

January 4, 2002

TO: Montgomery County Planning Board

VIA: Jeff Zyontz, Division Chief  
Countywide Planning Division

Mike Riley, Division Chief  
Park Development Division

FROM: Bill Gries  
Park Acquisition Specialist

Brenda Sandberg *BCS*  
Legacy Open Space Program Manager

RE: Legacy Open Space acquisition: Hoyles Mill Diabase, South of White  
Ground Road, 800 acres near Boyds, Maryland

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**Recommendation:** Authorize staff to negotiate and accept Deed with Easement for the acquisition of the Hoyles Mill Diabase Area (South of White Ground Road) from the Trust for Public Land (TPL) with funding from the State of Maryland GreenPrint program.

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### Background

The Hoyles Mill Diabase Area is identified in the Legacy Open Space Functional Master Plan (July 2001) as a high priority site for acquisition in the natural resources category. The area consists of a large contiguous forest on a diabase rock outcropping that results in a unique forest habitat. Protection of this area is important to State and regional biodiversity, since the site contains at least twenty-two species of rare, threatened, endangered or watchlist plants. The State identifies the area as part of one of the major natural resource hubs in Montgomery County's "green infrastructure." The part of the Diabase Area located south of White Ground Road also was identified in the mid-1990s for park acquisition due to its environmental significance.

The entire Hoyles Mill Diabase Area, both south and north of White Ground Road, was until recently under the ownership of Bardon, Inc., known at various times as Aggregate Industries or Rockville Crushed Stone. On December 6, 2001, Michael Rubin, an individual, and the Trust for Public Land (TPL), a national non-profit conservancy organization, purchased the property from Bardon, Inc. Mr. Rubin's primary interest in

purchasing the property is to preserve the forest and open land from residential or mining development and to maintain the current equestrian, fox chasing and other low impact uses on the site. A covenant on the sale to Mr. Rubin and TPL restricts any future mining of sand, gravel, or other aggregate materials on the site.

Over the past several months, discussions with Mr. Rubin and TPL have indicated the interest of Mr. Rubin in transferring ownership of the area south of White Ground Road to M-NCPPC while preserving the right of the Potomac Hunt, Inc., other organizations, and individuals to continue fox chasing and equestrian activities on the property. During the same period, discussions with the Maryland Department of Natural Resources focused DNR's interest on protecting this property using GreenPrint funds.

Negotiations with all parties have progressed significantly. Mr. Rubin and TPL have agreed to enter into a sales contract for the 800 acres with the State of Maryland (see map, Attachment 1). The State will then assign the sales contract to M-NCPPC allowing the Commission to purchase the land directly from the sellers with a check from the State GreenPrint program. The State will retain a conservation easement over most of the site.

***This acquisition constitutes a major accomplishment for the Legacy Open Space program, protecting a large, high priority natural resources area and also providing a large infusion of non-County dollars into the program.*** The Planning Board will not have to expend any Legacy funds for direct acquisition of this important property. The Trust for Public Land does not even expect a transaction fee for their work in facilitating this acquisition, according to their normal preference. In this case, Mr. Rubin has provided a contribution to TPL to cover most of their expenses. A small amount of Legacy funding may be expended to initially secure the property (i.e., gates, posting, trash removal) once the deed has been transferred to the Commission; these and operating budget impacts are discussed later in this memorandum.

### **Analysis/Recommendations**

Staff recommends that the Hoyles Mill Diabase property be added to the Park system as ***Hoyles Mill Conservation Park*** with a small defined area on the north side of the property identified as the ***Boyds Local Park***, as indicated in the current Boyds Master Plan. The Hoyles Mill Conservation Park will be managed for conservation of the unique forest resource on the site with low-impact public access. Public uses on the property will consist of non-motorized recreational uses, such as hiking and equestrian activities, on a network of natural surface trails that is mostly in existence. The addition of this land to the park system will allow for several important equestrian and hiking trail connections to Black Hill Regional Park and other parts of the existing Commission and State park systems. Based upon the special circumstances of this acquisition, agreements with the current owners will ensure that traditional fox chasing will remain an allowed use on this property.

**Staff asks the Planning Board for approval to continue negotiations on several documents to finalize this complex real estate transaction.** The State Board of Public Works is scheduled to take action on the funding for this acquisition on January

23, 2002, and the closing must take place during February. Most of these documents will have to be finalized within the next few weeks.

