



Item # 19
July 11, 2002

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

REQUEST FOR RECONSIDERATION

MEMORANDUM

TO: Montgomery County Planning Board
VIA: Joe Davis, Chief, Development Review *JRD*
Larry Ponsford, Supervisor, Development Review *LTP*
FROM: Robert A. Kronenberg, RLA, Senior Planner *RAK*
Development Review 301 495-2187
RE: **Reconsideration** of Site Plan #8-02005-Reserve at Ashton

STAFF RECOMMENDATION: Clarify the Planning Board's intent that the applicant was obligated to provide the public access easement but not obligated to construct the equestrian-pedestrian trail. Construction of the trail would normally involve visibly marking the trail and tree pruning associated with natural surface trails. This limitation should not apply to the HOA or other entity, which may decide to construct the trail at any time. The Planning Board action was not intended to preclude construction prior to development of Ms. Schaeffer's property (Parcel 123).

Mr. Tariq El-Baba, Associate General Counsel, presented the Request for Reconsideration [Attachment No. 5] to the Planning Board on June 19, 2002. The Board granted the request to reconsider a particular item of the report and opinion on the July 11 agenda. Specifically, Ms. Schaeffer's request is for a clarification of the Planning Board's intent to postpone construction of the equestrian-pedestrian trail until further development of her property takes place.

The reconsideration request for Site Plan #8-02005 was specifically limited to the proposed 20-foot pedestrian-equestrian easement and trail through the subject property [Attachment No. 3]. The conditions in the opinion [Attachment No. 4] require the applicant to provide a public access easement through the subject property, a portion of which abuts Ms. Schaeffer's property (parcel 123). During the December 20, 2002 hearing, much discussion revolved around the alignment of the proposed easement and trail, specifically at the property line between the two sites. Staff presented three optional alignments for the trail during Site Plan review. The Planning Board approved the alignment through lots 1 and 2 connecting to Alexander Manor Drive on the eastern boundary of the subject site. This alignment directed the trail away from Ms. Schaeffer's property, continuing along the property line to Alexander Manor Drive, rather than terminating into her property. At no time does the approved alignment enter her property. The decision was made by the Planning Board to provide the public access easement for the approved alignment, but not to require the applicant to "construct" the trail.

The word "construction" of the trail implies that a path is blazed through the property. In this case, however, construction of the trail simply means to mark the alignment by paint, flagging or signs within the approved easement. Trees would not be removed, but would be limbed up where the users felt safety concerns would arise. The inclusion of markers for the trail will effectively keep users of the trail on course and off of Ms. Schaeffer's property.

The timing for the construction of the proposed trail is the issue for which reconsideration was requested by the adjacent property owner. Ms. Schaeffer believes that the intent of the Planning Board was to restrict or deny any use of the easement and trail until after the future development of her property. Staff feels that the intent during the hearing was to realign the trail and easement so that the proposed trail did not terminate into her property, as originally shown, directing users of the path onto the subject property; and that this change would take effect with the issuance of the Board's opinion. The Planning Board also felt that the applicant was not responsible for construction of the trail.

Staff requests that the attachments including the previous staff report and opinion be submitted as part of the record for this reconsideration request.

ATTACHMENTS:

1. Staff Report dated December 20, 2002
2. Minutes and audio tape from the December 20, 2202 Planning Board hearing
3. Approved Planning Board easement and trail alignment
4. Planning Board Corrected Site Plan Opinion No. 8-02005 dated February 11, 2002.
5. Request for reconsideration from Tariq El-Baba, Associate General Counsel dated June 20, 2002.
6. Memorandum dated July 2, 2002 from Doug Powell, MNCPPC-Parks.



Motion 5-0
Bryant / Irvine

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

MEMORANDUM

DATE: December 20, 2001
TO: Montgomery County Planning Board
VIA: Joseph R. Davis, Chief
 Development Review Division
FROM: Richard Weaver, Senior Planner and Robert A. Kronenberg, RLA, Senior
 Planner, Development Review Division
 Planning Department Staff
 (301) 495-4544 and (301) 495-2187

REVIEW TYPE: Preliminary and Site Plan Review
APPLYING FOR: RNC Zone; 36.00 Acres Property
 16 Single Family Dwelling Units/Lots
PROJECT NAME: Reserve at Ashton
CASE #: 1-02024 and 8-02005
REVIEW BASIS: Chapter 50, Subdivision Regulations and Section 59-C-9.575 and Section
 59-D-3 of the Zoning Ordinance

ZONE: Rural Neighborhood Cluster (RNC)
LOCATION: Located on Alexander Manor Drive, 1000 feet north of Ednor Road.
MASTER PLAN: Sandy Spring/Ashton
APPLICANT: Site Solutions, Inc.
FILING DATE: September 14, 2001
HEARING DATE: December 20, 2001

STAFF RECOMMENDATION FOR PRELIMINARY PLAN: Approval, including waiver of the minimum right-of-way width for an open section tertiary street (Section 50-26), and subject to the following conditions:

- ✓(1) Compliance with the conditions of approval for the preliminary forest conservation plan dated October 19, 2001. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits
- ✓(2) All road rights-of-way shown on the approved preliminary plan shall be dedicated, by the applicant, to the full width mandated by the Sandy Spring-Ashton Master Plan unless otherwise designated on the preliminary plan
- ✓(3) All road right-of ways shown on the approved preliminary plan shall be

- constructed, by the applicant, to the full width mandated by the Sandy Spring-Ashton Master Plan, and to the design standards imposed by all applicable road codes
- (4) Compliance with the conditions of MCDPS stormwater management letter dated June 12, 2001.
 - (6) Access and improvements as required to be approved by MCDPWT prior to recordation of plat(s)
 - (7) Record plat to reflect common ingress/egress easements over all shared driveways
 - (8) Record plat to show delineation of a Category I conservation easement over the area of stream valley buffer and forest conservation areas
 - (9) No clearing, grading or recording of plats prior to site plan enforcement agreement approval
 - (10) Final approval of the number and location of dwelling units, site circulation, sidewalks, bike paths and other public access easements will be determined at site plat
 - (11) This preliminary plan will remain valid for thirty-seven (37) months from the date of mailing of the Planning Board opinion. Prior to this date, a final record plat must be recorded for all property delineated on the approved preliminary plan, or a request for an extension must be filed
 - (12) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion
 - (13) Record Plat to reflect the delineation of all common HOA property, SWM facilities and pedestrian-equestrian public access easements.
 - (13) Necessary easements

STAFF RECOMMENDATION FOR SITE PLAN: Approval of 16 single-family detached lots in the RNC Zone with the following conditions:

1. Standard Conditions dated October 10, 1995, Appendix A
2. Conditions of approval of the Preliminary Forest Conservation Plan dated October 19, 2001. Final Forest Conservation Plan (including grading and tree protection information) shall satisfy all conditions referenced in the M-NCPPC Environmental Planning Section memorandum dated October 19, 2001 (See Appendix B), prior to recording plat or DPS issuance of sediment and erosion control permit:
 - a. No grading within the stream buffers;
 - b. Individual tree save areas, modifications to limits of disturbance, and supplemental tree preservation techniques shall be incorporated into the Final Forest Conservation Plan;
 - c. The full stream valley buffer, as well as all forest retention areas to be conveyed to the HOA, must be protected with a Category I Conservation Easement;
 - d. A Maintenance Agreement and Management Plan shall be reviewed and approved by M-NCPPC staff for control of invasive and exotic plant material, as shown on the approved NRI/FSD dated August 8, 2001, prior to issuance of grading and sediment control plans and permits;
 - e. Record plat to show Category I Conservation Easements over stream valley

buffers and all forest retention areas to be conveyed to the HOA. Any Forest Conservation Management Agreement (FCMA) with the Maryland Department of Natural Resources (DNR) sought by the property owner for the conservation easement area must be reviewed and approved by M-NCPPC staff prior to being executed. The purpose of this review is to limit timber harvesting within the easement, which may be prescribed by a FCMA to ensure that the general composition and aesthetic quality of the stand is maintained and stream buffers are protected.

3. Conditions of MCDPS stormwater management concept approval dated June 12, 2001.
4. Site, Landscape/Lighting, Forest Conservation and Sediment and Erosion Control Plans subject to review by staff prior to approval of signature set. Prior to signature set approval, the applicant shall provide the following revisions or information to the plans:
 - a. Site Plan signature set to show all easements, limits of disturbance, PUE's, PIE's, common open space, rural open space, dimensions and placement of sidewalks, pedestrian paths, equestrian trails, high priority forests and storm drain outlets.
 - b. Site Circulation:
 - i. Sidewalks:
 - a. Provide a continuous 5-foot wide sidewalk on the outside of the private street for connection to the gatehouse and public road;
 - b. Provide a 4-foot wide natural surface path, specifically wood chips, on the inside of the private street and within the common open space. Path to provide connections to the private street in the locations shown on the approved Site Plan. Location of the natural surface path to be field located with M-NCPPC staff prior to release of grading and sediment control permits.
 - ii. Trails:
 - a. Applicant to construct a 4-foot natural surface pedestrian-equestrian trail from the proposed public road into the site and following the western boundary of Lot 2, then running east on the northern boundary of Lot 1 to connect to the existing trail and easement on the adjacent Ashton Preserve (Site Plan #8-99043); applicant to provide a 20-foot Public Access Easement over trail within a separate open space parcel; the easement and parcel shall be conveyed to the HOA or other entity for maintenance and responsibility;
 - b. The final alignment of the proposed trail to be field located by M-NCPPC Staff and the applicant.
 - c. Landscape and Lighting Plan to show the following:
 - i. Provide additional landscaping and screening in the rear of lot 16 to buffer the proposed stormwater management facility;
 - ii. Provide additional landscaping to screen the stormwater management facility from the public road;
 - iii. With the exception of fencing in private back yards and around SWM facilities, any fencing to be provided on-site to be simple, split rail type or type acceptable to staff, to retain rural character. Applicant to provide details at

signature set;

iv. Provide a shade tree in the island in the public road cul-de-sac.

5. The services of a licensed arborist shall be retained to evaluate the appropriate measures necessary to ensure the survival of the large and specimen trees proposed to be preserved whose critical root zones will be impacted by construction, as shown on the Final Forest Conservation Plan.
6. Prior to recording of the Plats, the applicant shall convey approximately 7.70 acres of Rural Open Space, outside of the proposed lot limits, and 1.6 acres of Common Open Space to the Home Owners Association. The remaining 18.6 acres of Rural Open Space shall remain as part of the two conservancy lots.
Dedication of Rural Open Space and Common Open Space shall be conveyed free of trash and unnatural debris.
A forest conservation easement shall be placed over all of the Rural Open Space outside the lot limits and over all Stream valley buffers and environmental buffers on the Rural Open Space on Lots 1 and 2.
7. The proposed 4-foot wide natural surface trail within the Common Open Space shall be completed prior to the issuance of the building permit for the 11th dwelling unit (70% completion) of the proposed development or within 36 months of issuance of first building permit.
8. The proposed 4-foot wide natural surface pedestrian-equestrian trail shall be constructed by the applicant and structured as a separate open space parcel to be conveyed by the applicant to the HOA or other entity for maintenance and responsibility. Where the PAE is not located within the HOA property, applicant shall establish, with reference in the HOA documents and on record plat, a cross easement to provide public access.
9. All easements shall be delineated and identified on the record plat.

VICINITY MAP FOR

THE RESERVE AT ASHTON (8-02005/1-02024)



Map compiled on September 24, 2001 at 4:08 PM | Site located on base sheet no - 223NW01

NOTICE

The planimetric, property, and topographic information shown on this map is based on copyrighted Map Products from the Montgomery County Department of Park and Planning of the Maryland -National Capital Park and Planning Commission, and may not be copied or reproduced without written permission from M-NCPPC.

Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes is not recommended. - Copyright 1998

Key Map



N



Research & Technology Center



1 : 9600

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue - Silver Spring, Maryland 20910-3760

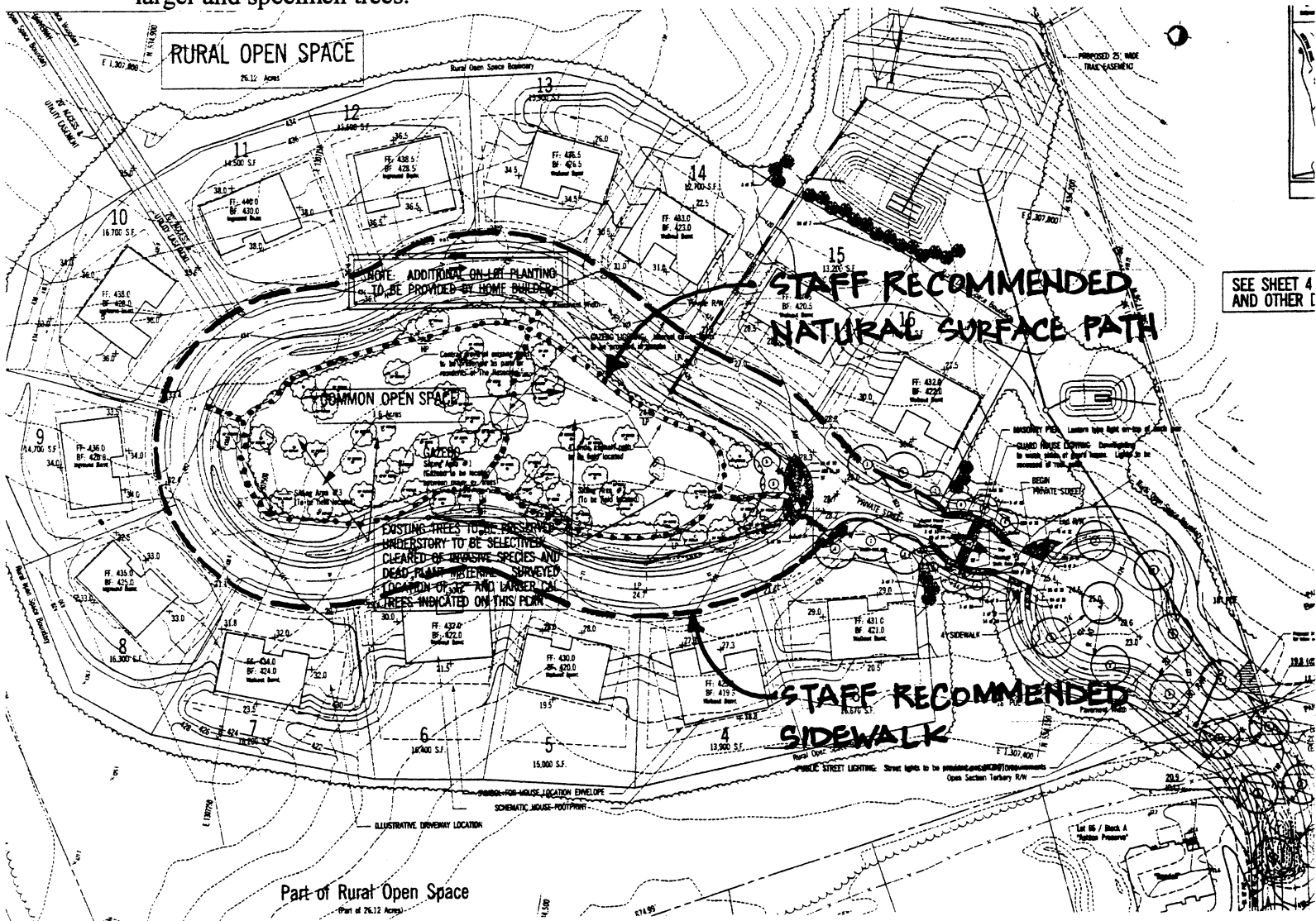
SUMMARY OF ISSUES RESOLVED IN THE COURSE OF SITE PLAN REVIEW:

Private Street sidewalk

During the course of Preliminary and Site Plan review, staff requested that the applicant change the location of the proposed sidewalk to the outside of the private street, rather than the inside. Staff also requested that the applicant change the originally proposed asphalt path with the Common Open Space to a natural surface, which is more consistent with the natural area.

