




THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Items # 6 & 7  
MCPB 2-17-05

**MEMORANDUM**

DATE: February 11, 2005  
TO: Montgomery County Planning Board  
VIA: Rose Krasnow, Chief  
Cathy Conlon, Supervisor  
Michael Ma, Supervisor  
Development Review Division  
FROM: Richard Weaver  
Robert A. Kronenberg, RLA  
Development Review Division  
(301) 495-4544 and (301) 495-2187

REVIEW TYPE: **Preliminary and Site Plan Review**  
CASE #: **1-05024 and 8-05017**  
PROJECT NAME: **Tong Subdivision, Lots 1-13, Parcel A-C**  
APPLYING FOR: Approval of 13 one-family detached units, including 1 existing dwelling unit, and 10 Transfer Development Rights (TDRs), and the waiver of the 2/3 minimum requirement for TDRs on 9.13 acres  
REVIEW BASIS: Div. 59-D-3 of Montgomery County Zoning Ordinance  
Chapter 50, Montgomery County Subdivision Regulations  
ZONE: RE-2/TDR 2 and RE-2/TDR 4  
LOCATION: Located north of Spartan Road approximately 175 feet west of the intersection of Snowberry Way  
MASTER PLAN: Olney Master Plan  
APPLICANT: Magruder/Reed @ Christie Estates, LLC  
FILING DATE: November 23, 2004  
HEARING DATE: February 17, 2005



**PRELIMINARY PLAN**

Staff has reviewed the preliminary plan application for compliance with Chapter 50, the Montgomery County Subdivision Regulations. The plan complies with all applicable sections of the Regulations. The lots as proposed conform to the RE-2 (TDR-2) and RE-2 (TDR-4) standards and adequately address the Transfer Development Rights (TDR) provisions, accounted for with this application. The location of the site, proposal for the development and site data information is addressed in the site plan segment of the report.

**STAFF RECOMMENDATION FOR PRELIMINARY PLAN:** Approval of 13 one-family dwelling units, including 1 existing dwelling unit, and 10 Transfer Development Rights (TDRs), and the waiver of the 2/3 minimum requirement for TDRs, on 9.13 acres, with the following conditions:

1. Approval under this preliminary plan is limited to (13) thirteen one-family detached dwelling units.
2. Compliance with the conditions of approval for the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits.
3. The applicant shall dedicate all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan unless otherwise designated on the preliminary plan.
4. The applicant shall construct all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the preliminary plan, "To Be Constructed By \_\_\_\_\_" are excluded from this condition.
5. Record plat to reflect a Category I easement over all areas of stream valley buffers and forest conservation and a Category II easement over proposed Lot 13.
6. Record plat to reflect common ingress/egress and utility easements over all shared driveways.
7. Record Plat shall reflect all areas under Homeowners Association and stormwater management parcels.
8. Record plat to reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant shall provide verification to Commission staff prior to release of final building permit that Applicant's recorded HOA Documents incorporate by reference the Covenant.
9. Compliance with the conditions of approval of the MCDPS stormwater management approval dated November 1, 2004 and reconfirmed on February 3, 2005.
10. Compliance with conditions of MCDPWT letter dated, January 30, 2005 unless otherwise amended.
11. No clearing, grading or recording of plats prior to signature set approval.
12. Final approval of the number and location of dwelling units, and sidewalks will be determined at site plan.
13. 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.
14. Other necessary easements.

## PRELIMINARY PLAN REVIEW ISSUES

### I. Waiver of the Transfer Development Rights (TDRs)

A waiver is being requested by the Applicant to permit a lower density than required, to include less than 2/3's of the number of Transfer Development Rights (TDRs) that would be transferred to the property, according to the zone and applicable master plan. The 2/3's standard for the 30 available units would require a minimum of 20 TDR dwelling units in the development. The Applicant is proposing to utilize 10 TDRs for the 13-unit development, excluding the base density of 3 units permitted. In order for the Planning Board to approve the waiver request for a preliminary plan, the applicant must make a finding that a lower density of development is more desirable for environmental and compatibility reasons.<sup>1</sup>

The site is designated as a TDR receiving area in the Olney Master Plan; however, the site is encumbered by environmental buffers that severely limit the actual development envelope. The site cannot yield the maximum density with a one-family detached layout. A previous site layout (#7-04027) was submitted for 27 townhouses and 3 one-family detached units. The 30-unit layout did not require a waiver of the TDRs but did not adequately address compatibility of the adjacent and surrounding communities.

The NRI/FSD was submitted by the applicant, consistent with the subdivision regulations, and approved by staff on January 8, 2004. The applicant, their environmental consultant, and M-NCPPC staff discussed the location of the stream on site. The location was ultimately determined and placed on the approved NRI/FSD showing a 125-foot-wide buffer to the stream, providing the building envelope shown on the proposed plans. The community questioned the ultimate size of the stream buffer, however, the buffer follows the guidelines and recommendations in the *Trees Technical Manual* and *Forest Conservation Manual*.

