

## APPENDIX 1

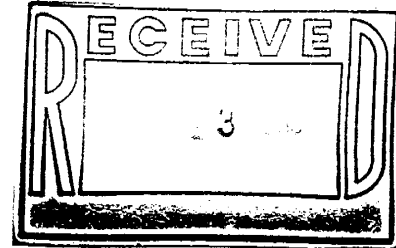
### DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan  
*County Executive*

Robert C. Hubbard  
*Director*

March 22, 2005

Ms. Lynn Mayo, P.E.  
10615 Muirfield Drive  
Potomac, MD 20854



Dear Ms. Mayo:

Thank you for your recent letter concerning stormwater management and the proposed rezoning of the Burley Property. As you know, the Department of Permitting Services (DPS) reviewed and approved the stormwater management concept plan for the proposed development on January 12, 2005. Rather than respond to your specific comments, I will attempt to categorize and address your comments and conclusions.

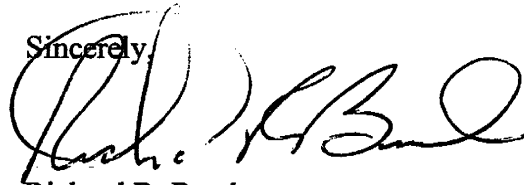
1. As we discussed, the Department of Permitting Services normally has little input in the evaluation for the rezoning of properties in Montgomery County. That evaluation, along with recommendations for denial or approval, comes from staff from the Maryland National Capital Park and Planning Commission.
2. It is unusual for a stormwater management concept plan to be submitted to DPS for review and approval in the rezoning process. When it happens, the DPS review is based on the information submitted by the applicant. Any change to that information (such as an increase in imperviousness or a change in layout of the subdivision) should be resubmitted to DPS for review and approval.
3. The stormwater management concept plan was reviewed and approved in accordance with Chapter 19 of the Montgomery County Code. This includes the Department's interpretation of the Maryland Stormwater Design Manual, which is used as a guide to establish design parameters. I stand by the way the Department interpreted the law and guidelines in the approval of this particular stormwater management concept plan.
4. As a part of the stormwater management concept approval by the Department, certain design requirements were waived (again, in accordance with Chapter 19 of the County Code) based on the proposed layout of the subdivision. The waivers may not have been necessary if the proposed subdivision was reconfigured to reduce imperviousness and/or to provide for better opportunities for onsite controls.



5. The Department's preference for surface stormwater management facilities is based on the costs of construction, inspection, and maintenance. The ability to provide surface controls is generally impeded with a greater density of development.
6. I appreciate your concerns about the steepness and treatment of slopes on the site. However, the use of those slopes is an issue which must be addressed by MNCPPC staff as a part of their recommendation for approval or denial of the request for rezoning. DPS will require stabilization of such slopes in the sediment control permitting process. However, as far as development of this property is concerned that is several steps in the future.

I hope I have sufficiently addressed your concerns as they pertain to the role of the Department of Permitting Services in the proposed rezoning of this property. Please call me at 240-777-6343 or email me at [rick.brush@montgomerycountymd.gov](mailto:rick.brush@montgomerycountymd.gov) if you have further questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Brush", written over a horizontal dashed line.

Richard R. Brush  
Manager

RRB:dm

cc: Callum Murray, MNCPPC  
Ellen Rader, DPS

Burley Property

Page 1 of 5

March 13, 2005

Mr. Richard R. Brush  
Water Sources Section  
Division of Land Development Services  
Department of Permitting Services  
255 Rockville Pike, 2<sup>nd</sup> Floor  
Rockville, MD 20850

Re: Stormwater Management Concept  
Burley Property Rezoning  
SW File # 214394

Dear Mr. Brush:

This letter is regarding my concerns on the Stormwater Management for the Burley Property Rezoning. The Burley property is a 5.1 acre site located along Seven Locks Road and adjacent to Cabin John Park and Cabin John Stream. The property is currently zoned R-90, single family. The requested rezoning is to RT-8, townhouses. The Potomac Subregion Master Plan has the zoning remaining as single family.