#### A. Conservation Easement with the Department of Natural Resources

The Maryland GreenPrint program provides funding to protect the Green Infrastructure of Maryland through acquisition of key parcels of land. Since the Commission has expressed strong interest in taking ownership of the Hoyles Mill site due to its proximity to other County parkland and long standing interest in the property, the State is willing to fund the acquisition and transfer ownership to the Commission.

The State will retain a conservation easement over most of the property to ensure long-term preservation of the environmental features of the property. The conservation easement specifically allows the Commission to accommodate traditional fox chasing, equestrian and other non-motorized recreational uses within the easement area and to construct natural surface trails, structures in connection with naturalistic uses of the property (such as a footbridge or interpretive kiosk), and permeable-surface access areas (such as a small gravel parking lot).

Two areas of the acquisition will be outside the conservation easement to accommodate a wider range of potential activities (see map in Attachment 2). A 35-acre piece south of the PEPCO right of way and east of White Ground Road is currently in active agricultural use with little or no forest. This southern piece will remain outside the easement to provide a location for any structures (such as a nature center or a paved parking lot) that would be inappropriate in the forested easement area.

The second area exempt from the conservation easement consists of a 50-acre L-shaped piece on the northern side of the property that wraps around Boyds. This area is also largely in open land and active agricultural use. Park acquisition maps and the Boyds Master Plan identify this area as the future location of Boyds Local Park. Enough land has been excluded from the conservation easement to allow for an adequate local park and the possibility of access from both Clopper and White Ground Roads.

#### B. Deed Covenant to Retain Equestrian and Fox-Chasing Uses

One of Mr. Rubin's key interests in preserving the Hoyles Mill area is to maintain enough open space to be able to continue to conduct traditional fox chasing and other equestrian activities in this area of Montgomery County. Fox chasing requires large areas of connected, undeveloped land, and areas appropriate for the activity are dwindling in Montgomery County. Horse-related agriculture is an increasing element in the County's agricultural sector. The County government is committed to supporting equestrian activities as a means to support the continued economic feasibility of agriculture in the County.

Fox chases are currently conducted in the County by one organization, the Potomac Hunt, Inc., (PHI) that has been conducting hunts since 1931 and currently hunts from 25 different locations in the County during a September to March season. Fox chasing, as it is now called, involves a group of horses, riders and dogs in the common pursuit of

the scent of a fox. According to PHI, foxes are not injured during chases; the chase is over when the fox goes to ground (i.e., goes into its den or eludes the hounds). Fox chases are conducted on both weekdays and weekends, with approximately one-third of the events during a season falling on a weekday. Sundays are often the weekend day of choice to avoid conflicts with bow and firearm hunters on private property and state hunting lands.

The Hoyles Mill property lies near several farms that are heavily used by the County's equestrian community. The site provides a key connection from these farms to other areas that permit fox chasing, including some State parkland to the south. Fox chases that originate on nearby farms have been conducted through this property for many years with the permission of the former owners.

Staff ecologists have assessed the potential impact to the natural resources on this site from continued equestrian use and fox chasing. They have concluded that herbaceous plants and trees will not be significantly impacted by these events since virtually all horse activity is constrained to existing trails by terrain and convention and dog activity has limited physical impact to the plant community. Breeding bird populations should not be subject to significant impact from these activities because the September – March chasing season ends prior to most bird nesting periods (April – June).

As a negotiated condition of the sales agreement, Mr. Rubin and the Trust for Public Land require that a covenant be added to the deed that preserves the right to conduct fox chases on the property. Staff agrees to accept this condition of the sellers. Staff recommends continuing negotiations with DNR, Mr. Rubin, and TPL towards finalizing language for the covenant to be included in the deed.

#### C. Special Permit to Allow Fox-Chasing on Hoyles Mill Property

As specified in the proposed deed covenant, a special permit will be required for fox chasing activities to continue on this property. Special permits are regularly issued by the Director of Parks for such unique uses and contain conditions and administrative details that establish parameters for the proposed use.