The applicant has suggested that elimination of the sidewalk is more consistent with the RNC Zone and rural setting, although, staff feels strongly that the rural setting will not be compromised. Staff also feels that the path as proposed does not safely and effectively provide a direct pedestrian connection to the public road. There will be no lighting within the Common Open Space for pedestrians and a natural surface path will provide for a much better rural setting as well as minimize impervious area and avoid removal and compaction of trees to be preserved.

The solution, which staff recommends, is to provide a four-foot sidewalk on the outside of the private street and change the designation of a hard surface path to a natural surface path within the Common Open Space. The path will need to be field located to minimize impacts on the larger and specimen trees.

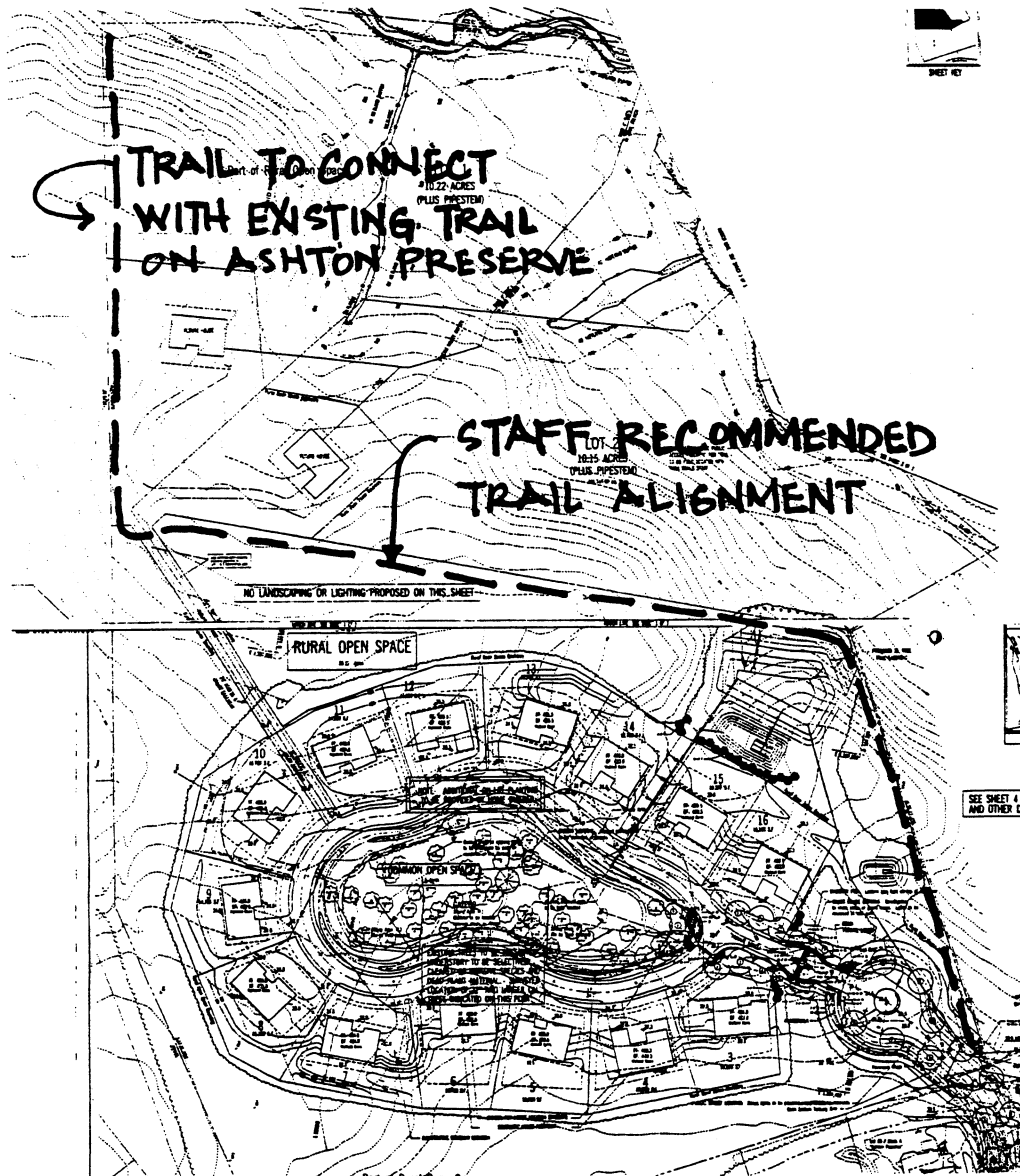


SEE SHEET 4 AND OTHER C

Trail location

The subject property is adjacent to the master planned Rural Legacy Trail, via a neighborhood connection through the Ashton Preserve subdivision. It is very important that the new development connect with a significant open space amenity, such as the Rural Legacy Trail. Staff recommends that the proposed development contain a 20-foot wide public access easement, specifically to provide a future connection for pedestrians and equestrians to the Rural Legacy Trail. The proposed trail alignment supported by staff is shown on Exhibit 'A'. Staff recommends that the trail be accommodated within a 20-foot wide pedestrian-equestrian easement, shown as a separate rural open space parcel and shown on the record plat. The trail shall be constructed by the applicant and maintenance of the trail shall be provided by the HOA or other responsible entity, as provided in the HOA documents.

The applicant proposed a trail alignment different from Staff's recommended location. Staff believes that our alignment provides more direct access for future residents, opportunity for future connections to adjacent properties and provisions for easier maintenance responsibilities by the HOA or other entity.



RELATED ISSUES PERTINENT TO SITE PLAN REVIEW:

Site Plan Waiver to the Tertiary road design standards and sidewalk on one side of road [Zoning Regulation 50-26(h)]:

The waiver is a request from MCDPWT standard No. MC-210.05 for tertiary roads to permit a reduction of 1.75 square feet within the 50-foot right-of-way.

The proposed road from Alexander Manor Drive does not allow for the necessary right-of-way for a tertiary street to access the subject site. The boundary survey shows available right-of-way for only 49.25 feet, resulting in the 1.75 square foot deficiency.

This request also includes elimination of the PUE through the Schaeffer property (parcel 123) and provision of a sidewalk on only the north side of the proposed right-of-way.

Staff supports the request for both waiver conditions. See Staff recommendations and correspondence, Appendix B.

PROJECT DESCRIPTION: Surrounding Vicinity

This 36-acre tract known as the O'Connell piece is located approximately 1000 feet north of Ednor Road and approximately 1 mile east of Norwood Road, in the Sandy Spring/Ashton Master Plan Area.

The Hoffman property (Site Plan #8-00009, 44 single-family detached lots) directly abuts the subject site to the north and Ashton Preserve (Site Plan #8-99043, 30 single family detached lots) and the Schaeffer property (Parcel 123-undeveloped) abut the site to the west. All three properties are zoned RNC and are considered the Southern Rural Neighborhood, as identified in the Master Plan. The properties to the east of Norwood Road, abutting the RNC zoned properties are zoned RE-2, as well as the adjacent properties and subdivisions directly abutting the site to the east.

PROJECT DESCRIPTION: Site Description

The site contains rolling topography within the developed area of the site and steep slopes associated with the tributaries of Northwest Branch, a Use Class IV stream. The Sandy Spring, which is part of the Northwest Branch, is located to the north of the site on the Hoffman Property (Site Plan #8-00009). The topography is characterized by gently rolling terrain falling approximately 40 feet in height near the entrance off of the existing Alexander Manor Drive to the tributaries at the northern boundary of the site. The proposed development will minimize clearing by arranging the lots around a central green space on the high points of the property. The two conservancy lots to the north provide minimal clearing and a wooded buffer between the remaining 14 lots in the subdivision.

The entire site is completely wooded, stream valley buffer, floodplain and wetlands on both the eastern and western tracts. Slopes near the stream banks exceed 25%.

PROJECT DESCRIPTION: Proposal

The current proposal for Site Plan consists of 16 single-family detached lots in the RNC Zone; 14 lots around the private street and 2 conservation lots to the north. The 14 lots range in size from 12,000 square feet+/- to 17,000 square feet +/- and the two conservation lots are greater than ten acres. Access to the site is from a proposed public right-of-way directly off of Alexander Manor Drive. All of the lots will front a private street connecting the proposed public road.

The public road access to the site will consist of a 50-foot wide open section right-of-way and 20 feet of paving directly off of Alexander Manor Drive. The private 18-foot open section road will serve the 14 lots around a common open space with a combined private drive to conservation lots. The public road will extend into the property and terminate into a cul-de-sac and become a private open section road in order to minimize the amount of impervious. The entrance to the private road has a gatehouse or monumental entrance to the subdivision, acting as a traffic-calming device and entry feature.

Proposed recreation facilities consist of a natural area, seating areas and a gazebo within the common open space. Access to the Rural Legacy Trail from this subdivision will be on Alexander Manor Drive to the connection on the adjacent Ashton Preserve.

Storm Water Management for the Site Plan was approved on June 12, 2001 by the Montgomery County Department of Permitting Services and consists of on-site water quality and quantity control.

PROJECT DESCRIPTION: Prior Approvals

The subject property was rezoned to the RNC zone as part of the Sectional Map Amendment (SMA) implementing the Sandy Spring/Ashton Master Plan as approved by the District Council in October of 1998.

The zone was written especially for this particular area of the county and the uniqueness of the Sandy Spring-Ashton Community. The intent of the zone is to provide areas of large acreage lots, or conservancy lots, and a variety of sizes for larger lots, with common and rural open space, extensive recreational opportunity, and protection of scenic and environmentally sensitive areas. The purpose of open space is to preserve the rural character along Ednor Road, around the Rural Legacy Trail and around the setting of the Sandy Spring.

The Preliminary Plan #1-02024 for this development is being reviewed concurrently with the subject Site Plan application and will be heard by the Planning Board on the same day. The Site Plan is in general conformance with the proposed Preliminary Plan (1-02024) in street dedication, road improvements, use and access.

DISCUSSION OF ISSUES

ANALYSIS: Conformance to Master Plan

The proposal meets the requirements of the Master Plan. The Master Plan recommends 70-75% rural open space and site plan proposes 72.20%, which is in the targeted range. The plan provides common open space in conformance with the requirements of the RNC zone.

The Sandy Spring Master Plan described the property, called the O'Connell property as *“one of the three remaining developable properties”* in the Southern Rural Neighborhood. The Master Plan recommends that, *“new development should minimize visibility of lots along Ednor Road”* and *“open space should include all environmentally constrained areas in order to achieve the designed rural character and provide the appropriate setting around the Sandy Spring and along the Rural Legacy Trail”*.

The site is adjacent to the Ashton Preserve and will gain access via Alexander Manor Drive through the aforementioned community. This property is outside the setting for the Rural Legacy Trail although a trail connection will provide a direct pedestrian-equestrian link with the proposed development. This development will provide a sidewalk to the public street allowing residents to walk to Sherwood High School or the Rural Legacy Trail located to the west of the site.

The Master Plan does not recommend any parkland dedication with this development.

The proposed layout and road design reflects the intent of the Master Plan to preserve as much of the site as possible in rural open space and limit the impact on environmentally sensitive areas.

ANALYSIS: Conformance to Development Standards

PROJECT DATA TABLE

Zoning	RNC	
Proposed Use	16 Single Family Lots Utilizing the Optional Method of Development and including 2 conservation lots	
Gross/Net Tract Area	36.00 Acres	
<u>Development Standard</u>	<u>Permitted/Required</u>	<u>Proposed</u>
Maximum Number of Lots	16	16
Minimum Lot Area (Sq. Ft.):	4,000	12,700
• from the street	15	15
• from the side yard	8	8
• rear yard	-	30
Minimum Lot Width at the Street Line (ft.):	25	25
Minimum Building Height (ft.):	35	35
Maximum Lot Coverage (%):	35%	35%
Rural Open Space (%):	70-75%	72.2%
HOA (7.70 Acres)		
Lots 1 and 2 (18.60 Acres)		
Common Open Space (1.60 Acres)		4.4%

RECREATION CALCULATIONS

	<u>Tots</u>	<u>children</u>	<u>teens</u>	<u>adults</u>	<u>seniors</u>
Demand Points					
For 33 SFD units					
• SFDI (2)	.2	0.4	0.44	1.7	0.16
• SFDII (14)	<u>1.82</u>	<u>3.36</u>	<u>3.5</u>	<u>14.4</u>	<u>1.54</u>
Total Demand	2.02	3.76	3.94	16.54	1.70
Supply Points					
<u>On-Site Facilities:</u>					
Sitting Areas (3)	3	3	4.5	15	6
Pedestrian System	0.0	0.7	0.0	0.0	0.0
Natural Areas	<u>0.0</u>	<u>0.2</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
On-Site Total	3	3.9	4.5	15	6

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 layout of the houses is adequate and efficient; the arrangement and orientation of the houses towards the common open space will provide neighborhood identity in a thoughtfully considered rural setting.