I do not believe the property meets the Zoning Ordinance Section 59-D-1.61(d) requirement "That by its design, by minimizing grading and by other means, the proposed development would tend to prevent erosion of the soil and to preserve natural vegetation and other natural features of the site." I believe the proposed rezoning does not prevent erosion of the soil and does not preserve water resources.

The rezoning applicant's current Stormwater Management Concept Plan is dated September 10, 2004 and is based on a Drainage Area Map dated September 9, 2004. The applicant submitted a revised Schematic Development Plan, dated March 1, 2005, which increases the number of townhouse units from 27 to 32, increases the impervious area, and increases the area of disturbance. Therefore, I assume the applicant will be required to revise their Stormwater Management Concept Plan. However, the following discussion is based on the currently available information.

The Burley Property Stormwater Management Concept Plan and the Montgomery County Department of Permitting Services (MCDPS) Review letter, dated January 12, 2005, show that the property's proposed rezoning to townhouses will have more impact on Cabin John Stream than if the property was developed as single family homes. In addition, rezoning the property to townhouses will require Montgomery County to waive the Maryland Department of the Environment (MDE) Channel Protection Storage and Water Quality Requirements. These requirements were established by MDE for "controlling runoff increases and mitigating water quality degradation associated with new development" (MDE 2000 Maryland Stormwater Design Manual, Volume I, page 1.1). Due to the Burley Property's location adjacent to Cabin John Stream, I do not think it is appropriate to waive the MDE requirements for this site.

While the development under the current zoning of the property would allow aboveground stormwater management, the proposed rezoning to townhouses will require construction of an underground stormwater management facility. As indicated in a January 3, 2005 letter from the applicant to Ellen Rader of MCDPS "In response to your initial comment regarding new policy that does not permit underground facilities for CPv [channel protection] in townhouse developments, I [Michael Devine, from applicant's firm] spoke to Rick Brush of your office [MCDPS] and he informed me that rather than policy, MCDPS would like to restrict the use of underground facilities where it is feasible to construct surface facilities. This site, however, does not lend itself to the construction of any surface facility due to the steep slopes along the Seven Locks Road frontage." What the applicant did not mention is that construction of an above ground facility would be feasible if the property was developed as currently zoned, i.e., single family homes. This was confirmed with my conversation with you on March 11, 2005. Therefore, MCDPS could continue with its policy of not permitting underground facilities for channel protection if the property was developed as zoned and not rezoned.

In addition, the maintenance of underground stormwater management facilities is more costly than aboveground facilities. Since Montgomery County will be maintaining this facility, the County will be paying additional long-term maintenance costs if this property is rezoned.

I do not believe the current Stormwater Management Concept Plan adequately protects Cabin John Stream. Almost the entire 5.1 acres of the Burley property is currently wooded. The proposed rezoning will disturb approximately 3.7 acres of woods and replace the current trees with pavement, townhouses, or very steeply graded grassed areas. The applicant is proposing construction of one channel protection storage facility. However, this facility will only collect runoff from 1.4 acres. Therefore, the majority of the development, or approximately 62% of the disturbed area, will not receive any channel protection. Likewise, one recharge facility will be constructed for 1.4 acres of runoff and again the majority of the development, or approximately 62% of the disturbed area, will not receive any recharge volume. Two water quality facilities will be constructed, treating a total of 2.4 acres and therefore approximately 35% of the site will not drain to a water quality treatment facility. I believe that all of the runoff for the disturbed areas should be treated to protect Cabin John Stream; 35% to 65% of the disturbed area should not drain into Cabin John Stream without being treated. (Note that above numbers are estimated since the March 1, 2005 Schematic Development Plan increases the number of townhouses but did not provide a new limits of disturbance and the September 9, 2004 Stormwater Management Concept Plan showed the limits of disturbance incorrectly in some areas such as at the storage pipe near the site entrance.)

The following is a summary of my other concerns regarding the current stormwater management plan.