#### Applicant's Position

The Applicant is requesting a waiver to the 2/3's requirement for the minimum number of TDRs that would be transferred to the property (See Appendix D-Waiver Requests). Originally, the Applicant proposed a one-family attached development that would yield approximately 30 units, still short of the 33 units that the site recommends with the TDR program, although a waiver of the minimum 2/3 requirements would not have been needed. The site is constrained by environmental buffers, precluding a higher density for one-family detached units. The Applicant took steps to minimize the lot depth for the proposed houses by requesting a waiver to the standard road right-of-way and provision for sidewalks on both sides of the road. The Applicant is requesting a waiver to the tertiary road right-of-way standards from 50 feet to 27.33 feet. The modified tertiary allows the applicant an additional 12 feet that has been applied to the lot depth for the proposed lots.

#### Community Position

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<sup>1</sup> Sect. 59-C-1.393 (b) states, "Such a preliminary plan must include at least two-thirds of the number of development rights permitted to be transferred to the property under the provisions of the applicable master plan approved by the district council. However, upon a finding by the planning board that for environmental or compatibility reasons it would be desirable to permit a lower density, the two-thirds requirement may be waived.

The James Creek community is concerned about the compatibility aspects that are integral to the waiver for the minimum TDRs proposed on the subject site (See Appendix C-Letters from the Community). The original preliminary plan showed a layout for eight lots on the southwestern perimeter backing to existing lots 175-180 that front onto Paradise Cove Terrace. The community expressed concerns about a lot-to-lot configuration, comparable lot size, and proximity of the proposed houses to the property line and the preservation of the trees along the property edge. The community also requested that the applicant revise the plans to reduce the radius of the southern stream buffer from 125 feet to 75 feet, providing for a greater separation between the back yards of the proposed and existing homes.

#### Staff Position

During the plan review period, staff requested that the Applicant revise the layout to show a more desirable and compatible lot-to-lot configuration and provide a minimum 25-foot-wide buffer to the rear property line. This revision entailed removing one of the lots from the southwestern (James Creek) perimeter and relocating the lot the southeastern (Christie Estates) perimeter.

Consistent with the revisions, the revised plan and reconfigured lot sizes became more compatible with the existing 8-10,000 square foot lot size in the James Creek subdivision and 6-8,000 square feet in the Christie Estates subdivision, even though the standard lot size is still greater than the lots in the respective communities. The proposed lot pattern reflects a more compatible layout with the existing community, in terms of house-to-house placement, lot depth, lot width and setbacks. The existing mature trees in the rear existing lots 180 and 181 may be preserved during the process; however, preservation of the existing trees along the entire edge would be difficult given the location of the proposed houses and potential impact to the root system of the trees.

Staff did not believe the stream buffer warranted a reduction from 125 feet to 75 feet. The reduction would impact additional forested areas, containing sizeable trees and setting a precedent that stream buffers should be reduced solely to provide a greater buffer to existing communities.

Staff is supportive of the waiver request to permit less than the 2/3's number of TDRs required on the site. Furthermore, staff believes the site plan adequately addresses the provisions of the waiver request by ensuring that the proposed development is compatible with the surrounding neighborhood and is more desirable for environmental reasons.

**STAFF RECOMMENDATION FOR SITE PLAN:** Approval of 13 one-family dwelling units, including 1 existing dwelling unit and 10 Transfer Development Rights (TDRs), on 9.13 acres, with the following conditions:

1. Preliminary Plan Conformance  
The proposed development shall comply with the conditions of approval for Preliminary Plan 1-05024.
2. Site Design  
Provide a minimum 25-foot-wide rear yard setback on the proposed lots.
3. Pedestrian Circulation  
Provide a five-foot-wide sidewalk along the frontage of Spartan Road, and extend the sidewalk within the public right-of-way to the intersection with Paradise Cove Terrace.
4. Transfer Development Rights (TDRs)  
Prior to recording of plat, the applicant shall provide verification that 10 TDRs have been acquired for the proposed development, unless a waiver to the TDR provisions is granted by the Planning Board with preliminary plan #1-05024.
5. Forest Conservation  
The applicant shall comply with the following conditions of approval from M-NCPPC-Environmental Planning in the memorandum dated February 9, 2005 [Appendix B]:
  - a. The proposed development shall comply with the conditions of the final forest conservation plan. The applicant shall satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits.
  - b. Provide a Category I and Category II conservation easement over all areas of stream buffers and forest conservation, as indicated in the memorandum.
6. Stormwater Management  
The proposed development is subject to Stormwater Management Concept approval conditions dated November 1, 2004 and reconfirmed on February 3, 2005 [Appendix B].
7. Common Open Space Covenant  
Record plat of subdivision shall reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant shall provide verification to M-NCPPC staff prior to issuance of the 8<sup>th</sup> building permit that Applicant's recorded Homeowners Association Documents incorporate by reference the Covenant.
8. Development Program  
Applicant shall construct the proposed development in accordance with Development Program. A Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of signature set of site plan. Development Program shall include a phasing schedule as follows:
  - a. Street tree planting shall progress, as street construction is completed, but no later than six months after completion of the units adjacent to the street.
  - b. Community-wide pedestrian pathways, including the off-site five-foot-wide sidewalk along the frontage of the property from proposed Street A to Paradise Cove Terrace, shall be completed prior to issuance of the 8<sup>th</sup> building permit.
  - c. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.

d. Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, landscaping, pedestrian sidewalks, trip mitigation or other features.