The location of the houses as shown on the site plan is conceptual. The precise location and site grading will not be determined until the owner has chosen a specific house type and a house location plan with grading, to be developed by the project engineer.

- b. **Open Spaces**

The open spaces are generously laid out and provide attractive, efficient and accessible green space to the entire community.

Over 27 acres of the 36.00-acre site will be retained as open space. Of this area, 26.00 acres will be preserved as rural open space, including 7.50 acres, to be dedicated to the Homeowners Association. The remaining 18.50 acres will be part of Lots 1 and 2. An additional 1.60 acres has been identified as common open space, as required by the RNC zone, and will be owned and maintained by the HOA.

The Master Plan requires that a minimum of 70-75% of the site be retained as rural open space. The plans indicate that over 72% will be preserved as rural open space and approximately 4% will be created as common open space.

The applicant has submitted the required document for review by the Planning Board: *Reserve at Ashton Open Space-Use, Ownership, Development & Maintenance*. (See Appendix B). This document establishes the permitted uses, the initial construction responsibility and maintenance responsibility of the developer.

The Stormwater Management Concept for the proposed development was

approved with conditions by the Montgomery County Department of Permitting Services (DPS) on June 12, 2001. The stormwater management concept consists of on-site water quantity and quality control via a system of surface sand filters and retention basins.

c. Landscaping and Lighting

The landscaping and lighting provides safety and efficiency for residents and visitors in the rural setting.

Landscaping and screening consists of a formal streetscape for the public entrance off of Alexander Manor Drive. The entrance to the private street from the cul-de-sac will contain ornamental flowering trees and shrubs. The intersection at the private drive will be accentuated with massings of shrubs, ornamental trees and seasonal color. Screening in the form of evergreen massing has also been proposed around the stormwater management facilities and behind lots 14-16.

Natural vegetation will form an edge along the interior of the proposed private drive. No additional landscaping is necessary.

Fencing proposed in Ashton Preserve will continue throughout the Reserve at Ashton. Proposed Street lighting consists of Colonial Post-type fixtures at the public entrance.

d. Recreation

Recreation demand is satisfied as shown in the recreation calculations table above. Proposed recreation facilities consist of a sitting areas, a natural area and path within the Common Open Space.

e. Vehicular and Pedestrian Circulation

Vehicular circulation in general is adequate, safe and efficient.

Staff requests that a 4-foot sidewalk [See Condition #4.(b)i.a&b, p. 3] be provided on the outside of the private street in the development, rather than on the interior of the loop in the common open space. Staff recommends that the proposed interior pedestrian path remain but as a four-foot natural surface trail. The sidewalk as presently shown does not provide a safe or efficient pedestrian connection to the public street. It is not reasonably practical for the residents to cross the private street twice, especially for children who will be walking to the public street to ride the bus to go to school. This will not deter from the rural setting as suggested by the applicant, because the increase in impervious will be minimal and impacts to the larger trees in the common open space will be less due

to the proposed natural surface path. The recommended natural surface path within the common open space will be constructed by the developer and maintained by the homeowners association.

Staff also requests that a 4-foot pedestrian equestrian trail [See Condition #8 & 9, p. 4] be located from the public road off of Alexander Manor Drive to connect with the existing leg of the Rural Legacy Trail on the adjacent Ashcroft Preserve (Site Plan #8-00037). The trail would follow the western boundary of lot 2 and run east on the northern end of lot 1. A 20-foot public access easement is needed over the location of the trail and shall be conveyed as a separate parcel to the HOA or other entity for maintenance and responsibility. The final alignment of the trail shall be field located by M-NCPPC Staff and applicant prior to release of grading permit.

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

The new houses are clustered around an internal private street preserving over 76% of the site as open space. The two conservation lots are greater than 10 acres and preserve a total of 18.6 acres of Rural Open Space, including the stream valley buffer and other environmental features. Therefore, each structure and use is compatible with other uses and with existing and proposed adjacent development.

The activity associated with the proposed residential community will not cause any negative effect on adjacent residential uses.

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

Forest Conservation requirements have been met by the preservation of 24.17 acres of existing forest, with no additional planting obligations required.

A Category I Conservation easement will be placed over the forest conservation and stream valley buffer areas as shown on the Forest Conservation Plan.

APPENDIX

- A. Standard conditions dated October 10, 1995
- B. Memorandums from other Divisions/Agencies
- C. Correspondence from resident on Country Hills Road as referenced in report

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

1. Submit a Site Plan Enforcement Agreement, Development Program and Homeowners Associations 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 6 months after completion of the units adjacent to those streets;
 2. Clearing and grading to correspond to the construction phasing, to minimize soil erosion;
 3. Coordination of each section of the development and roads;
 4. Phasing of dedications, stormwater management, sediment and erosion control, recreation, forest conservation, community paths, trip mitigation or other features;
 5. All recreation facilities including pedestrian and equestrian trails shall be completed prior to issuance of the 11th building permit for the proposed development.
 - b. Site Plan Enforcement Agreement to include a Use, Ownership and Maintenance Document that designates the permitted use, ownership and maintenance responsibilities for the rural and common open space.
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 location of tree protection;
 - d. Forest Conservation areas;
 - e. Conditions of DPS Stormwater Management Concept approval letter dated June 12, 2001;
 - f. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading;
 - g. The development program inspection schedule.
 - h. Conservation easement boundary
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.

THE RESERVE @ ASHTON - OPEN SPACE SYNOPSIS

Preliminary Plan 1-02024

Site Plan 8-02005

Attached for inclusion in Site Plan application 8-02005 filed by R.A.M. Investing Inc. for the development of the O'Connell Property to be known as The Reserve @ Ashton, are the following materials:

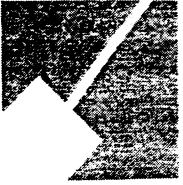
- A rendered, reduced site plan depicting two categories of proposed Rural Open Space: HOA-owned open space depicted in light green and non-HOA, privately owned open space depicted in a dark green. The reduction also depicts in, yellow, the area of Common Open Space that will be owned by the HOA, generally inside of the loop created by the private street.
- An outline setting forth proposed uses, ownership, initial construction and maintenance for each of the categories of open space.

Prior to plat recordation, easements will be recorded in the Land Records of Montgomery County, Maryland and Homeowners Association (HOA) documents will be established as applicable, reflecting the information contained in the attached outline. The easements and HOA documents will also state that no further subdivision of any of the open space will be allowed. Reference will be made in all land sales contracts or deeds to the existence of these recorded easements and HOA documents.

The Reserve @ Ashton

- 1) Rural Open Space
 - a) Privately owned Rural Open Space (Lots 1 & 2)
 - (i) Uses Allowed: forest management and category 1 forest conservation easements, trails, fences, landscaping, initial grading/stabilization and appropriate utilities.
 - (ii) Initial construction responsibility:
 - (1) Developer – trails, initial grading / stabilization and appropriate utilities.
 - (2) HOA – none
 - (3) Public – none

- (iii) Maintenance responsibility
 - (1) Developer – maintenance until trail accepted
 - (2) HOA – none
 - (3) Public – natural surface trail upon acceptance
 - b) HOA owned Rural Open Space (surrounding houses on loop road)
 - (i) Uses allowed: Stormwater Management facilities, forest management, and category 1 forest conservation easements, landscaping, sitting areas, fencing, signage, utilities and easements as appropriate.
 - (ii) Initial Construction responsibility:
 - (1) Developer – proposed stormwater management facilities, sidewalks, fencing, sitting areas, landscaping, initial grading / stabilization and appropriate utilities.
 - (2) HOA – none
 - (3) Public – utilities
 - (iii) Maintenance responsibility
 - (1) Developer – maintenance until accepted by HOA
 - (2) HOA – sidewalks, fencing, sitting areas, landscaping, upon acceptance by HOA.
 - (3) Public – utilities
- 2) Common Open Space – HOA parcel (inside loop road)
 - a) Uses allowed: landscaping, selective clearing, fencing, signage, sidewalks, sitting areas, utilities, gazebo, recreation facilities.
 - b) Initial Construction Responsibility
 - (i) Developer – initial grading / stabilization, landscaping, fencing, signage, sidewalks, sitting areas, utilities, gazebo, recreation facilities.
 - (ii) HOA – none
 - (iii) Public – utilities
 - c) Maintenance responsibilities
 - (i) Developer – maintenance until accepted by HOA
 - (ii) HOA – maintenance of all items upon acceptance by HOA.
 - (iii) Public – utilities



**MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
DEVELOPMENT REVIEW COMMITTEE RECOMMENDATIONS**

TO: Malcolm Shaneman
Development Review Division
SUBJECT: Plan # 8-02005 1-02024 Name The Reserve at Ashton 35.9 acres
NRI/FSD 4-01272
DRC date: 22OCT2001

The above-referenced plan has been reviewed to determine if it meets requirements of the Guidelines for Environmental Management of Development in Montgomery County, and other county regulations that may apply. The following recommendations are made for the DRC meeting:

SUBMITTAL ADEQUACY

- Plan is complete. (see recommendations below)
 Plan is incomplete. The following items must be submitted:
 Forest Conservation Plan
 NRI/FSD (Approved)
 SWM Concept or Waiver Application
 100-YR Floodplain Study
 Drainage Area Map
 Other

EPD RECOMMENDATIONS:

- Approval.
 Approval with conditions as specified below. (see comments)
 Disapproval of plan. (see comments)

Comments:

No environmental concerns apparent. NRI/FSD approved Oct 2001(4-01127).

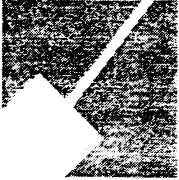
Plan illustrates the intent of the Forest Conservation Act and Montgomery County Environmental Guidelines. Lots are sited in fallow fields.

Afforestation requirements are accomplished on site by placing exiting forest into a Category 1 Forest Conservation easement and providing supplemental landscape planting.

M-NCPPC staff is not in concurrence with Wetland Evaluation Report for the O'Connell Property, prepared by McCarthy and Associates in May of 2001. Paulstrine forested wetlands exist within the floodplain area, most extensively along where the perennial stream flows off-site. Staff believes hydrologic parameters are present adjacent to the stream and adjacent to existing on-site seeps associated with the south facing slope. Hydric soils (54A) are mapped for this area Staff recognizes apparent deviation from the gleyed chroma soils parameter, but also recognizes that "active" floodplain sediment deposition can result in a non-gleyed soil condition in floodplain environments. Since the environmental buffer does appear to be the most restrictive line encompassing stream buffers, floodplain, BRL, wetland, wetland buffers- including the area in question, staff does not request additional evaluation at this time. Proposed development does not extend into wetland area.

SIGNATURE: *D. Quattrocchi* (Dominic Quattrocchi)
Environmental Planning Division

DATE: 19OCT2001



**MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
FOREST CONSERVATION PLAN RECOMMENDATIONS**

Development Review Division

SUBJECT: Final Forest Conservation Plan # 8-02005
Site Plan The Reserve at Ashton 35.9 acres
DRC date 09OCT2001 NRI/FSD # 4-01272

The subject Forest Conservation Plan has been reviewed by the Environmental Planning Division to determine if it meets the requirements of Chapter 22A of the Montgomery County Code (Forest Conservation Law). The following determination has been made:

SUBMISSION ADEQUACY

- Adequate as submitted
 Inadequate for evaluation. The following items must be submitted:
 Forest Conservation Plan Drawing Forest Conservation worksheet
 Approved NRI/FSD Map Development Program
 Justification for afforestation/reforestation method
 Qualifications of Preparer(s) Long term protection methods

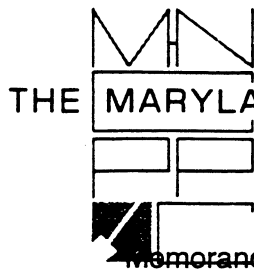
RECOMMENDATIONS

- Approve subject to the following conditions:
 Required site inspections by M-NCPPC monitoring staff (as specified in "Trees Technical Manual")
 Approval of the following items by M-NCPPC staff prior to DPS issuance of the sediment and erosion control permit:
 Submittal of financial security to M-NCPPC prior to clearing or grading.
 Record plat to show appropriate notes and/or easements. Agreements must be approved by M-NCPPC staff prior to recording plats.
 Maintenance agreement to be reviewed and approved by M-NCPPC staff for control of invasive and exotic plant species.

Comments:

1. Planting requirement is met on-site with forest retention. Retention of on-site forest adequately meets Forest Conservation Act requirements.
2. Individual tree saves, modifications to LOD, and supplemental tree preservation techniques will be decided by M-NCPPC staff at Stakeout/pre-construction meeting. Management plan to control invasive/exotic plant species in existing on-site is recommended due to isolated and small nature of this forest stand (0.87 acres).

SIGNATURE:  DATE: 19OCT2001
Dominic Quattrocchi Environmental Planning Division



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

December 13, 2001

Memorandum

To: Robert Kronenburg, Development Review
From: Piera Weiss, ^{fw}Community Based Planning
Subject: The Reserve at Ashton Reserve (O'Connell) 8-02005

STAFF RECOMMENDATION: APPROVAL

The subject site is located within the boundaries of the 1998 Approved and Adopted Sandy Spring Ashton Master Plan and recommended for the Rural Neighborhood Cluster zone (RNC). It is adjacent to the area shown in the Master Plan as the Southern Rural Neighborhood and will access have access to a public road through the Ashton Preserve Community, which is within the Rural Legacy Area. The property was zoned RNC by the SMA that followed the approval and adoption of the master plan.

When the Ashton Preserve was approved, a stub road was extended to the subject property to provide access to a public street, since the property did not have enough frontage on Ednor Road to accommodate any development.

