building permits for Section 2 (225 single family lots owned by Toll). The reports must detail the (i) actual impervious area constructed in each stage at the date of the report [*i.e.*, house footprints, roadways (excluding Schaeffer Road, Richter Farm Road, and Leaman Farm Road), driveways and sidewalks], (ii) estimated impervious area for lots for which building permits have been issued in each stage but not yet constructed, and (iii) impervious area proposed for future stages (as shown on the approved Section 2 Site Plan). The Commission will not release building permits for each of the stages until the reports are submitted to the Commission for the previous stage. If the impervious area for Section 2 calculated in this manner exceeds the impervious area limits applicable to Section 2 after release of the 112th building permit (50% completion of the Section 2 development), the Commission may require Toll to submit monitoring reports on a more frequent basis as determined by Staff but not more often than every 30th building permit. After release of the 200th building permit, Staff may further require review and approval of imperviousness as part of

The undersigned authorized signatories accept the terms of this letter:

  
Name: *Alan Stackman*  
Title: *Sr. V.P.*  
Artery Hoyles Mill LLC

  
Name: *Douglas C. Ship*  
Title: *V.P.*  
Toll Brothers, Inc.

November 28, 2000

Barbara A. Sears  
301.650.7057  
bas@linowes-law.com

**BY HAND DELIVERY**

Mr. Charles Loehr  
Director of Planning  
Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

Re: Hoyles Mill Village, Phases 1 and 2; Site Plan Nos. 8-95027, 8-95030

Dear Mr. Loehr:

It is our understanding from your voice-mail message of yesterday that further investigation of matters contained in our letter to you dated November 15, 2000 needs to be undertaken by Staff in order to respond to the letter. As we discussed, the settlement of the Toll Brothers Artery litigation provides for closing on the sale of the Section 2 single-family detached lots to Toll Brothers ("Toll") on Friday, December 1, 2000. Your message further indicated that the Staff questions were of a nature that the December 1, 2000 date for a response from staff would probably not be met.

In order to preserve the December 1, 2000 closing date, Artery suggests that, until the impervious issue can be resolved, Artery hereby agrees to withhold development on 15 lots in Section 2. Specifically, these lots would include: Lots 1 through 7, Block Z, Lots 1 through 4, Block AA, and Lots 51 through 54, Block B. The set-aside of these 15 lots would not only cover the 27,960 square feet of projected increased impervious area from the approved site plans, but an additional approximate 25% buffer above the 27,960 square feet. Both Park and Planning and Artery would retain their respective positions with regard to impervious area until the impervious area calculations can be confirmed by Staff.

In exchange for the set-aside, Park and Planning hereby agrees to consent to the issuance of building permits for the other Phase 2 lots not identified in this letter as the 15 set-aside lots. This agreement will not prevent Artery from contesting the final position of Park and Planning on the impervious issue if unfavorable to Artery, nor compromise any decision Park and Planning may make on the November 15, 2000 letter. This agreement will provide security to Park and Planning that the 21% impervious area viewed by Staff as a cap would not be exceeded if Park and Planning rejects Artery's November 15, 2000 proposal. Additionally, Artery agrees that Section 2 may be monitored as provided in the November 15, 2000 letter.

We believe that this mechanism for proceeding is fair to all parties and allows the closing with Toll to proceed on December 1, 2000 and, hence, the major obstacle currently