9. Clearing and Grading

No clearing or grading prior to M-NCPPC approval of signature set of plans.

10. Signature Set

Prior to signature set approval of site and landscape/lighting plans the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. Development program, inspection schedule, and Site Plan Opinion.
- b. Undisturbed stream buffers except for stormwater management outfalls and sewer connections.
- c. Limits of disturbance.
- d. Methods and locations of tree protection.
- e. Forest Conservation easement areas.
- f. TDR calculations.
- g. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
- h. Location of outfalls away from tree preservation areas.
- i. All other items specified in the site design, pedestrian circulation and forest conservation conditions of approval above.
- j. Provide the setbacks on the plan for the proposed units.

## SITE PLAN REVIEW ISSUES

### I. Community Concerns

The James Creek community has expressed concerns about proximity of the proposed houses to their existing homes, lot-to-lot configuration along with a comparable lot size and compatibility, preservation of the existing trees along the southwest boundary and width of the stream valley buffer (See Appendix C-Letters from the Community). The community has also requested that the applicant revise the plans to reduce the radius of the southern stream buffer from 125 feet to 75 feet, providing for a greater separation between the back yards of the proposed and existing homes. The compatibility aspects of the plan, as well as the environmental issues are integral to the waiver for the minimum TDRs proposed on the subject site, which are discussed in the preliminary plan issues on page 3 of this report.

#### Staff Recommendation of the Community's Concerns

Staff believes that all of the issues and concerns raised by the community have been adequately addressed. The lot pattern, including the lot size, width and depth were reduced to ensure that the proposed development is more compatible. An exact lot pattern is not feasible given the environmental constraints and location of the public road. In addition, the proposed layout respects the environmental constraints, which greatly reduces the development envelope for this site.

#### Proximity of the proposed houses

During the site plan review period, staff requested that the applicant revise the layout to show a more desirable and compatible lot-to-lot configuration and provide a minimum 25-foot-wide buffer to the rear property line.

The applicant also took steps to minimize the lot depth for the proposed houses by requesting a waiver to the standard road right-of-way and provision for sidewalks on both sides of the road. The applicant is requesting a waiver to the tertiary road right-of-way standards from 50 feet to 27.33 feet. The modified tertiary allows the applicant an additional 12 feet that has been applied to the lot depth for the proposed lots. In addition, the applicant has revised the site plan for a more efficient lot-to-lot layout of the proposed subdivision.

#### Comparable lot size

The plans originally submitted to staff proposed lot sizes along the James Creek subdivision that ranged in size from 7,200 to over 12,000 square feet.

Consistent with the revisions, the reconfigured lot sizes became more compatible with the existing 8-10,000 square foot lot size in the James Creek subdivision and 6-8,000 square feet in the Christie Estates subdivision. The average lot size for proposed lots 6-11 equal 10,225 square feet, which is higher than the average lot size of 8,855 square feet for lots 175-180. The location of the road, stream buffer, stormwater management facility and

sewer connection preclude an exact lot-to-lot pattern and lot size; however, the layout is similar in size, width and coverage.

#### Preservation of existing trees

The existing mature trees along the southwest property boundary may be preserved during the process in the rear of the existing lots 180 and 181, however, preservation of the existing trees along the entire edge would be difficult given the location of the proposed houses, which has been determined by the stream buffer and location of the proposed road. Preservation of trees on lots is also problematic from an enforcement standpoint, especially if the area is not wide enough or protected with a conservation easement. Environmental Planning typically requires a minimum 50-foot-wide buffer to be placed in a conservation easement.

#### Stream Valley Buffer

The NRI/FSD was submitted by the applicant, consistent with the subdivision regulations, and approved by staff on January 8, 2004. The applicant, their environmental consultant, and M-NCPPC staff discussed the location of the stream on site. The location was ultimately determined and placed on the approved NRI/FSD showing a 125-foot-wide buffer to the stream, providing the building envelope shown on the proposed plans. The stream buffer follows the guidelines and recommendations in the *Trees Technical Manual* and *Forest Conservation Manual*.

## **II. Site Plan Waiver for Reduced Width Tertiary cul-de-sac and sidewalk on one side of road [Zoning Regulation 50-26(h)]:**

The Applicant has requested a waiver to change the functional classification of the proposed Street A from a secondary road to a reduced-width tertiary road. The street right-of-way would be reduced from 50 feet to 27.33 feet and the cul-de-sac bulb would be reduced from a diameter of 120 feet to 88 feet, 8 inches. The waiver also addresses the request to construct a sidewalk on only one side of the road and cul-de-sac. Granting of the waiver requires an environmental justification that would result in an overall design that is environmentally better and makes better use of the overall tract of land for the desired combination of land uses, consistent with Section 50-26(h)(2) of the Montgomery County Zoning Ordinance.