The applicant is proposing to create a cul-de-sac on the public road and extend a private road for the proposed lots. This is in conformance with the standards of the RNC zone, which permits private streets. Two of the lots are in excess of 10 acres and are therefore eligible to be included in the calculation for rural open space. The master plan recommends 70-75% rural open space for the property. The proposed development, by using large conservancy lots achieves approximately 72% open space and therefore conforms to the master plan requirement. The development will also contain common open space, which is required in the RNC Zone and which cannot be used in the rural open space calculation. The common open space is 1.6 acres grove of trees centrally located so that all lots have the benefit of the view as well as use.

This property is outside the setting for the Rural Legacy Trail. Development of Springview, the Hoffman Tract and Ashton Preserve, which are part of the Rural Legacy Setting, has provided a series of natural surface trail connections between the older communities to the east (Ashton Manor and Ashton Meadows) and the parkland that was dedicated as part of the approval process for the three developments or purchased as part of the setting for the Rural Legacy Trail.

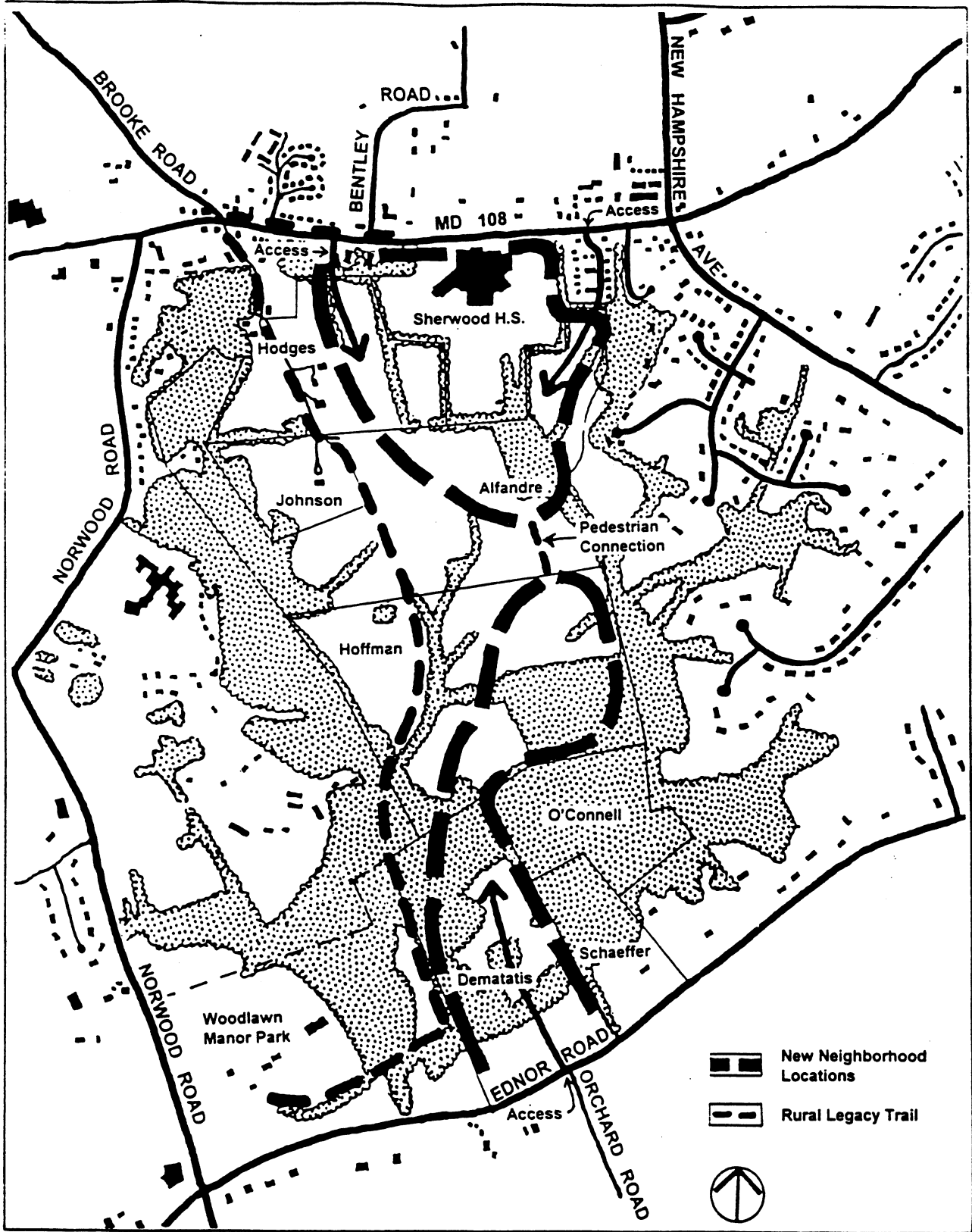
The development will provide a sidewalk /path along through the common open space grove to the public street and sidewalk allowing residents to walk to the Sherwood High School or the Rural Legacy Trail located to the west of the site and past the Aston Reserve Development

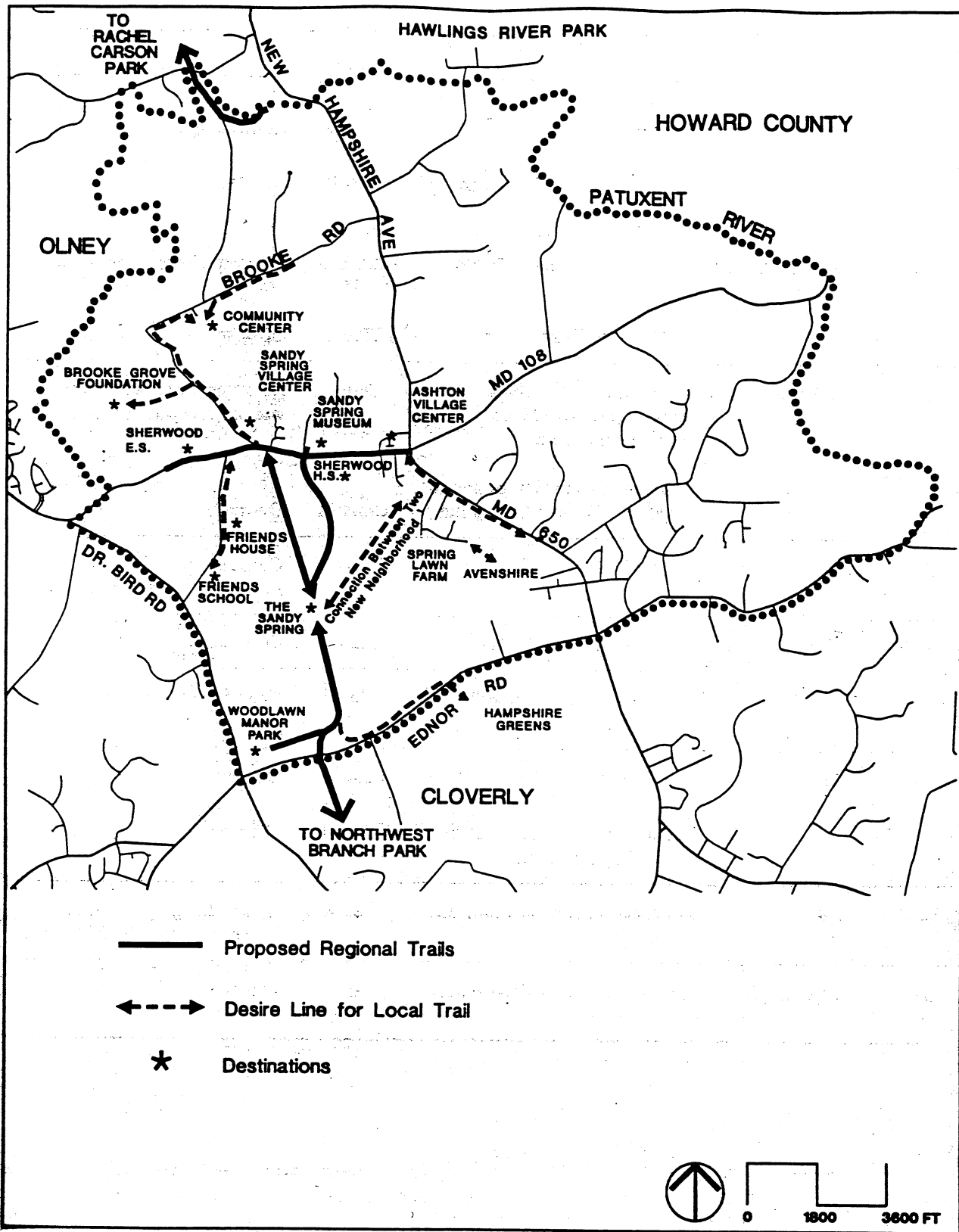
The Master Plan does not recommend any parkland dedication from this property nor are any trails shown in the master plan that directly affect this property. Therefore, Community Based Planning Staff is opposed to any additional general public use trails since there is already direct access to the trail system through the already approved developments that surround the subject property.

Staff finds that the proposed development is in conformance with the recommendations of the Approved and Adopted Sandy Spring/Ashton Master Plan and recommends approval.

TWO RURAL NEIGHBORHOODS ALONG THE RURAL LEGACY TRAIL

FIGURE 12







December 13, 2001

MEMORANDUM

TO: Malcolm Shaneman, Supervisor
Robert Kronenberg, Planner
Development Review Division

VIA: Ronald C. Welke, Supervisor
Transportation Planning

FROM: Ed Axler, Planner/Coordinator *EA*
Transportation Planning

SUBJECT: Preliminary Plan No. 1-02024
Site Plan No. 8-02005
The Reserve at Ashton
(Previously Known as the O'Connell Property)
Patuxent Policy Area

This memorandum is Transportation Planning staff's adequate public facilities (APF) review of the subject preliminary plan and site plan.

RECOMMENDATIONS

Transportation Planning staff recommends the following conditions as part of the APF test for transportation requirements related to approval of this preliminary plan and site plan:

1. Limit the preliminary plan and site plan to 16 single-family detached units.
2. Provide a 30-foot easement for future private access to the adjoining Schaffer Property, Parcel 123, from Alexander Manor Drive off the public tertiary residential street.
3. Provide a four-foot sidewalk with a minimum four-foot offset from the roadway pavement:

- a. Along the open-section public tertiary residential street on one side and, therefore, supporting the applicant's waiver request of DPWT's Standard MC-210.05 for sidewalks on only one side.
 - b. Along the private residential street, between the public tertiary residential street and private oval-shaped street, on one side.
 - c. Along the outside of the oval-shaped, private residential street with a natural-surface path inside of the oval-shaped area.
4. Coordinate with Park Planning staff regarding the location of an equestrian trail through the site prior to recording the plat.

DISCUSSION

Site Location and Access

The proposed site is located on the north side of Ednor Road, 5,000 feet west of New Hampshire Avenue. The site access is from a private tertiary street that connects to a public cul-de-sac, then to Alexander Manor Drive and Ednor Road. Sidewalks are proposed on the west side of the private road to Alexander Manor Drive. An internal natural-surface path is provided within the common open space for access to the common area and circulation between the 16 houses. In addition, staff recommends a four-foot sidewalk along the outside of the oval-shaped private street to provide safe access to the public street network.

Prior Planning Board Action

The Planning Board recommended that Pre-Preliminary Plan No. 7-00013, O'Connell Property, proceed to preliminary and site plan at its hearing on July 15, 2000.

Master Plan Roadway

According to the *Sandy Spring/Ashton Master Plan*, Ednor Road is designated as an arterial roadway, A-50, with an 80-foot right-of-way with a Class I bikeway, PB-34, on the south side. The streets, not listed in the master plan, are designated as follows:

1. Alexander Manor Drive is designated as a public secondary residential street with a 60-foot right-of-way and four-foot sidewalks.
2. Access road between Alexander Manor Drive and the cul-de-sac is designated as a public residential street with a 50-foot right-of-way and a four-foot sidewalk on one side.
3. Access road between the public cul-de-sac and private internal oval-shaped street is designated as a private residential street with an 20-foot pavement and a four-foot sidewalk on one side.

4. The internal oval-shaped street is as a private residential street with an 20-foot pavement and a four-foot sidewalk on the outside.

Local Area Transportation Review

The proposed 16 single-family detached units generate 15 peak-hour trips during the weekday morning peak period (7:00 to 9:00 a.m.) and 18 peak-hour trips during the weekday evening peak period (4:00 to 6:00 p.m.). A traffic study is not required to satisfy Local Area Transportation Review because the 16 single-family detached units generate fewer than 50 peak-hour trips during the weekday morning and evening peak periods.

Policy Area Review/Staging Ceiling Condition

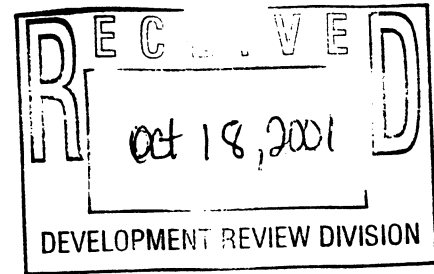
The proposed site is located in the Patuxent Policy Area, which is a rural policy area. Staging ceiling capacities in rural policy areas are not established for jobs or housing units under the *FY 02 Annual Growth Policy*.

EA:cmd

cc: Al Blumberg
Larry Cole
Stephen Orens

MNCPPC
Development Review Division
8787 Georgia Ave.
Silver spring, MD 20910

October 11, 2001



REF: Site Plan 8-02005, The Reserve @ Ashton

Dear Planning Board:

This letter addresses the proposed site plan for The Reserve At Ashton, Site Plan 8-02005. My home and property are adjacent to the proposed development. I have forwarded comments addressing stormwater concerns to the Montgomery County Department of Permitting Services and have attached a copy for your information. In addition to stormwater concerns, I am also concerned about the location and design of the road entering the development, any proposed lighting plan which will be developed and screening of the road(traffic) and homes from my property. I request consideration for an expansion of the buffer and increased screening to minimize impact to my property.

I would like to have the opportunity to discuss my concerns with you in greater detail at the appropriate time. I consider myself a key stakeholder in the environmental impact of the development of this site and request your assistance to avoid any adverse impact to my home or property. Please include me in the review process with particular consideration for the above cited concerns.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Elaine Schaeffer".