#### *Required Stormwater Management Waivers for Rezoning*

By rezoning the property, two of the three stormwater sizing criteria (channel protection and water quality) developed by MDE will need to be waived. These waivers are required only

because of the rezoning to townhouses. If the property was developed as single family homes, these two waivers would not be required.

As indicated in the MCDPS Review Letter dated January 12, 2005, a partial waiver of the Channel Protection Storage Volume will be required. As you and I discussed on March 11, 2005, this waiver is required only because the property is being rezoned as townhouses. You indicated that if the property was developed as single family homes, this MDE requirement could be met and this waiver would not be required.

As indicated in the Site Solutions Incorporated (the applicant's engineer) letter dated October 27, 2004, they requested that the lot size criteria for the Disconnection of Rooftop Runoff Credit "be waived because it is not feasible to provide any structural device in this area." This credit is being used to meet the Water Quality Storage requirement. According to the MDE Manual, "in residential development applications, disconnections will only be credited for lot sizes greater than 6000 sq. ft." The lot size in the townhouse rezoning is approximately 1500 to 2250 sq. ft. If the property was not rezoned, the lot size would be a minimum of 9000 sq. ft. and therefore a waiver for this requirement would not be required.

#### *Water Quality Impacts from Steep Slopes*

The property is currently heavily wooded, with steep slopes. The Planning Board Draft Potomac Subregion Master Plan (dated October 2001), Watershed and Stream Valleys Section, suggested "acquire two forested parcels located between Seven Locks Road and Cabin John Stream Valley Park [the Burley property] to enhance community character and protect the steeply sloped areas". While the Planning Board chose not to approve this recommendation, this rezoning appears to go in the opposite direction of the suggestion to protect the steeply sloped areas that are in the Cabin John Stream Valley. By developing this steeply sloped property with 32 townhouse units, there will be considerable erosion. The existing maximum slope on most of the property is approximately 4-foot horizontal to 1-foot vertical (4H:1V). All of the proposed grading on the rezoning is 2-foot horizontal to 1-foot vertical (2H:1V), i.e., steeper than the existing slopes. This proposed 2H:1V slope is so steep, typically a hill with this slope cannot be mowed. The Soil Survey of Montgomery County, Maryland indicates that the soils on this property (1C Gaila, 2C Glenelg, and 2UB Glenelg) all "erodes easily." By designing a site that contains almost exclusively 2H:1V slope, it almost ensures that the site will have erosion problems. This erosion problem from steep slopes, as indicated in the Maryland Soils Survey and the Planning Board Draft Potomac Subregion Master Plan is not addressed by the applicant. Most of these steep slopes receive no water quality treatment so the eroded soils will enter Cabin John Stream. Since sediment loads (eg soil erosion) are one of the main problems in Montgomery County streams, this property should not be rezoned if 2H:1V slopes are required.

#### *Additional Comments on Stormwater Management Concept Plan*

According to the applicant's October 27, 2004 letter, they will use the Natural Area Conservation Credit for the northern areas. No Water Quality Storage facility was proposed to treat drainage from these northern areas (watersheds 1 and 2). The applicant did not provide any calculations to show that the Natural Area Conservation Credit will meet all of the Water Quality Storage

requirements. In fact, since most of the north-west watershed is not a Forest Save Area, it cannot be used for Natural Area Conservation Credit. I suspect that the calculations will show that the Natural Area Conservation Credit will not meet all of the Water Quality Storage Volume requirements.

The Stormwater Management Concept Plan states that approximately 9,470 square feet of impervious surface will not drain to the proposed facilities. The text indicates that Natural Area Conservation (MDE Credit #1), Disconnection of Rooftop Runoff (MDE Credit #2) and Sheet Flow to Buffers (MDE Credit #4) will be taken (page 2). As discussed above, no calculations for Natural Area Conservation Credit is provided. Disconnection of Rooftop Runoff Credit can only be taken if MCDPS waives the MDE lot size requirement. According to MDE Manual, Section 5.4, Sheetflow to Buffer Credit can only be taken when the minimum buffer width is 50 feet and runoff enters the buffer as sheet flow. According to the applicant's Stormwater Management Concept Plan, there is no location where sheet flow enters a 50-foot buffer and therefore this credit cannot be applied. Consequently, although the plan indicates they will use three types of credits allowed by MDE, there is no computation for one credit, a waiver of MDE requirements are needed for another credit, and the site does not meet the requirements for the third credit.