Staff recommends the issuing of a special park permit to the Potomac Hunt, Inc., to allow fox chasing through the Hoyles Mill property with conditions that address issues including a defined chasing season, maximum number of events per year, maximum number of horses per event, and required noticing for other park users. Staff recommends that under normal conditions the permit will renew automatically on an annual basis upon the submission of each season's chasing schedule to the Park Director, park manager, and Park Police. Conditions for the special permit are under discussion with the Director of Parks, park management staff, and Mr. Rubin and representatives of Potomac Hunt, Inc.

#### D. Special Regulation to Allow Dogs Off-Leash for Fox Chasing Purposes

If fox chasing is to continue on the Hoyles Mill property, a special park regulation will need to be issued to allow the use of dogs off the leash. A special regulation that

specifies that dogs will be allowed off leash for fox chasing purposes only and requires that dogs remain under the control of the Huntsman will be drafted by Legal staff and reviewed and approved by the Director of Parks. County regulations will not need to be amended to allow this activity since they currently allow dogs to be off the leash if they are under control.

### **Management Plan/Post Acquisition Activities**

Once the property is deeded to M-NCPPC, immediate steps will be taken to secure the property and remove attractive nuisances. A management plan process will also be initiated shortly after completion of the acquisition. The management plan is prepared to guide the park managers in their stewardship of park properties. Copies of the plan will be given to the Planning Board at its completion. The management plan will examine issues such as:

- Restoring, re-routing, or closing existing trails
- New trails and regional trail connections
- Status of Hoyles Mill Road
- Restoring areas of environmental degradation
- Public access and parking areas
- Deer management
- Security and law enforcement
- Signage
- Status of agricultural activities
- Archaeological resources

### **Budget Impacts: Initial Outlays and Operating Costs**

Implementation costs to incorporate the Hoyles Mill site into the park system will need to be addressed soon after acquisition is complete and come in two main phases. Initial costs for immediate cleanup and securing the site will need to be covered out of the FY02 budget. Such immediate cleanup projects include removing abandoned vehicles, deer hunting tree stands, surveying and signing park boundaries, and gating roads to prevent unauthorized access. Limited Legacy funds may be used to pay for initial cleanup expenses depending on their type and extent. Based on experiences with the Bucklodge Forest acquisition, a rough estimate of initial staff and material costs for Hoyles Mill is \$20,000 to \$30,000.

After completion of the management plan, the second phase of implementation projects will need to be funded, including projects such as closing and re-routing trails, establishing new natural surface trails, or providing trailhead parking lots. Depending on the extent of projects recommended in the management plan, costs could vary significantly. Once again extrapolating from the similar Bucklodge Forest acquisition, one-time costs for a few small gravel parking lots and necessary trail work could be in the range of \$40,000 to \$60,000.

Annual operating costs for the park manager can be estimated from experience with several similar parks. Current costs for basic park management services including trail