Elaine Schaeffer
320 Ednor Road
Silver spring, MD 20905
301-924-7447

MCDPS
Water Resources Division
250 Rockville Pike
Second Floor
Rockville, MD 20850

October 11, 2001

REF: Site Plan 8-02005, The Reserve @ Ashton

Dear Director:

I am writing regarding a proposed site plan for The Reserve @ Ashton, application No. 8-02005. The proposed development is located uphill and adjacent to my property and my home at 320 Ednor Road. I am concerned about the disposition of runoff generated from this site and the proposed development. The runoff needs to be managed in a manner that will prevent flows from entering my property or surcharging the tributary upstream of my property. I am also concerned about the location and design of any proposed retention ponds, which may be near my property.

I consider myself a key stakeholder in the environmental impact, including stormwater management, of the development of this site and request your assistance to avoid any adverse impact to my home or property. Please include me in the review process of the above cited concerns.

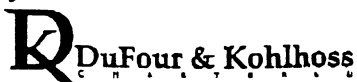
Thank you for your consideration.

Sincerely,



Elaine Schaeffer
320 Ednor Road
Silver Spring, MD 20905

Cc: MNCPPC



November 21, 2001

Arthur Holmes, Jr., Chairman
Montgomery County Planning Board
Maryland- National Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Md. 20910-3760

Re: The Reserve @ Ashton
Preliminary Plan 1-02024
Site Plan 8-02005
Request for Waiver of Road Design Standard

Dear Chairman Holmes:

The Reserve @ Ashton is a proposed Rural Neighborhood Cluster subdivision containing sixteen single-family detached homes and over 26 acres of rural open space. An open section tertiary street with a paved width of twenty (20) feet will provide access to the proposed subdivision from the cul-de-sac to be built connecting to Alexander Manor Drive. The submitted applications for subdivision and site plan approval for The Reserve @ Ashton included a request for a 1.75 square foot waiver of the 50-foot right of way width for a distance of approximately one to two linear feet where the subject property borders on both Parcel I and the Schaffer Property.

The right of way width for an open section tertiary road is governed by several sections of chapters 49 and 50 of the Montgomery County Code. Sections 49-33 and 49-44 of the code establish the standards and minimum requirements for all road classifications and provide for additional standards to be established by Executive Regulation. The standards applicable to the proposed tertiary road were established by Executive Regulation and by Section 50-26 of the Subdivision Regulations.

The right of way width of tertiary streets is determined by the Planning Board as part of either the preliminary plan or site plan approval process pursuant to Section 49-34 (f) and Section 50-26 (h). Approval of a right of way width of less than 50 feet for a tertiary road is not considered a waiver that would be under the jurisdiction of the Director of the Department of Permitting Services under Chapter 49 of the Code.

4920 Elm Street, Suite 200
Bethesda, Maryland 20814

Tel 301.986.4142
Fax 301.656.3740



Arthur Holmes, Jr., Chairman
November 21, 2001
Page 2

Section 50-26 (h)(2) provides that the Planning Board may approve a right of way width of less than 50 feet "...if it can be demonstrated that this lesser width is environmentally better and either improves compatibility with adjoining properties or allows better use of the parcel under consideration."

The 1.75 square foot departure from the 50 foot standard is consistent with the environmental preservation that is a lynch pin of this rural neighborhood cluster subdivision. The right of way for the tertiary street was designed to minimize any intrusion into the preserved rural open space while allowing for a single sidewalk and the necessary public utility easement. The right of way was also established in a location to assure that future access for parcel 123 was feasible and that the road way aligned with the existing dedicated right of way through the previously approved Ashton Preserve Subdivision between Lot 66 and the Ashton Preserve H.O.A. parcel.

The proposed tertiary road will meet the 50-foot standard for nearly its entire length. Attempts to secure the additional right of way from the owners of Parcel 123 were unsuccessful and realignment of the roadway is neither practical nor appropriate given the adjacent conservation area and the need to connect with the previously dedicated right of way. Approval of this request will not affect the paved width or location of the travel lanes of the proposed road.

The applicant has also requested that sidewalks not be required on both sides of the tertiary road pursuant to Section 50-26 (h)(3). The Department of Public works and Transportation supports the request for sidewalk on only one side of the proposed road. The internal pedestrian circulation system has been designed to enhance the rural character of the proposed neighborhood with access points to the 1.6 acre wooded open space that forms the center of the community. A single sidewalk will enable pedestrians to safely use the roadway and have a safe and adequate way of getting to and from Alexander Manor Drive. In addition the proposed sidewalk design is consistent with the community's rural character.

Accordingly we hereby request that the Planning board waive the requirement for sidewalks on both sides of the proposed tertiary road pursuant to Section 50 -26(h)(3) of the Subdivision regulations.

4920 Elm Street, Suite 200
Bethesda, Maryland 20814

Tel 301.986.4142
Fax 301.656.3740



Arthur Holmes, Jr., Chairman

November 21, 2001

Page 3

For your convenience we have enclosed a copy of the original waiver request along with a drawing that depicts the short stretch of roadway effected by the 1.75 square foot decreased in right of way width. We appreciate the Planning Board's consideration of these requests and if we may provide any further supporting information please let us know.

Very truly yours,

DUFOUR & KOHLHOSS, CHTD.

By: 

Stephen J. Orens

Encl.

cc: A. Malcolm Shaneman
Alfred Blumberg
Ralph DeSena

Luz\448.2\Holmes letter re ROW width and sidewalk waiver v.1.doc

4920 Elm Street, Suite 200
Bethesda, Maryland 20814

Tel 301.986.4142
Fax 301.656.3740

THE RESERVE @ ASHTON**WAIVER REQUEST**

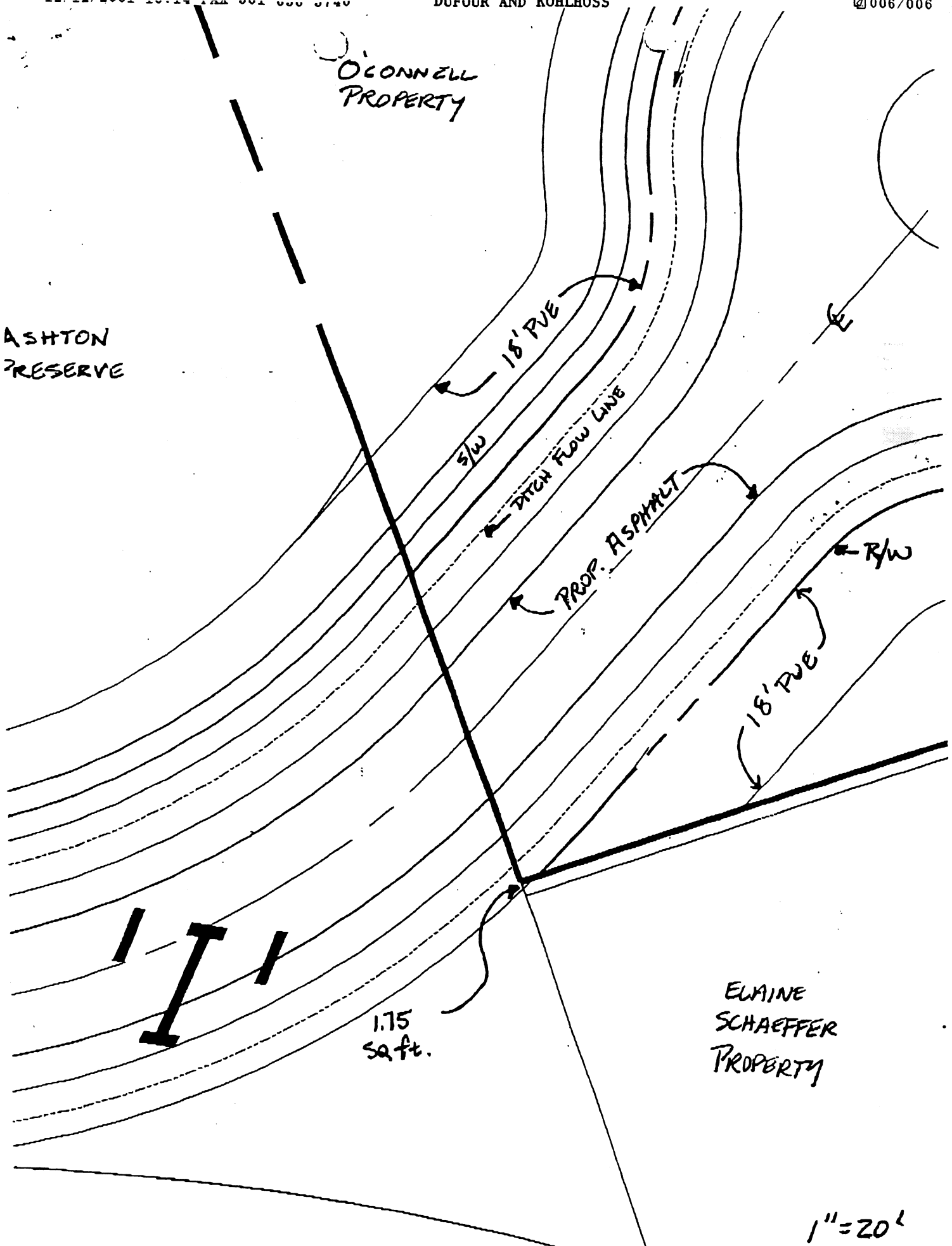
Applicant hereby requests a waiver from MCDPWT Standard No. MC-210.05, TERTIARY RESIDENTIAL STREET OPEN SECTION WITH SIDEWALKS AND STREET TREES, to permit a 1.75 square foot reduction in the right-of-way. This request is made due to insufficient right-of-way being available to access the O'Connell Property by a tertiary street. The area available for right-of-way dedication is identified as Parcel 'T' as shown on a Record Plat entitled "Lot 66 & Parcel 'T', Block 'A' and Lots 1 thru 4, Parcel 'K' & Part of Parcel 'J', Block 'B' Ashton Preserve", as recorded at Plat No. 21462

Final boundary survey work determined that the width adjacent to the corner of the Schaeffer Property with parcel 'T' is only 49.25 feet wide, resulting in this modest, 1.75 sq.ft. triangular intrusion into the proposed 50-foot right-of-way. See attached sketch.

This request also includes elimination of the PUE through the Schaeffer Property and provision of a sidewalk on only the north side of this new tertiary street. These requests are justified by the limits of the existing plat and by the need to eliminate any impact on the Schaeffer property, since the owner of the Schaeffer property is not involved in, nor supports, any of the development occurring in this vicinity.

O'CONNELL
PROPERTY

ASHTON
RESERVE



1.75
sq. ft.

ELMAINE
SCHAEFFER
PROPERTY

1" = 20'



19650 Club House Road, Suite 105
Gaithersburg, Maryland 20886-3039
301-947-8900 • FAX: 301-947-7704

November 21, 2001

Mr. Malcolm Shaneman
Development Review Coordinator
M-NCPPC
8787 Georgia Avenue
Silver Spring, MD. 20910

Re: The Reserve @ Ashton
Preliminary Plan 1-02024 and Site Plan 8-02005

Dear Mr. Shaneman:

The Development Review Committee (DRC) reviewed the Site Plan and Preliminary plan of Subdivision for The Reserve at Ashton on October 22, 2001. As a result of that review we have made a series of changes and modifications to the plans. Enclosed are 5 sets of the revised Preliminary Plan, Site Plan and Landscape Plan that incorporate those changes and modifications. We believe that the revised plans are now ready to be presented to and acted upon by the Montgomery County Planning Board. We understand that we are scheduled for the agenda of November 29, 2001.

Following is a list of issues addressed and modifications made as reflected on the attached plans.

1. The easement for future access into the Schaeffer property has been increased from 20 to 30 feet.
2. The 1.75 square foot reduction in right of way width from the standard 50-foot requirement has been reviewed and that right-of-way reduction cannot be avoided. Therefore, we continue to request that reduction. The applicant's attorney, Stephen J. Orens, is submitting the request for approval of the reduced right-of-way width under separate cover.
3. We continue to propose the construction of a sidewalk along only the west side of the new cul-de-sac access from Alexander Manor Drive. DPWT has indicated that they will support this request. Mr. Orens letter elaborates on this requested waiver.
4. DPS requested a 100-year floodplain study for the stream prior to Sediment Control Plan processing. We will provide such a study later, but it is not necessary for Preliminary Plan or Site Plan approval.

Mr. Malcolm Shaneman
 November 21, 2001
 Page 2

5. The locations of the Stormwater Management structures have been added to all pertinent drawings.
6. We have identified the approximate location of the 25-foot trail easement along the stream through the property. At the time of Pre-Preliminary Plan, it was thought that the trail could be situated coterminous with the WSSC sewer easement. However, clarification of that sewer easement location revealed that it crosses the stream several times, making joint usage not feasible. We have agreed with the Trails Staff in the Parks Department to jointly locate the trail in the field. We have agreed with them to make this a condition of approval, to be completed after action by the Planning Board.
7. As requested, we have reviewed the location of the Guardhouse proposed to be located near the entrance on an island in the middle of the private street. It was suggested that we move that guardhouse closer to the cul-de-sac thereby widening the connection of the private street to the public street. Upon review, we disagree with that suggestion and continue to show it located in the same spot. The connection as currently configured better defines the access and funnels that access to the 16 home development more cleanly.
9. The sidewalks within the community, outside of the public right of way, are proposed to be constructed of asphalt, not concrete.
10. The sidewalk locations have been treated on the drawings with a pattern, making them more easily discernible.
11. The plan continues to locate the internal sidewalk system inside the loop created by the private street. Urban Design suggested that we relocate the sidewalks on the outside of the loop, in front of the houses. We have studied and considered that option and have concluded that it is more in keeping with the intent and purposes of the RNC Zone to locate the sidewalk within the treed inner loop rather than in the front yards of the homes. The RNC is a rural zone. We propose open section streets, both public and private. To expand the roadway section to include the sidewalk will create an environment more suburban than rural.

Our intent is to create a more rural environment with less pavement and more open space. We do, however, propose cross walks into the common open space area and the sidewalks located therein. Since there are only 16 houses, the amount of traffic will be minimal. It will not be

SITE SOLUTIONS INCORPORATED

Mr. Malcolm Shaneman
November 21, 2001
Page 3

hazardous to cross the street to access the sidewalk located in the common open space area. Locating the sidewalk within the loop will allow it to be woven between the trees in an attractive and sensitive manner.