As noted in the previous discussion in this report, the environmental constraints of the site, proximity of the adjacent lots in the surrounding community, lot configuration, and location of the stormwater management facilities make a reduced width tertiary right-of-way more compatible with the community, practical and environmentally responsible given the site constraints.

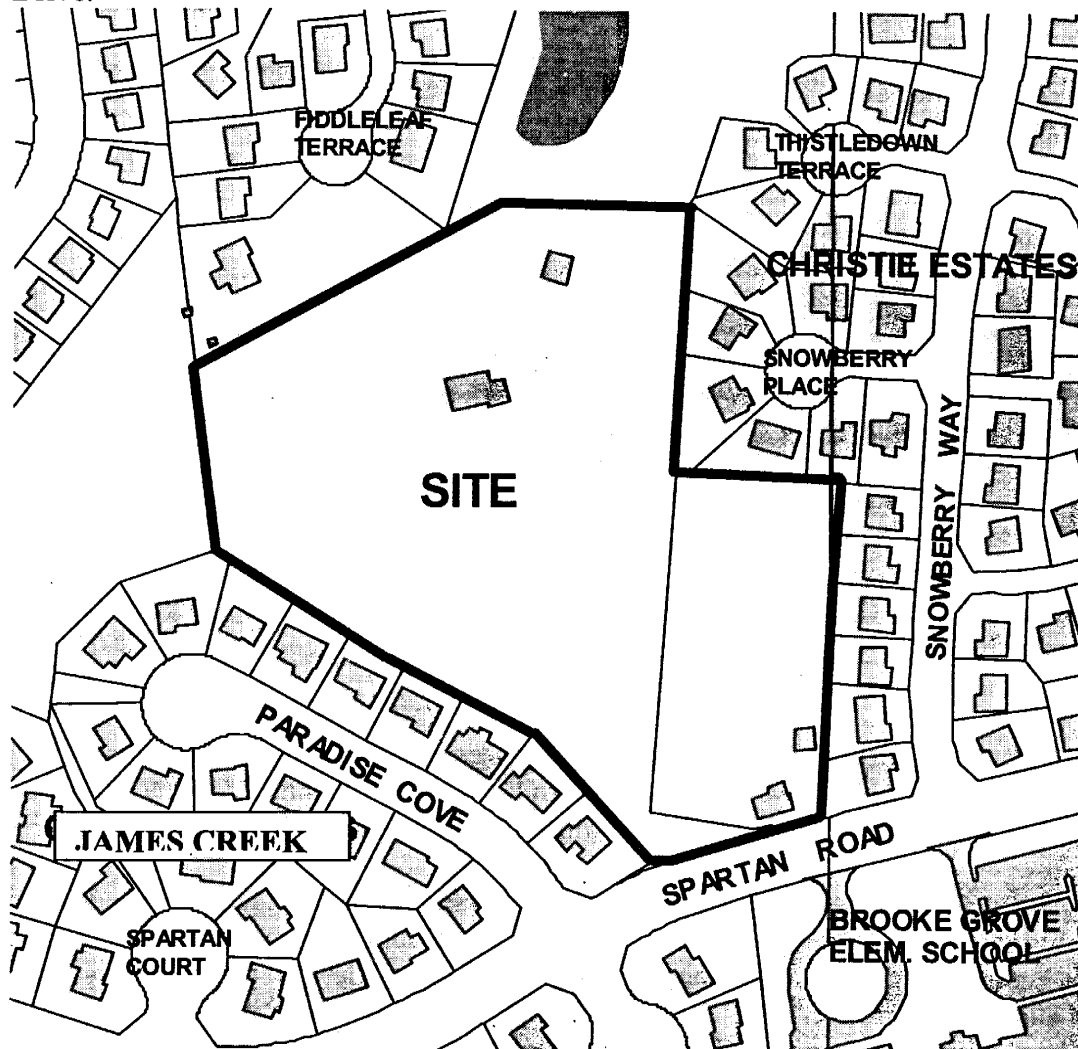
Narrowed tertiary streets allow the development areas to be more compact and removed from the sensitive perimeter environmental areas. Staff is supportive of the waiver requests and has received no objections from the Montgomery Department of Public Works and Transportation.