The Stormwater Management Concept Plan computed the required recharge volume as 1,229 cf for the western drainage area. The applicant's October 27, 2004 letter indicates recharge will be provided with a 30-ft by 1.25-ft by 6.83-ft deep trench filled with gravel. Even if the volume of gravel was not considered, this proposed trench (256 cf) does not meet the computed recharge volume requirement. Therefore an additional facility is required for the western drainage area.

As indicated above, the Stormwater Management Concept Plan computes the required recharge volume for the western drainage area. However, there is no computation of the required recharge volume for the eastern drainage area. Since there is no minimum area requirement for recharge volume, a recharge volume facility is required for the eastern watershed.

Channel Protection is only provided for 1.4 acres of the 5.1-acre site. While I am in agreement that the eastern watershed (0.9 acre) is below the size requirement, the entire western watershed (4.2 acres) drains to a single point at the southwestern boundary of the property and therefore channel protection should be required for 4.2 acres.

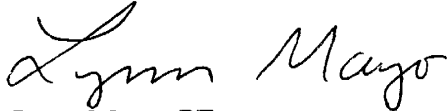
### *Conclusion*

- The Burley Property is located adjacent to Cabin John Stream. Improper development of this property will further degrade Cabin John Stream.
- If the property is constructed as townhouses, there will be more negative impact to Cabin John Stream than if the property were developed as zoned. In fact, MDE requirements that were developed to protect the state's streams will need to be waived in order to allow this rezoning. These requirements would not need to be waived if the property was developed as currently zoned.

- The rezoning will require an underground storage facility for channel protection. MCDPS will approve these only when there is no other alternative. If the site was developed as zone, the underground facility would not be required. In addition, there is higher maintenance costs for underground facilities, which Montgomery County tax payers will be forced to pay long-term, if the site is rezoned.
- By designing all slopes as 2H:1V, the rezoning does not address the site's erodable soils, does not meet the Zoning Ordinance requirement to prevent erosion, and does not protect Cabin John Stream.
- The large percentage of the runoff from the disturbed areas will receive no stormwater management treatment prior to being discharged into Cabin John Stream. This will further degrade Cabin John Stream.
- The applicant has not provided all required computations to show the site meets all requirements that are not being waived. The Stormwater Management Concept Plan should be updated to reflect the March 1, 2005 Schematic Development Plan. In addition, the Plan should include computations to quantify the Natural Area Conservation Credit, show how the requirements for Sheetflow to Buffer Credit (MDE Credit 4) can be met, meet recharge volume requirements for the entire site (ie all drainage areas), and provide channel protection volume for the entire western drainage area.

Please call me at 301-765-2051 if you have any questions.

Sincerely,



Lynn Mayo, PE  
10615 Muirfield Drive  
Potomac, MD 20854

Cc: Callum Murray, M-NCPPC  
Judy Starr, Inverness North HOA



## DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan  
County Executive

January 12, 2005

Robert C. Hubbard  
Director

Mr. Mike Devine  
Site Solutions, Inc.  
19650 Club House Road  
Gaithersburg, Maryland 20886

Re: Stormwater Management **CONCEPT** Request  
for Burley Property  
SM File #: 214394  
Tract Size/Zone: 5.11 Acres / Proposed RT-8  
Total Concept Area: 5.11 Acres  
Parcel(s): 417 and 361  
Watershed: Cabin John Creek

Dear Mr. Devine:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of on-site channel protection measures via an underground detention facility for Drainage Area W-1. This underground facility will provide only partial CPv control and thus a partial waiver of CPv control will be granted. Channel protection volume is not required for remaining drainage areas because for each the one-year post development peak discharge is less than or equal to 2.0 cfs. On-site water quality control will provide via Stormfilters for Drainage Areas W-1 and W-2. The Natural Area Conservation Credit will be used to meet water quality requirements for Sub Areas One and Two. The Disconnection Rooftop Credit will be applied to Sub Area Five for meeting water quality requirements with drywells provided as needed to meet the credit storage volume requirements. Onsite recharge will be provided via infiltration.