We are proposing to locate a gazebo in the center of the common open space with sidewalks interconnecting to sitting areas and gathering spots. The sidewalks so situated will enhance the opportunities for interaction among the neighbors living in the community. Mothers and fathers walking their children or their pets will have a pleasant environment to walk through and sit the common open areas without feeling that they are infringing on their neighbors' front yards. In addition, they will be farther separated from the vehicular travel way creating a more pleasant ambiance. We therefore propose to maintain the sidewalks within the loop area, separated from the roadway.

12. A 10-foot PUE has been added to the private street, along the outside of the loop and a shared utility easement has been added up the driveway to the two preservation lots.
13. All manhole locations have been adjusted to keep them out of the PUE's.
14. We have also added the proposed locations of the water and sewer lines (house connections) proposed to serve the two Preservation lots.
15. WSSC requested submission of a Hydraulic Modeling Plan. We have submitted the preliminary package to WSSC and the Modeling Plan is underway.
16. The locations of the existing sewer lines in the stream valley have been added.
17. Question was raised about the water & sewer category. Those Categories were changed per Administrative Delegation 2001-1 in February 2001, from W-6 and S-6 to W-3 and S-3, conditioned on Planning Board approval of a Preliminary plan using the RNC optional cluster method.
18. A landscape buffer has been added behind the lots abutting the Stormwater Management Facility.
19. The proposed cross section of the private street profile has been added.

Mr. Malcolm Shaneman


November 21, 2001

Page 4

We believe that these additions and modifications address all of the issues raised at DRC. We trust that they are adequate to allow presentation to the Montgomery County Planning Board for action and approval. Thank you for your help with this matter. We will prepare a color rendering of the plan for your use with presentation at the Planning Board Hearing on the 29th.

Very truly yours,

SITE SOLUTIONS, INC.

By: 
Alfred Blumberg
Principal

cc: Ralph DeSena
Stephen J. Orens, Esq.
John Michael O'Connell

15. Preliminary Plan Review No. 1-02024 – Reserve at Ashton

RNC Zone; Sixteen (16) Lots Requested (Single-Family Detached Dwelling Units); 36 Acres Community Water and Community Sewer

Located on the East Side of Alexander Manor Drive, Approximately 1,000 Feet North of Ed-nor Road

Policy Area: Cloverly

APPLICANT: R.A.M. Investing Ltd.
ENGINEER: Site Solutions Inc.
ATTORNEY: Dufour & Kohlhoss Chtd.

Staff Recommendations: Approval, Subject to the Following Conditions:

See Conditions Enumerated in Staff Report

BOARD ACTION

Motion: BRYANT/ROBINSON

Vote:

Yea: 4-0

Nay:

Other: WELLINGTON ABSENT

Action: APPROVED STAFF RECOMMENDATION TO APPROVE, AS MODIFIED BY STAFF, FURTHER MODIFIED TO REQUIRE AN EASEMENT TO BE PLACED OVER A REVISED ALIGNMENT FOR A TRAIL THROUGH THE PROPERTY AND TO REQUIRE THAT ALL STORMWATER RUNOFF MUST BE DIVERTED AWAY FROM THE SHAEFFER PROPERTY, AS STATED IN THE ATTACHED OPINION.

Items 15 and 16 were discussed together, as reported under item 16, as the concurrent review of the preliminary plan and the site plan for the same property.

16. **Site Plan Review No. 8-02005 – Reserve at Ashton**

RNC Zone; 16 single-family detached dwelling units; on the east side of Alexander Manor Drive, 1,000 feet north of Ednor Road; Cloverly/Norwood and Vicinity, PA 28

Staff Recommendation: Approval with conditions. (See staff report)

BOARD ACTION

Motion: BRYANT/ROBINSON

Vote:

Yea: 4-0

Nay:

Other: WELLINGTON ABSENT

Action: APPROVED STAFF RECOMMENDATION TO APPROVE, SUBJECT TO CONDITIONS AS REVISED BY STAFF, AND APPROVED THE REQUESTED WAIVERS TO ALLOW A REDUCED-WIDTH TERTIARY ROAD AND ELIMINATION OF SIDEWALK ON ONE SIDE OF THE PUBLIC ROAD, AND AGREED TO ELIMINATE THE STAFF’S PROPOSED SIDEWALK ALONG THE OUTSIDE OF THE PRIVATE ROAD, AS STATED IN THE ATTACHED OPINION.

Items 15 and 16 were discussed together, as reported below, as the concurrent review of the preliminary plan and the site plan for the same property.

Development Review staff presented the preliminary plan and site plan proposing 16 lots for 14 single-family detached units and 2 10-acre conservancy lots, as detailed in the staff report. Staff noted the need to provide a Rural Legacy Trail connection through the property and pointed out the applicant’s proposed trail and a staff alternative. In staff’s view, the proposed alternative trail moves the trail farther from the stream valley buffer, moves the trail to the perimeter of the conservancy lot, and avoids having the trail dead-end at the abutting property with nowhere to go except onto that property. With regard to the site plan, staff noted changes to condition 2c and 2e, to delete conveyance of property to the homeowners association; and changed condition 6 to delete a line. Staff also noted that waivers are requested to allow a reduced-width right-of-way for the open-section tertiary street and of the sidewalk requirement for one side of the public street, which staff supports. The two outstanding issues related to the two plans, staff said, are the location of the trail across the property and staff’s proposal to construct a sidewalk along the outside of the private drive.

Mr. Steve Orens, attorney representing the applicant, introduced Mr. Ralph DeSena, the applicant, and Mr. Al Blumberg, the engineer. Mr. Orens described the proposed development and how it fulfills the goals of the master plan. He described the rural neighborhood that is being created and strongly objected to constructing a sidewalk along the private drive, claiming that a sidewalk is unnecessary and will be out of character with the neighborhood. Mr. Blumberg presented photographs of several similar communities, showing the difference in character when there is no sidewalk and when a sidewalk is constructed. With regard to the proposed trails, Mr. Orens maintained that there is an existing trail system in the area that does not require a trail across the subject property. He also

CONTINUED ON NEXT PAGE

16. Site Plan Review No. 8-02005 – Reserve at AshtonCONTINUED

noted that the master plan does not specify the need for a trail across the property, although a trail was shown on the pre-preliminary plan. Mr. Orens noted that the staff proposal will bring the trail too close to homes and across a driveway, which he claimed to be unacceptable. He pointed out the differences between the trail location on the pre-preliminary plan and the revised location on the preliminary plan.

Ms. Elaine Shaeffer, owner of the abutting property, spoke in opposition to having the stormwater management facility five feet from her property line and having the trail end at her property, which will encourage trespassing, a problem which she stated she already experiences from people using the trail on the abutting Ashton Preserve property. Noting the size of the subject property, which provides the ability to relocate facilities, Ms. Shaeffer asked that the stormwater management facility be moved to 100 feet from her property line, with no outfall to her property, and that the trail be move at least 30 feet from her property line. She also asked for screening along the shared property line. Ms. Shaeffer noted that she has made numerous attempts to be included in the plan design, to no avail.

There followed lengthy discussion of the issue of the trail, including other trails in the area, the need for a trail on the subject property, the timing of construction of the trail, and the relative merits of the three alternative alignments. Staff verified that there is no reference to a trail through the subject property in the area master plan or the master plan of trails. The Board agreed on a preferred alignment, a combination of the applicant's current proposed alignment with a connection to the staff's proposed alignment at the southern property line. In addition, the Board agreed to require only an easement, rather than construction of the trail, at this time.

Turning to the issue of the sidewalk on the private road, the Board agreed that the sidewalk is unnecessary.

In making the motions on the preliminary plan and site plan, Commissioner Bryant included the Board's preferred trail alignment, as noted above, with the provision that an easement will be created and the trail will not be built at this time. The Commissioner included a requirement to divert any water from the stormwater management facility away from the Shaeffer property. He accepted the applicant's assertion that a sidewalk along the outside of the private road is not necessary and he included the requested waiver of the requirement for sidewalks on one side of the public street and the waiver to allow a reduced-width tertiary street. Prior to making these motions, Commissioner Bryant expressed the view that the trail should be constructed when the Shaeffer property is redeveloped.

SITE DATA

Project Name	1000000000
Client	1000000000
Address	1000000000
City	1000000000
State	1000000000
Zip	1000000000
Phone	1000000000
Fax	1000000000
E-mail	1000000000
Website	1000000000
Prepared By	1000000000
Checked By	1000000000
Date	1000000000

ZONING DATA TABLE: RNC Zone General Metric

Metric	Value
Area	1000000000
Volume	1000000000
Height	1000000000
Setback	1000000000
Other	1000000000

GENERAL NOTES

1. All work shall conform to the latest editions of the International Building Code and the International Residential Code.

2. The contractor shall be responsible for obtaining all necessary permits and approvals from the local authorities.

STAGING

1. Staging areas shall be located in the designated areas shown on the site plan.

2. Staging areas shall be kept clear of materials and equipment at all times.

RECREATION FACILITIES COMPLIANCE

Facility	Compliance
Playground	1000000000
Swimming Pool	1000000000
Other	1000000000



APPROVED PLANNING BOARD EASEMENT AND TRAIL ALIGNMENT

Part of Rural Open Space

LOT 1
10.23 ACRES
(PLUS PIPESTEM)

LOT 2
10.15 ACRES
(PLUS PIPESTEM)

RURAL OPEN SPACE

COMMON OPEN SPACE

Part of Rural Open Space

BID SET

SEE SHEET 2 OF 3 AND OTHER NOTES

HOUSE LOCATION INFO

ATTACHMENT No. 3



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MONTGOMERY COUNTY PLANNING BOARD

CORRECTED O P I N I O N

DATE MAILED: February 22, 2002

SITE PLAN REVIEW #: 8-02005

PROJECT NAME: Reserve at Ashton

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

The date of this written opinion is February 22, 2002, (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 24, 2002 (which is thirty days from the date of this written opinion. If no administrative appeal is timely filed, this Site Plan shall remain valid for as long as Preliminary Plan #1-02024 is valid, as provided in Section 59-D-3.8.

On December 20, 2001, Site Plan Review #8-02005 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and 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 requirement of the RNC zone;*
3. *The location of the buildings and structures, the open spaces, the landscaping, and the pedestrians 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;*

Therefore, the Montgomery County Planning Board APPROVES Site Plan #8-02005, which consists of 16 single-family detached lots within the RNC Zone including a waiver to permit a reduction of 1.75 square feet within the 50-foot fight-of-way and sidewalk on one side of the road, subject to the following conditions:

1. Standard Conditions dated October 10, 1995
 - A. Submit a Site Plan Enforcement Agreement, Development Program and Homeowners Associations Documents for review and approval prior to approval of the signature set as follows:
 1. Development Program to include a phasing schedule as follows:
 - a. Street tree planting must progress as street construction is completed, but no later than 6 months after completion of the units adjacent to those streets;
 - b. Clearing and grading to correspond to the construction phasing, to minimize soil erosion;
 - c. Coordination of each section of the development and roads;
 - d. Phasing of dedications, stormwater management, sediment and erosion control, recreation, forest conservation, community paths, trip mitigation or other features;
 - e. All recreation facilities shall be completed prior to issuance of the 11th building permit for the proposed development.
 2. Site Plan Enforcement Agreement to include a Use, Ownership and Maintenance Document that designates the permitted use, ownership and maintenance responsibilities for the rural and common open space.
 - B. 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):
 1. Undisturbed stream buffers;
 2. Limits of disturbance;
 3. Methods and location of tree protection;
 4. Forest Conservation areas;
 5. Conditions of DPS Stormwater Management Concept approval letter dated June 12, 2001, Applicant to coordinate with MCDPS and M-NCPPC staff for the re-design of the SWM facility adjacent to parcel 123 (Schaeffer) to eliminate any outfall or diversion onto parcel 123;
 6. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading;
 7. The development program inspection schedule.
 8. Conservation easement boundary
 - C. Forest Conservation Plan shall satisfy all conditions of approval prior to recording of plat and DPS issuance of sediment and erosion control permit.
 - D. No clearing or grading prior to M-NCPPC approval of signature set of plans.

2. Conditions of approval of the Preliminary Forest Conservation Plan dated October 19, 2001. Final Forest Conservation Plan (including grading and tree protection information) shall satisfy all conditions referenced in the M-NCPPC Environmental Planning Section memorandum dated October 19, 2001 (See Appendix B), prior to recording plat or DPS issuance of sediment and erosion control permit:
 - a. No grading within the stream buffers;
 - b. Individual tree save areas, modifications to limits of disturbance, and supplemental tree preservation techniques shall be incorporated into the Final Forest Conservation Plan;
 - c. The full stream valley buffer, as well as all forest retention areas, must be protected with a Category I Conservation Easement;
 - d. A Maintenance Agreement and Management Plan shall be reviewed and approved by M-NCPPC staff for control of invasive and exotic plant material, as shown on the approved NRI/FSD dated August 8, 2001, prior to issuance of grading and sediment control plans and permits;
 - e. Record plat to show Category I Conservation Easements over stream valley buffers and all forest retention areas. Any Forest Conservation Management Agreement (FCMA) with the Maryland Department of Natural Resources (DNR) sought by the property owner for the conservation easement area must be reviewed and approved by M-NCPPC staff prior to being executed. The purpose of this review is to limit timber harvesting within the easement, which may be prescribed by a FCMA to ensure that the general composition and aesthetic quality of the stand is maintained and stream buffers are protected.
3. Conditions of MCDPS stormwater management concept approval dated June 12, 2001. Applicant to coordinate with MCDPS and M-NCPPC staff for the redesign of the SWM facility adjacent to parcel 123 (Schaeffer) to eliminate any outfall or diversion onto parcel 123.
4. Site, Landscape/Lighting, Forest Conservation and Sediment and Erosion Control Plans subject to review by staff prior to approval of signature set. Prior to signature set approval, the applicant shall provide the following revisions or information to the plans:
 - a. Site Plan signature set to show all easements, limits of disturbance, PUE's, PIE's, common open space, rural open space, dimensions and placement of sidewalks, pedestrian paths, equestrian trails, high priority forests and storm drain outlets.
 - b. Site Circulation:
 - i. Sidewalks/Paths:
 - a. Provide a 4-foot wide path (hard and/or soft surface), on the inside of the private street and within the common open space. Path to provide connections to the private street in the locations shown on the approved Site Plan. Type of trail surface and location of the path to be determined by M-NCPPC staff prior to release of grading and sediment control permits.
 - b. Applicant to construct a 4-wide sidewalk from the cul-de-sac to the private street.
 - ii. Trails:

- a. Applicant to provide a 20-foot pedestrian-equestrian public access easement from the proposed public road into the site through the middle of lots 1 and 2, and to connect to the existing trail and easement on the adjacent Ashton Preserve (Site Plan #8-99043); the easement shall be conveyed to the HOA or other entity for maintenance and responsibility;
- b. The final alignment of the proposed easement to be determined by M-NCPPC Staff and the applicant.