**PROJECT DESCRIPTION:** Site Vicinity

The subject property is located north of Spartan Road approximately 175 feet west of the intersection with Snowberry Way in Olney, Maryland. The surrounding one-family homes to the north and east are part of the Christie Estates subdivision (Plat book 584 page 66), while the existing homes abutting the property to the southwest are part of the James Creek subdivision (Plat book 581 page 70). Brooke Grove Elementary School is located to the southeast of the property directly across Spartan Road. Montgomery General Hospital is located further south of the site with access from Old Baltimore Road and Prince Philip Drive. Lake Hallowell and the Hallowell community (Plat book 582 page 80) are located south and east of the school with primary access to Old Baltimore Road and MD 108. Brooke Grove Foundation, a senior living community, is located approximately 700 east of the site along Old Baltimore Road. Zoning for the surrounding subdivisions and school is RE-2/TDR while Brook Grove and Montgomery General Hospital is zoned RE-2.

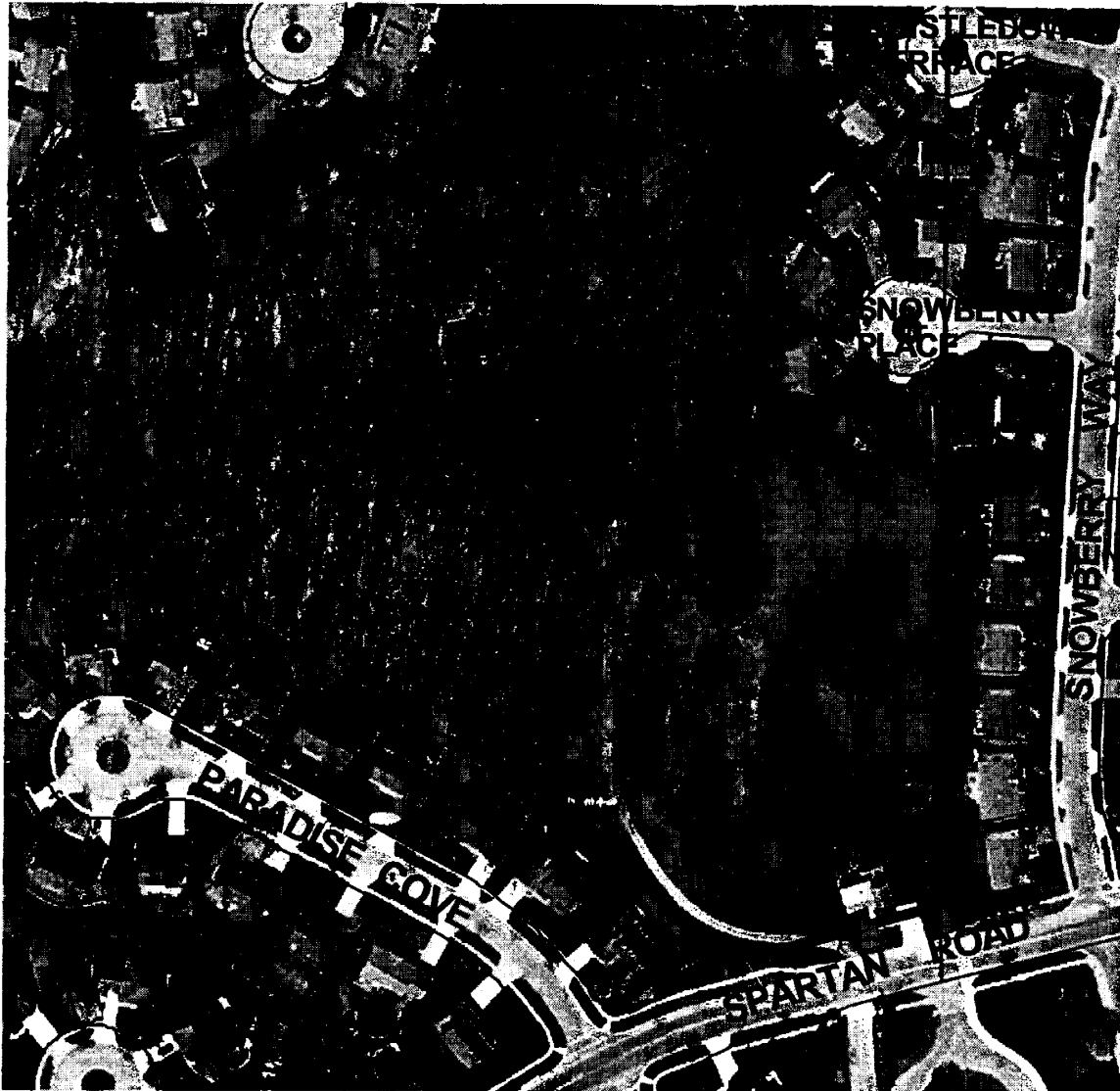
Spartan Road provides a connection to Olney Sandy Spring Road (MD 108) to the south via Old Baltimore Road and Prince Philip Drive and to Georgia Ave (MD 97) to the west via Prince Philip Drive.



**PROJECT DESCRIPTION:** Site Description

The property contains two tributaries to James Creek and their associated stream buffers. The majority of the site is forested and contains numerous specimen and mature trees, with the exception of the southeastern boundary abutting the existing lots in the Christie Estates subdivision. The property contains two existing 1-story brick houses; one of which is located with direct access to Spartan Road in the southeastern corner of the site. The other house and associated sheds are located in the northern part of the site with access to Spartan Road, via a gravel and asphalt drive. Many of the adjacent properties in Christie Estates are fenced at the property line.