SCHEMATIC LAYOUT  
 HOYLES MILL VILLAGE  
 SECTION 2  
 DARNESTOWN (6TH) DISTRICT  
 MONTGOMERY COUNTY, MARYLAND

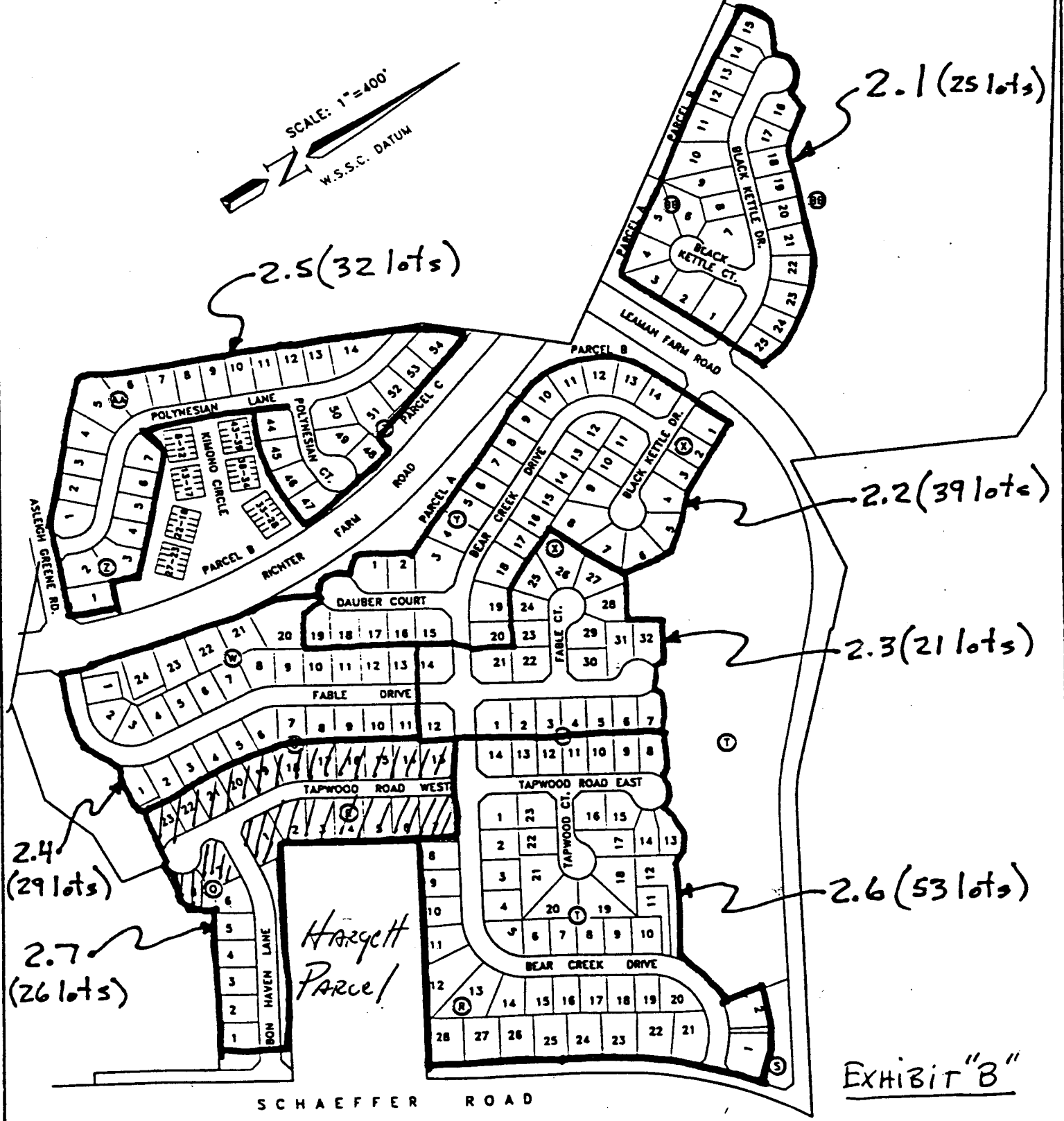
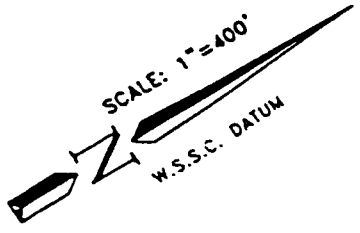


EXHIBIT "B"

# Toll Brothers

America's Luxury Home Builder™

August 17, 2001

Linda Komas  
Maryland-National Capital Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, MD 20910-3760  
RE: Woodcliffe Park

Dear Ms. Komas,

In response to our previous discussions, I am submitting a revised list of 20 lots that correspond to the agreement between Toll Brothers, Inc. and MNCPPC dated December 6, 2000. I feel that the deletion of these lots, if required, would result in the most desirable finished community plan. The proposed lots are as follows (also see attached plan):

Lots 1, 2 Block S  
Lots 16-20 Block Y  
Lots 25-29 Block W  
Lot 1 Block W  
Lot 1 Block Z  
Lots 57-62 Block Z

Please review these and call me to discuss @ (410) 872-9105. Also please forward any additional language that you want shown on the plan. As we discussed it is very important that we get on the September Planning Board Agenda.

Sincerely,



Dave Sadler  
Assistant Vice President  
Toll Brothers, Inc.