Landscape and Lighting Plan to show the following:

- i. Provide additional landscaping and screening in the rear of lot 16 to buffer the proposed stormwater management facility;
 - ii. Provide additional landscaping to screen the stormwater management facility from the public road;
 - iii. With the exception of fencing in private back yards and around SWM facilities, any fencing to be provided on-site to be simple, split rail type or type acceptable to staff, to retain rural character. Applicant to provide details at signature set;
 - iv. Provide a shade tree in the island in the public road cul-de-sac.
5. The services of a licensed arborist shall be retained to evaluate the appropriate measures necessary to ensure the survival of the large and specimen trees proposed to be preserved whose critical root zones will be impacted by construction, as shown on the Final Forest Conservation Plan.
 6. Prior to recording of the Plats, the applicant shall convey approximately 7.70 acres of Rural Open Space, outside of the proposed lot limits, and 1.6 acres of Common Open Space to the Home Owners Association. The remaining 18.6 acres of Rural Open Space shall remain as part of the two conservancy lots.
Dedication of Rural Open Space and Common Open Space shall be conveyed free of trash and unnatural debris.
A forest conservation easement shall be placed over all of the Rural Open Space on the Rural Open Space on Lots 1 and 2.
 7. The proposed path within the Common Open Space shall be completed prior to the issuance of the building permit for the 11th dwelling unit (70% completion) of the proposed development or within 36 months of issuance of first building permit.
 8. The proposed 20-foot wide public access easement for the pedestrian-equestrian trail shall be conveyed by the applicant to the HOA or other entity for maintenance and responsibility. Where the PAE is not located within the HOA property, applicant shall establish, with reference in the HOA documents and on record plat, a cross easement to provide public access.
 9. All easements shall be delineated and identified on the record plat.



Agenda Date: June 20, 2002
Reconsideration Request

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OFFICE OF
THE GENERAL COUNSEL

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

REQUEST FOR RECONSIDERATION

MEMORANDUM

TO: Montgomery County Planning Board

VIA: Michele Rosenfeld, Associate General Counsel

FROM: Tariq El-Baba, Associate General Counsel

RE: Reconsideration Request For Reserve at Ashton
Site Plan No. 8-02005

I. BACKGROUND

Party Seeking Reconsideration:

Elaine Schaeffer

Action Sought To Be Reconsidered:

Site Plan No. 8-02005
Date of Corrected Opinion: February 22, 2002
Action Taken: Approval of Site Plan, with conditions.

Planning Board Vote:

- Motion to approve site plan with conditions:
Motion made by Commissioner Bryant, seconded by Commissioner Robinson.
- Commissioners voting in favor of the motion:
Chairman Holmes, Commissioners Perdue, Bryant, and Robinson (Commissioner Wellington was necessarily absent).
- Commissioners voting against the motion: None.

Procedural Posture

On March 13, 2002, Ms. Schaeffer transmitted a letter to the Chairman of the Planning Board,¹ requesting reconsideration of the Planning Board's decision in the above-captioned Site Plan. On March 22, 2002, Ms. Schaeffer filed a petition for judicial review of the aforementioned Planning Board decision in Montgomery County Circuit Court ("Court");² and, consequently, jurisdiction in the case was vested exclusively with the Court, thereby preventing the Board from hearing the reconsideration request scheduled for April 4, 2002. Following the filing of a joint motion by The Maryland-National Capital Park and Planning Commission ("Commission"), Ms. Schaeffer, and R.A.M. Investing, Ltd., the applicant in this case, Judge Michael D. Mason, Sixth Judicial Circuit of Maryland, signed an Order staying the judicial proceedings and remanding the case to the Planning Board for its consideration of Ms. Schaeffer's reconsideration request and, in the event her request is granted, a hearing on the relevant issues and issuance of a written opinion.³

Summary of Proponent's Grounds For Reconsideration:

Ms. Schaeffer—based on her recollection of the discussion at the December 20, 2001 public hearing, discussions with the applicant, and reviewing an audiotape of the hearing—believes that the intention of the Planning Board was to ensure that a pedestrian-equestrian trail would not be constructed on the easement that the Board approved, until such time as Ms. Schaeffer's property is further developed. Ms. Schaeffer has noted that the Site Plan Opinion⁴ does not reflect her understanding of the Board's intent and she requests that a corrected opinion be issued to include language indicating a trail will not be "built" abutting her property line until such time as her property is developed.

II. RULES APPLICABLE TO RECONSIDERATION REQUESTS

In accordance with the approved and adopted rules and procedures for the Montgomery County Planning Board, any party of record may, in writing, request the Planning Board to reconsider its determination on an action taken by the Board. The Planning Board must receive the request within ten days of the mailing date for the Opinion reflecting the action at issue.

1 See Attachment 1.

2 Elaine Schaeffer v. Montgomery County Planning Board, Civil Action No. 230845-V

3 See Attachment 2 (Order of Remand and Stay of Judicial Proceedings).

4 See Attachment 3.

The written request alone shall be the basis upon which the Board will consider whether reconsideration is warranted, although a Board member may seek clarifications from staff or other persons present to aid in her/his consideration. No party of record (including the party seeking reconsideration) may present testimony regarding the reconsideration request, unless called upon by a Board member to respond to a question. A party seeking reconsideration is encouraged to be thorough in drafting a written request, because the Board's consideration of the issues will be limited to the contents of the written request and any staff consideration of those issues.

The Planning Board agenda routinely reserves time to allow the Board to consider any reconsideration requests that may have been transmitted to the Board. The Rules do not provide for notice of a reconsideration hearing, nor is it advertised on the agenda. Staff does attempt to advise the party requesting reconsideration of the date for which it is scheduled for Board consideration.

Staff forwards to the Board a reconsideration request shortly after its receipt by the Commission. Ordinarily, staff does not make a recommendation to the Board relative to whether the Board should or should not support a reconsideration request, except in those cases where a legal flaw occurred (for instance, a party entitled to notice did not receive notice of the public hearing). When the Chairman calls the item, any Board member may pose questions about points raised in the letter. Thereafter, only a Board member that voted in favor of the motion (action) for which reconsideration is being requested may make a motion to reconsider. If a motion is made to reconsider, any Board member may second the motion. As always, to succeed, the motion carries if supported by a majority of Board members then present and voting.

If no motion is made or a motion fails either for lack of a second, or for insufficient votes, the prior action stands unaltered in all respects, including time for administrative appeals.

If a motion to reconsider carries, no further action or consideration will occur at that time. Rather, the prior action is extinguished and staff will schedule the matter for public hearing, upon due notice, at a later date. The Board, at that time, will conduct a *de novo* hearing on the issue(s) that were the subject of the reconsideration request. This may be an entire project application, or may be narrowed in scope to specific issues.

Grounds for reconsideration, as specified in the rules, are as follows:

1. the Board's action did not conform to relevant laws or its rules of procedure;
2. the Board was not timely provided pertinent and significant information relevant to the Board's ability to take the action at issue, and the request

must include a statement explaining why the information was not provided at the time of the public hearing;

3. other compelling reasons.

The Planning Board in its sole discretion is responsible for determining if the grounds stated in support of the reconsideration request are sufficient to merit reconsideration.

Any and all materials submitted as part of the reconsideration request are excluded from the public hearing administrative record, unless submitted in the record prior to its closing.

III. DISCUSSION

This request for reconsideration is, in effect, a request for clarification of the Board's intent with regard to whether the Planning Board intended to preclude construction of the pedestrian-equestrian trail until such time as Mrs. Schaeffer's property is further developed.

As noted above, Ms. Schaeffer believes that it was the intent of the Planning Board to preclude the construction of a trail in the approved pedestrian/equestrian trail easement until such time as her property, which is adjacent to the trail, is further developed. The applicant's attorney has indicated to Commission Staff that he concurs with Ms. Schaeffer's understanding of the Board's intent.

Commission Planning Staff, however, is of the opinion that the Board's intent was not to preclude construction of the trail until Ms. Schaeffer's property is developed. Staff believes the Board intended that construction of the trail not commence at the present time, and did so solely to remove the applicant's obligation to construct the trail as part of the subdivision, however, leaving open the possibility that other parties could do so at any time in the future.

Commission Legal Staff has also reviewed the audiotape of the December 20, 2001 hearing and believes that, based on various statements by Board Members at different points in the hearing, the Board's intent with regard to the issue raised by Ms. Schaeffer is unclear.

IV. STAFF RECOMMENDATION

The Planning Board may grant the instant request for reconsideration if it determines that there is a compelling reason to do so. In Legal Staff's opinion, in light of the pending litigation and the differing interpretations of the Board's intent, the Board may find that clarification of the record in this case is a compelling reason to grant Ms. Schaeffer's reconsideration request.

If the Board follows Staff's recommendation and grants this request for

reconsideration, Staff recommends that the Board affirmatively state that the record of the December 20, 2001 public hearing on this case will be incorporated as a part of the record of the public hearing that will be scheduled to hear the issue presented in the reconsideration request. The Planning Board should further state that it will confine its deliberations at such future public hearing to the limited question of whether the Board intended, by its action on this case at the December 20, 2001 public hearing, that construction of the approved trail option not commence until such time as the adjoining property, owned by Ms. Schaeffer, is developed.

IV. PLANNING BOARD ACTION

If the Board grants Ms. Schaeffer's request for reconsideration, its prior final decision in this case shall become void and Staff will schedule a new hearing for a subsequent date and time. All parties of record shall receive at least ten (10) days advance written notice of the new proceeding.

In the event the Planning Board denies the request for reconsideration, its prior action on this Site Plan will stand and jurisdiction over this case will revert to the Court.

IV. ATTACHMENTS

1. Order of Remand and Stay of Judicial Proceedings
2. Letter seeking reconsideration.
3. Planning Board Corrected Site Plan Opinion No. 8-02005.
4. Vicinity Map for Reserve at Ashton

G:\TAB\Reserve@Ashton\RemandReconRequestMemo.doc



MONTGOMERY COUNTY PLANNING BOARD

CORRECTED OPINION

DATE MAILED: February 22, 2002
SITE PLAN REVIEW #: 8-02005
PROJECT NAME: Reserve at Ashton

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

The date of this written opinion is February 22, 2002, (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 24, 2002 (which is thirty days from the date of this written opinion. If no administrative appeal is timely filed, this Site Plan shall remain valid for as long as Preliminary Plan #1-02024 is valid, as provided in Section 59-D-3.8.

On December 20, 2001, Site Plan Review #8-02005 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and 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 requirement of the RNC zone;*
3. *The location of the buildings and structures, the open spaces, the landscaping, and the pedestrians 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;*

Therefore, the Montgomery County Planning Board APPROVES Site Plan #8-02005, which consists of 16 single-family detached lots within the RNC Zone including a waiver to permit a reduction of 1.75 square feet within the 50-foot fight-of-way and sidewalk on one side of the road, subject to the following conditions:

1. Standard Conditions dated October 10, 1995
 - A. Submit a Site Plan Enforcement Agreement, Development Program and Homeowners Associations Documents for review and approval prior to approval of the signature set as follows:
 1. Development Program to include a phasing schedule as follows:
 - a. Street tree planting must progress as street construction is completed, but no later than 6 months after completion of the units adjacent to those streets;
 - b. Clearing and grading to correspond to the construction phasing, to minimize soil erosion;
 - c. Coordination of each section of the development and roads;
 - d. Phasing of dedications, stormwater management, sediment and erosion control, recreation, forest conservation, community paths, trip mitigation or other features;
 - e. All recreation facilities shall be completed prior to issuance of the 11th building permit for the proposed development.
 2. Site Plan Enforcement Agreement to include a Use, Ownership and Maintenance Document that designates the permitted use, ownership and maintenance responsibilities for the rural and common open space.
 - B. 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):
 1. Undisturbed stream buffers;
 2. Limits of disturbance;
 3. Methods and location of tree protection;
 4. Forest Conservation areas;
 5. Conditions of DPS Stormwater Management Concept approval letter dated June 12, 2001, Applicant to coordinate with MCDPS and M-NCPPC staff for the re-design of the SWM facility adjacent to parcel 123 (Schaeffer) to eliminate any outfall or diversion onto parcel 123;
 6. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading;
 7. The development program inspection schedule.
 8. Conservation easement boundary
 - C. Forest Conservation Plan shall satisfy all conditions of approval prior to recording of plat and DPS issuance of sediment and erosion control permit.
 - D. No clearing or grading prior to M-NCPPC approval of signature set of plans.