The property falls in elevation from Spartan Road and on the southwestern perimeter toward the north to the two tributaries by approximately thirty feet. The existing house and sheds in the center of the site are located on a knoll with the existing grades dropping to the two streams. Steep slopes exist to the north, east and west of the house and sheds, and at the base of the streams.



**PROJECT DESCRIPTION:** Proposal

The applicant, Magruder/Reed Communities is proposing to develop the 9.13-acre site into 13 lots with one-family detached dwelling units, including one existing house that will remain. The site is split-zoned as an RE-2/TDR (2) and RE-2/TDR (4) site in Olney, Maryland.

A major portion of the site is encumbered by two stream valley buffers, limiting the developable area of the site to the southeastern and southwestern boundaries of the site. This area backs up to the James Creek subdivision and Christie Estates subdivision, each developed with one-family detached lots that range in size from 8, 000 square feet to over 10, 000 square feet, and 6-8,000 square feet, respectively.



Vehicular and Pedestrian Access

The southern portion of the site fronts on Spartan Road, providing the only clear access into the property. Street A is proposed as a modified tertiary street with sidewalks primarily on the southern end of the street due to the location of the stream buffer. A private ingress/egress easement will provide access to four lots approximately 200 feet from the intersection of the public road with Spartan Road. The existing house will be created as a separate lot and will gain access directly off the cul-de-sac of the proposed public road.

The southern side of the proposed road will accommodate a five-foot-wide sidewalk separated by a 6-foot-wide grass strip. Sidewalk will not be provided on the north side of the road, from the private ingress/egress easement to the top of the cul-de-sac to assist in limiting impacts to the stream buffer. A waiver was submitted by the applicant to provide a reduced width tertiary road

and deletion of a portion of the sidewalk (See Site Plan Issues on page 8 of this report). A 5-foot-wide sidewalk will also be provided on the north side of Spartan Road along the property frontage and extended to the intersection with Paradise Cove Terrace. Additionally, a crosswalk is being provided across Spartan Road from the proposed entrance to facilitate safe access to the elementary school.

### Environmental

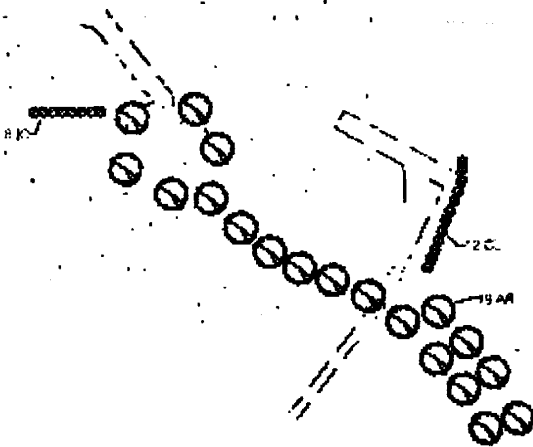
This application is proposing to place approximately 4.08 acres into a forest conservation easement. The majority of the forest conservation area is located within the stream valley buffer that encompasses over 50 percent of the site. The area surrounding the existing house, in the center of the site, is located within a portion of the two intersecting stream buffers. This area (lot 13) contains the existing house and will be protected with a Category II easement.

An off-site sewer connection and easement is proposed through the James Creek homeowners' association property to the west of the site. The applicant is actively pursuing the easement with the community. If the easement is not granted, an alternative alignment and method, possibly containing grinder pumps, may be required by WSSC.

Many of the existing trees along the southwestern boundary of the site adjacent to the James Creek community will be removed with the proposed development. The location of the proposed road, houses and stream buffer has necessitated the removal of the trees without adversely impacting the stream buffer.

### Landscaping and Lighting

The proposed landscaping on the site consists of street trees within the proposed public right-of-way and evergreen screening around the stormwater management facilities.



Lighting will consist of the standard overhead fixtures within the public right-of-way for the proposed road. Placement will be determined by Montgomery County based on the final design of the road. Security and decorative lighting will be incorporated into the standard features of the proposed houses.

### Open Space

The plan proposes approximately 7.41 acres of open space, or over 80 percent of the property. The open space in the rear of the proposed lots will be approximately 25-foot-wide, which is comparable with the location of the adjoining lots in the adjacent James Creek and Christie Estates subdivision.

The stormwater management facilities for the proposed development were conceptually approved on November 1, 2004 and reconfirmed on February 3, 2005. Two facilities are proposed to serve the 13-lot development at the intersection of the public road and ingress/egress to lots 1-5, and at the terminus of proposed Street A.