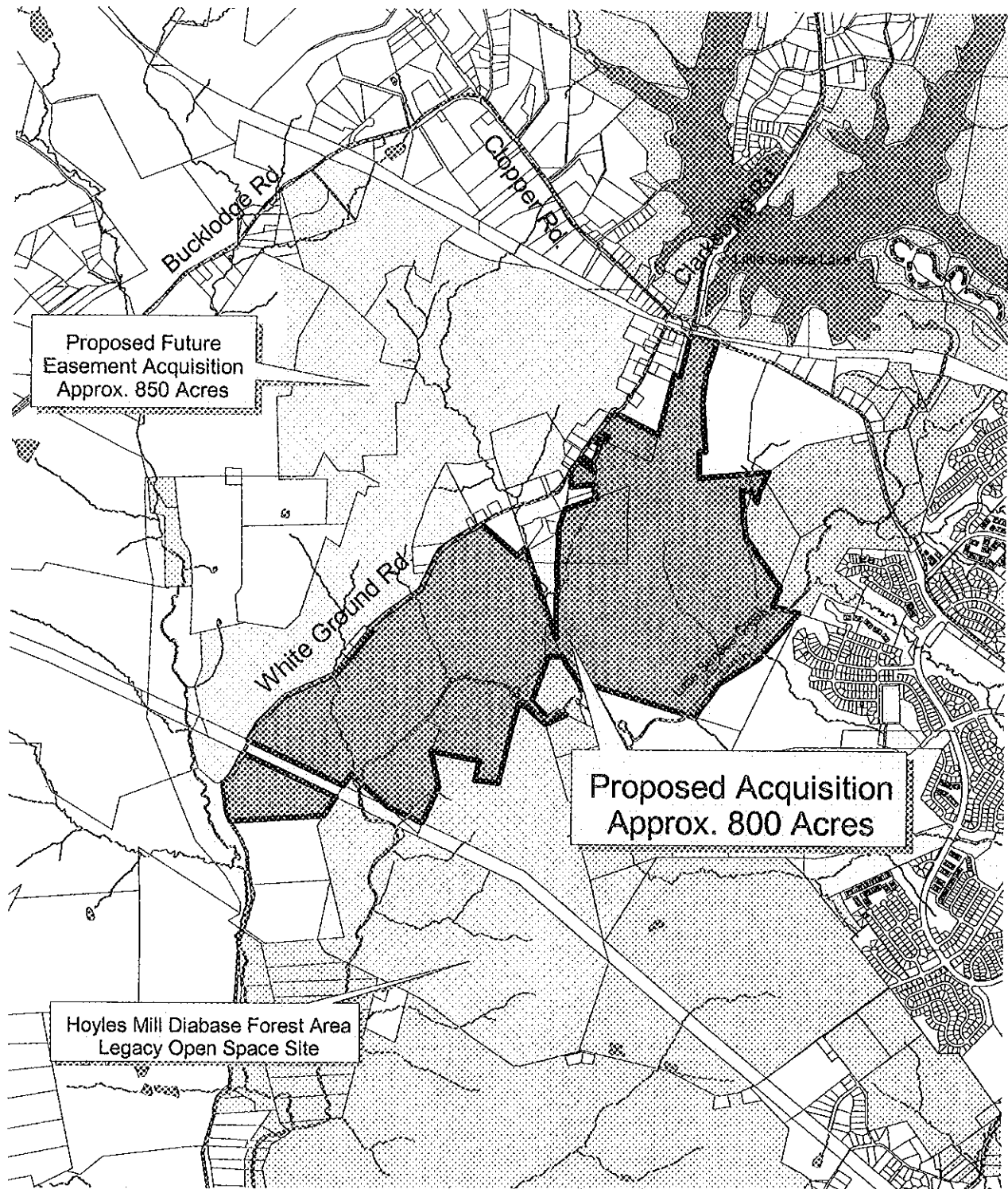
maintenance, trash collection, and parking lot maintenance, result in an estimate of \$19,000 annually. This estimate does not include Park Police or other staff time or expenses.










Attachments:

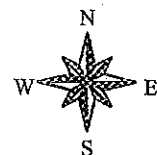
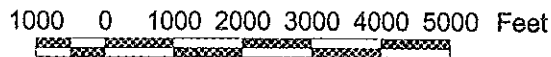
1. Map of Proposed Acquisition Area
2. Map of Proposed Area under Easement with DNR