2. Conditions of approval of the Preliminary Forest Conservation Plan dated October 19, 2001. Final Forest Conservation Plan (including grading and tree protection information) shall satisfy all conditions referenced in the M-NCPPC Environmental Planning Section memorandum dated October 19, 2001 (See Appendix B), prior to recording plat or DPS issuance of sediment and erosion control permit:
 - a. No grading within the stream buffers;
 - b. Individual tree save areas, modifications to limits of disturbance, and supplemental tree preservation techniques shall be incorporated into the Final Forest Conservation Plan;
 - c. The full stream valley buffer, as well as all forest retention areas, must be protected with a Category I Conservation Easement;
 - d. A Maintenance Agreement and Management Plan shall be reviewed and approved by M-NCPPC staff for control of invasive and exotic plant material, as shown on the approved NRI/FSD dated August 8, 2001, prior to issuance of grading and sediment control plans and permits;
 - e. Record plat to show Category I Conservation Easements over stream valley buffers and all forest retention areas. Any Forest Conservation Management Agreement (FCMA) with the Maryland Department of Natural Resources (DNR) sought by the property owner for the conservation easement area must be reviewed and approved by M-NCPPC staff prior to being executed. The purpose of this review is to limit timber harvesting within the easement, which may be prescribed by a FCMA to ensure that the general composition and aesthetic quality of the stand is maintained and stream buffers are protected.
3. Conditions of MCDPS stormwater management concept approval dated June 12, 2001. Applicant to coordinate with MCDPS and M-NCPPC staff for the redesign of the SWM facility adjacent to parcel 123 (Schaeffer) to eliminate any outfall or diversion onto parcel 123.
4. Site, Landscape/Lighting, Forest Conservation and Sediment and Erosion Control Plans subject to review by staff prior to approval of signature set. Prior to signature set approval, the applicant shall provide the following revisions or information to the plans:
 - a. Site Plan signature set to show all easements, limits of disturbance, PUE's, PIE's, common open space, rural open space, dimensions and placement of sidewalks, pedestrian paths, equestrian trails, high priority forests and storm drain outlets.
 - b. Site Circulation:
 - i. Sidewalks/Paths:
 - a. Provide a 4-foot wide path (hard and/or soft surface), on the inside of the private street and within the common open space. Path to provide connections to the private street in the locations shown on the approved Site Plan. Type of trail surface and location of the path to be determined by M-NCPPC staff prior to release of grading and sediment control permits.
 - b. Applicant to construct a 4-wide sidewalk from the cul-de-sac to the private street.
 - ii. Trails:

- a. Applicant to provide a 20-foot pedestrian-equestrian public access easement from the proposed public road into the site through the middle of lots 1 and 2, and to connect to the existing trail and easement on the adjacent Ashton Preserve (Site Plan #8-99043); the easement shall be conveyed to the HOA or other entity for maintenance and responsibility;
- b. The final alignment of the proposed easement to be determined by M-NCPPC Staff and the applicant.

Landscape and Lighting Plan to show the following:

- i. Provide additional landscaping and screening in the rear of lot 16 to buffer the proposed stormwater management facility;
 - ii. Provide additional landscaping to screen the stormwater management facility from the public road;
 - iii. With the exception of fencing in private back yards and around SWM facilities, any fencing to be provided on-site to be simple, split rail type or type acceptable to staff, to retain rural character. Applicant to provide details at signature set;
 - iv. Provide a shade tree in the island in the public road cul-de-sac.
5. The services of a licensed arborist shall be retained to evaluate the appropriate measures necessary to ensure the survival of the large and specimen trees proposed to be preserved whose critical root zones will be impacted by construction, as shown on the Final Forest Conservation Plan.
 6. Prior to recording of the Plats, the applicant shall convey approximately 7.70 acres of Rural Open Space, outside of the proposed lot limits, and 1.6 acres of Common Open Space to the Home Owners Association. The remaining 18.6 acres of Rural Open Space shall remain as part of the two conservancy lots. Dedication of Rural Open Space and Common Open Space shall be conveyed free of trash and unnatural debris. A forest conservation easement shall be placed over all of the Rural Open Space on the Rural Open Space on Lots 1 and 2.
 7. The proposed path within the Common Open Space shall be completed prior to the issuance of the building permit for the 11th dwelling unit (70% completion) of the proposed development or within 36 months of issuance of first building permit.
 8. The proposed 20-foot wide public access easement for the pedestrian-equestrian trail shall be conveyed by the applicant to the HOA or other entity for maintenance and responsibility. Where the PAE is not located within the HOA property, applicant shall establish, with reference in the HOA documents and on record plat, a cross easement to provide public access.
 9. All easements shall be delineated and identified on the record plat.

Arthur Holmes, Jr., Chairman
Montgomery County Planning Board
8787 Georgia Ave.
Silver Spring, MD 20910-3760

RECEIVED
020344
MAR 13 2002

OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

March 13, 2002

Dear Chairman Holmes:

This letter is to request a waiver of the 10-day requirement from the date of opinion for reconsideration of the opinion for the Reserve at Ashton site plan review # 8-02005. As you may recall, I provided testimony during the public hearing and there was considerable discussion on the trail issue, whether there should be a trail and if so what alignment. It was my understanding that an easement was going to be reserved on the Reserve at Ashton site adjacent to my northern property line; however, a trail would not be built until my property was developed. I confirmed with the developer on the day of the hearing that this was also their understanding. The opinion does not state this.

A waiver of the 10 day requirement is requested here due to the time it took to receive the opinion, contact staff with my concerns, wait for staff to get back to me, listen to the tape, contact staff and your office, and wait again for staff and your office to get back to me. I am still waiting. Staff I have contacted include Joe Davis, Malcom Shaneman, Robert Kronenberg and Barbara Preller. Of these individuals, I have only spoken with Robert Kronenberg and Barbara Preller.

I request reconsideration or a clarification in writing of the opinion to include language indicating a trail will not be built abutting my property line until my property is developed.

There was lengthy discussion regarding providing me some relief and not building the trail until my property was developed. The opinion as written does not mention this and it is key to my concern. I believe it was the spirit and the intent of the ruling not to build the trail until such time as my property is developed and request this provision be added in writing to the opinion.

Sincerely,



Elaine Schaeffer
320 Ednor Road
Silver Spring, MD 20905
H: 301-924-7447
W: 703-550-9740 ext.248

Cc: Legal Department

8-0-2002

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, MARYLAND

PETITION OF ELAINE SCHAEFFER
320 Ednor Road
Silver Spring, Maryland 20905

FOR JUDICIAL REVIEW OF THE DECISION OF THE
MONTGOMERY COUNTY PLANNING BOARD OF
THE MARYLAND-NATIONAL CAPITAL PARK AND
PLANNING COMMISSION
8787 Georgia Avenue
Silver Spring, Maryland 20910

Civil No. 230845-V

IN THE CASE OF
SITE PLAN REVIEW NO. 8-02005
REGARDING RESERVE AT ASHTON

ORDER OF REMAND AND STAY OF JUDICIAL PROCEEDINGS

Upon consideration of Petitioner's and Respondent's Joint Motion to Remand and Stay, it is, this 13th day of May, 2002, by the Circuit Court for Montgomery County, Maryland,

ORDERED, that this Petition for Judicial Review is remanded to the Montgomery County Planning Board for its consideration of Petitioner's request for reconsideration; and, it is further

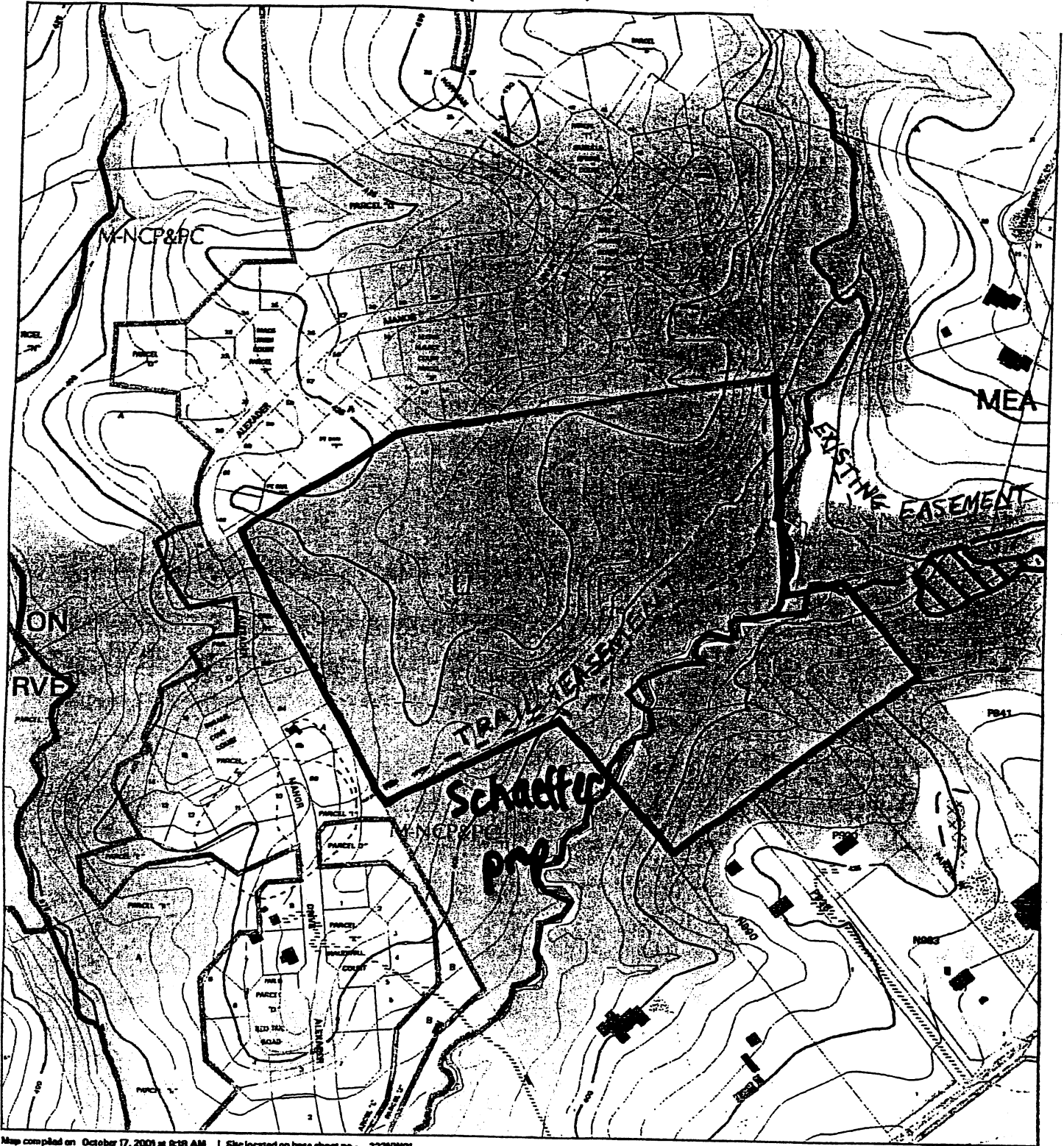
ORDERED, that this Petition is stayed pending the earlier of: (1) a Planning Board decision to deny the reconsideration request or (2) a Planning Board decision to reconsider and the issuance of a new written opinion.

ENTERED

MAY 17 2002

By: Michael D. Mason
Judge Michael D. Mason
Montgomery County Circuit Court

THE RESERVE @ ASHTON (1-02024)



Map compiled on October 17, 2001 at 8:28 AM | Site located on base sheet no - 222NW01

NOTICE

The planimetric, property and topographic information shown on this map is based on copyrighted Map Products from the Montgomery County Department of Park and Planning of the Maryland-National Capital Park and Planning Commission, and may not be copied or reproduced without written permission from M-NCPPC.

Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes is not recommended. - Copyright 1998

Key Map



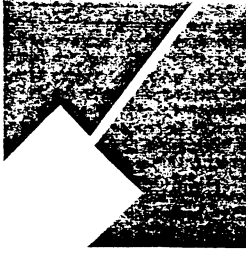
N



Research & Technology Center



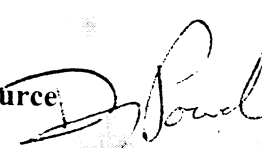
1 : 4800



MEMORANDUM

July 2, 2002

TO: Robert Kronenberg, Development Review Division

FROM: Doug Powell, Plan Review Coordinator, Park Planning and Resource
Analysis Unit, Countywide Planning Division 

RE: Planning Board Authorized Trail Easement at The Reserve at Ashton
Pursuant to Development Site Plan 8-02005.

Park Planning and Resource Analysis Unit of Countywide Planning Division requests that the Planning Board affirm its December 20, 2001 approval of the Public Use Trail Easement on The Reserve @ Ashton subdivision.

The primary Objective of the pedestrian paths and bikeways according to the 1998 Planning Board Approved Sandy Spring/Ashton Master Plan is to "Enhance mobility for pedestrians and bicyclists by providing a network that links open space, parks, the village centers, other community destination, and the regional network." One of the recommendations in the Master Plan for implementing this Objective is to "Encourage local neighborhood connections to main paths. Local recreational trails should be provided at the time of subdivision review to enhance the main trail system." Trail planning in the Sandy Spring area, therefore, attempts to link communities and community trails together for use by pedestrians and equestrians, and often attempts to do so when subdivision plans are submitted.

The most significant primary trail through this area is the Rural Legacy Trail that is already completed from Woodlawn Special Park to the Sandy Spring. Park windows and public use easements provide trail access from the various communities to this primary trail. One such access trail to the Rural Legacy Trail intersects Alexander Manor Drive directly across from the future entrance to The Reserve at Ashton. The trail through The Reserve at Ashton that was authorized by the Planning Board on December 20, 2001 begins at this point and travels through the Ashton Reserve property along an alignment that was agreed upon and field located by M-NCPPC staff and the Applicant (and authorized agents for the Applicant). This particular access trail then intersects an already existing east/west trail easement at the northeast corner of the property. This alignment, therefore, provides community access to both the Rural Legacy Trail and the

east/west trail easement, and serves as a convenient connection between these two trails. It also provides a good circuit trail that can be used by many of the local neighborhoods.

At the Planning Board hearing on December 20, 2001, the Board attempted to accommodate the concerns of the local resident owner of adjacent Parcel 123 by requiring an easement alignment through Ashton Reserve that connected directly to Alexander Manor Drive rather than ending at the Parcel 123 property line. This was intended to prevent any unauthorized use of Parcel 123 by directing the equestrian or pedestrian travel from the trail easement on Ashton Reserve directly to the existing signed and marked trail easement that connects to the Rural Legacy Trail on the west side of Alexander Manor Drive. In addition, the Board decided not to require the Applicant to construct a trail through the easement. The trail easement, however, being an important trail and community link as above-said, should in the interest of good trail planning, be preserved even if a formal trail is not now constructed.

Cc: John Hench
Tanya Schmieler
Lyn Coleman
Malcolm Shaneman
Richard Weaver