**PROJECT DESCRIPTION:** Prior Approvals

Pre-Preliminary Plan

A Pre-Preliminary Plan #7-04027 was submitted on January 9, 2004 for 27 townhouses and 3 one-family detached units and reviewed by the Development Review Committee on February 9, 2004. The M-NCPPC staff and adjacent communities had concerns with regard to density, safety, environmental impacts and compatibility. The applicant did not present the pre-application plan to the Planning Board. Consistent with staff's request, the pre-preliminary plan was resubmitted for 14 one-family detached units in-lieu-of the attached layout.

Preliminary Plan

The Preliminary Plan of subdivision #1-05024 is being reviewed and presented to the Planning Board concurrently with the site plan.

**ANALYSIS:** Conformance to Development Standards

**PROJECT DATA TABLE (RE-2/TDR-2 and RE-2/TDR-4 Zone)**

Development Standard	Permitted/ Required	Proposed
Min. Tract Area (ac.):	N/A	9.13
Max. Density of Development (d.u.):		
RE-2/TDR-2 (1.52 ac.)	3	
RE-2/TDR-4 (7.62 ac.)	30	
Total Density Permitted:	33	13
Min. Building Setbacks (ft.*)		
from street	20	25
rear yard	15**	25***
side yard	0	5
Min. Lot Area (sf.):	N/A for SFD	7,626
Min. Green Area (%)	35%	81%
Max. Impervious Area (%/ac.):	Not specified	20%/1.83 ac.
Max. Building Height (ft.):	Not specified	40
Parking Spaces		
Detached units	26	26
(2 spaces per unit)		

\* Section 59-C-1.394. Development Standards Applicable to the Optional Method of Development using the R-60/MPDU Development Standards

\*\* Section 59-C-1.624. Yard Requirements. For a side or rear yard that abuts a lot not developed under the provisions of this section 59-C-1.6, the setback must be equal to that required for the abutting lot, provided that no rear yard is less than 15 feet.

\*\*\* Condition 2(a) of the site plan is requiring a 25-foot minimum rear yard setback to address compatibility with the adjacent existing lots.

## TRANSFER DEVELOPMENT RIGHTS CALCULATION

Base density (RE-2):	
9.1318 ac. x 0.40 d.u./ac. =	3 d.u.
TDR Density:	
RE-2: 1.5160 ac. x 2 d.u./ac. =	3 d.u.
RE-4: 7.6158 ac. x 4 d.u./ac. =	30 d.u.
Total TDR density:	33 d.u.
TDRs Required: 33 d.u. (max. TDR density) – 3 d.u. (base density) =	30 d.u.
Min. TDRs Required w/o a waiver:	20 d.u.*
30 (max. TDRs) x 2/3	
TDRs Provided for 13 d.u. (less base density of 3 d.u.):	10 d.u.

\* Per Section 59-C-1.393 (b) of the Montgomery County Zoning Ordinance, at the time of Preliminary Plan, the Planning Board may waive the 2/3 TDR requirement if desirable to have a lower density for environmental and compatibility reasons.

### **ANALYSIS:**

#### Conformance to Master Plan

The 1980 Olney Master Plan addresses goals that specifically apply to the subject site, including the location of residential development to community facilities, protection of environmental features and providing for accessible circulation systems.

The Plan emphasizes the planning area's natural and environmental features, particularly stream valleys, as prime determinants of physical form and intensity of land use.

The Master Plan discusses the Transfer of Development Rights (TDR) Program as a potential for housing demand in the rural areas to be shifted to the Greater Olney area. The site is located within the James Creek and Christie Estates communities, and is designated as a TDR receiving area. This designation allows the applicant to increase density from the RE-2 base zone of 0.40 dwelling units per acre. As mentioned in the Master Plan, "the success of a TDR program depends on the location, size and development potential of the receiving zones." The Plan continues by stating, "if receiving zones are poorly located from a marketing standpoint or if density bonuses are too low to justify the purchase of development rights, the TDR concept will simply not work."

#### Transfer of Development Rights (TDR)

The site is designated as a TDR receiving area in the Olney Master Plan; however, the site is encumbered by environmental buffers that limit the actual developable envelope. The site cannot yield the maximum TDR density with the proposed one-family detached layout.

A waiver is being requested by the Applicant with the concurrent Preliminary Plan to permit a lower density than required to include less than the 2/3 of the number of TDRs permitted to be transferred to the property according to the zone and applicable master plan. The 2/3 standard for the 30 available units would require a minimum of 20 TDR dwelling units for the development. The Applicant is proposing to utilize 10 TDRs for the 13-unit development,

excluding the base density of 3 units permitted. In order for the Planning Board to approve the waiver request, the applicant must make a finding that a lower density of development is more desirable for environmental and compatibility reasons, pursuant to Sect. 59-C-1.393 (b) of the Montgomery County Zoning Ordinance.



**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.*

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

2. *The Site Plan meets all of the requirements of the zone in which it is located.*

The Site Plan meets all of the requirements of the RE-2/TDR2 and RE-2/TDR4 Zone as demonstrated in the project Data Table above.

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

- a. Buildings

The locations of the existing and proposed buildings on the proposed site are adequate, safe and efficient.