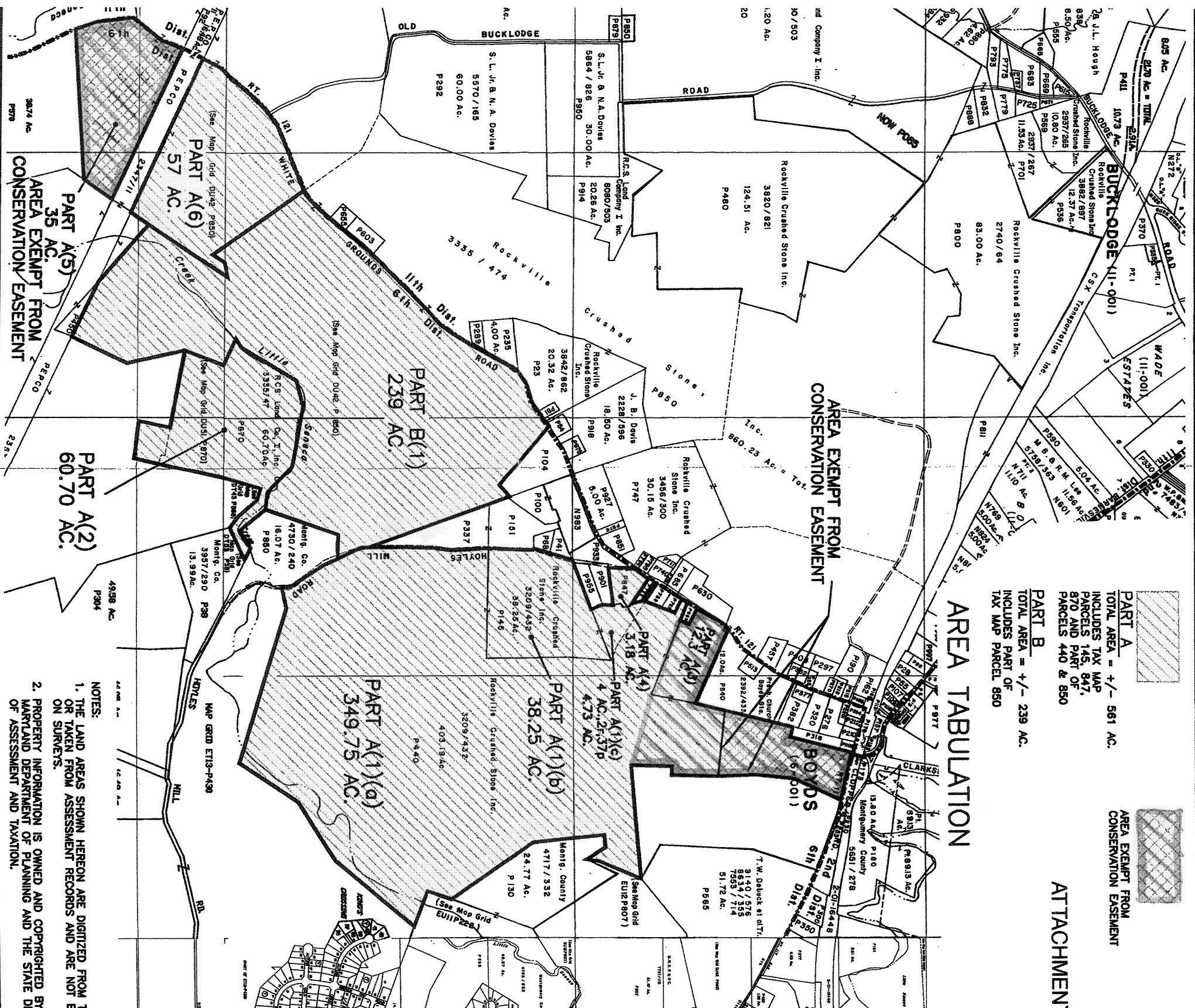
cc: John Hench, PPRA, Countywide Planning Division  
Ken Ernst, Natural Resources Division  
Judy Daniel, Team Leader, Community-Based Planning Division  
Gordon Rosenthal, Northern Region Chief  
Betsy Kreiter, Park Police Chief


# Hoyles Mill Diabase Area Proposed Legacy Open Space Acquisition




-  Property Lines
-  Major Roads
-  Streams
-  Lakes & Ponds
-  Proposed Fee Simple Acquisition
-  Proposed Future Easement Acquisition
-  Hoyles Mill Diabase Forest Area LOS Site
- Parks**
-  Existing Parks
-  Proposed Parks





 **PART A**  
 TOTAL AREA = +/- 561 AC.  
 INCLUDES TAX MAP  
 PARCELS 145, 847,  
 870 AND PART OF  
 PARCELS 440 & 850

 **AREA EXEMPT FROM  
 CONSERVATION EASEMENT**

**PART B**  
 TOTAL AREA = +/- 239 AC.  
 INCLUDES PART OF  
 TAX MAP PARCEL 850

**ATTACHMENT 2**

**AREA TABULATION**

DATE	PROPERTY EXHIBIT PARTS A & B SHOWING AREAS EXEMPT FROM CONSERVATION EASEMENT
SCALE: 1" = 100'	<p><b>RODGERS &amp; ASSOCIATES, INC.</b>          LAND USE EVALUATION • PLANNING          CIVIL ENGINEERING • SURVEYING          NATURAL RESOURCES</p> <p>9280 GANTHER ROAD (301) 948-4700 GAITHERSBURG          GANTHERSBURG, MD 20877 (301) 263-6609 FREDERICK          (301) 948-0256 FAX</p>
JOB No. 8	
DATE: DEC	
SHEET No. 1	<p><b>BOYD'S</b>          ELECTION DISTRICT NO. 6 &amp; 11          MONTGOMERY COUNTY, MARYLAND</p>