The proposed one-family homes directly relate to the stream valley buffer, which dictates the location of the proposed road, stormwater management facilities and orientation of the houses. The proposed lot pattern is compatible to the adjacent communities of James Creek and Christie Estates in terms of overall size, depth and width of the lots. The proposed buildings will incorporate the same 25-foot rear yard setback as the adjacent communities, as conditioned in the recommendations of the staff report.

The elevations of the proposed buildings will be sited approximately 4-6 feet below the existing finished floor elevation of the adjacent one-family homes, although final siting of the homes will not occur until building permit, once a prospective homebuyer chooses a model that will be constructed on the proposed lot.

- b. Open Spaces

The location of the open space within the proposed development is adequate, safe and efficient.

The plan proposes approximately 7.41 acres of open space, or over 80 percent of the property, primarily within the stream valley buffer and between the units and along the perimeter of the property. The open space, along with existing trees, will provide a significant buffer and natural setting for the proposed homes that front the stream valley. The open space in the rear of the proposed lots will be

approximately 25-feet-wide in accordance with the location of the adjoining lots in the adjacent communities. The two-stormwater management facilities are located internally at the intersection of the public road and ingress/egress to lots 2-5, and at the terminus of the proposed public road.

The proposed stormwater management concept consists of on-site water quality control and recharge via two surface sandfilters. Hydrodynamic water quality structures are also being provided because a waiver of open section roads was requested. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cfs.

c. Landscaping and Lighting

Landscaping proposed within the public right-of-way and evergreen screening around the stormwater management facilities and the lighting proposed within the public right-of-way are adequate, safe and efficient. Additional landscaping was not presented between the proposed units and the rear property line due to the lack of space and efficient use of the rear yards.

d. Recreation

Recreation facilities are not required with this application because the applicant is proposing less than 25 dwelling units.

e. Vehicular and Pedestrian Circulation

Proposed Street A is proposed as a modified tertiary street with sidewalks primarily on the southern end of the street due to the location of the stream buffer. A private ingress/egress easement will provide access to four lots approximately 200 feet from the intersection of the public road with Spartan Road. The existing house will be created as a separate lot and gain access directly off the cul-de-sac of the proposed public road.

A waiver is being requested by the applicant to delete the portion of sidewalk typically required on the north side of the proposed public street due to constraints with the location of the stream buffer and the fact that no houses are proposed on the north side of the street affected by the waiver.

A 5-foot-wide sidewalk will also be provided, to replace the 4-foot-wide sidewalk, on the north side of Spartan Road along the property frontage. The sidewalk will be extended to the intersection with Paradise Cove Terrace for pedestrian continuity. Additionally, a crosswalk is being provided across Spartan Road from the proposed entrance to facilitate safe access to the elementary school.

The vehicular and pedestrian connections associated with this plan 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.*

The site addresses compatibility by ensuring a more desirable lot-to-lot layout with an equal 25-foot-wide separation between the rear of the units and a comparable lot size as the proposed lots with the existing neighboring communities of James Creek and Christie Estates.

The adjacent lots on James Creek range in size from 8-10,000 square feet. The proposed lots (6-12), adjacent to the James Creek homes, range in size from 8-10,000 square feet. Alternatively, the existing homes at Christie Estates (lots 19-24) on the southeastern boundary range in size from 6-8,000 square feet, which is consistent with the proposed lot size of 7-8,000 square feet for lots 1-5, exclusive of the panhandles. The size of the proposed lots, although larger by average, will ensure a more compatible house size with the adjacent communities.

The lots on the subject site will also be located at a lower elevation, offsetting the maximum height permitted of 40 feet within the existing and proposed subdivisions.

5. *The Site Plan meets all applicable requirements of Chapter 22A regarding forest conservation.*

The 9.37-acre property includes 7.37 acres of existing forest. The existing forest is located away from Spartan Road and includes stream buffers. Since this property is being developed utilizing an optional method of development, the applicant is required to retain 20 percent of the existing forest onsite. The applicant will meet the forest conservation requirements by preserving 4.08 acres of existing forest. Based on the amount of forest that currently exists onsite and the amount of forest cleared, there are no planting requirements for this project.

The house located away from the Spartan Road is entirely within the stream buffer, and will remain with this application. Typically, redevelopment of properties results in the removal of all impervious surfaces and structures within stream buffers and a category I forest conservation easement is placed on the entire buffer area. When structures that are located within the stream buffer are intended to remain, applicants propose modifications to the environmental buffers. Existing encroachments into stream buffers are reviewed on a case-by-case basis. In this application the current owner of the property intends to remain in the existing house. Environmental Planning believes that a category II forest conservation easement, over lot 13, will be sufficient to protect the existing forest and prohibit removal of trees. Environmental Planning recommends the Planning Board approve the permanent encroachment into the stream buffer for this existing structure.

## APPENDICES

- A. Affordable Housing Impact Statement.
- B. Memorandums from agencies.
- C. Letters from the adjacent communities.
- D. Waiver requests from the Applicant.