The following **items** will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. An approved Forest Conservation Plan must be submitted that includes a conservation easement that meets the criteria for the Natural Area Credit where it is applied.
6. A geotechnical report is to be submitted that determines the feasibility of infiltration for recharge.
7. Stormwater drainage is to be flow-split to the water quality facilities.





8. Storage volumes for CPv and water quality are to be separate.

This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is required.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Ellen Rader at 240-777-6336.

Sincerely,



Richard R. Brush, Manager  
Water Resources Section  
Division of Land Development Services

RRB:dm CN.214394.Burley.EBR

cc: R. Weaver  
S. Federline  
SM File # 214394

QN -on-site/waiver, Acres: 1.37  
QL - on-site; Acres: 5.11  
Recharge is provided

**Murray, Callum**

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**From:** Judy Starr [judyst@erols.com]  
**Sent:** Monday, March 21, 2005 9:05 AM  
**To:** Murray, Callum  
**Subject:** CC: Letter sent 3/20 to Derick Berlage re: Burley Prop.

March 20, 2005

The Honorable Derick P. Berlage

Montgomery County Planning Board, Chairman

8787 Georgia Ave.

Silver Spring, MD 20910

Re: Opposition to rezoning request for case G-809 (Maria Burley)

Dear Chairman Berlage:

I represent the Inverness North Homeowners Association Board of Directors and hereby express our opposition to the request for rezoning in case G-809, a.k.a. the Burley Property, at 10421 and 10525 Seven Locks Road.

The Inverness North Community is located immediately north of the proposed development. The Burley property is currently zoned for single-family homes. Centex Corp. would like the land rezoned for townhouses so it can build 31 townhouses there.

We strongly object to any change in the current zoning of the property. There are several serious problems with the proposed development that should necessitate the Board's rejection of the application, which are, but not limited to, the following:

- The site is designated as single family in the Montgomery County Master Plan. We all purchased our homes believing it would be single family (or purchased as parkland as in the Draft Master Plan). Therefore it should remain as single family, and any change to the Master Plan should undergo the thorough review process that occurs through the next updating of the Master Plan .

- The townhouse development will have negative impact on Cabin John Stream, which is located adjacent to the development and is a resource for all county residents. According to the County Department of Permitting Services, if the site is developed as townhouses the

3/23/2005

county will have to waive State stormwater management regulations that were developed to protect our streams. The site developed as townhouses can't meet the regulations. Waiving of the State stormwater management regulations undermines State and Federal efforts to maintain water cleanliness and habitat preservation.

- Thirty-one townhouses are too many units for the site. The proposed design calls for very steep slopes (3H:1V), retaining walls, filler soil, limited access behind the buildings, the elimination of several significant trees, compromising the root systems of several significant trees, and inadequate addressing of stormwater management. Although the request is for RT-8 on 5 acres, in reality it is much higher density because of the limited land developable. Inverness North currently has erosion problems on slopes that are much less steep.
- We are concerned about the blasting, excavation, and construction that will be required for this development and the impact to our units that are about 30 years old. Blasting would create health and noise pollution in our and surrounding communities, all of which have a large population of children and retirees.
- We are concerned about the steep slope of the new road as it enters Seven Locks Road. It will be a hazard to cars and pedestrians during severe weather conditions. The current heavy traffic load on Seven Locks Road would be further impaired by the potential dangers the new road would create.

In the interest of preserving a healthy and enjoyable community, the Inverness North Homeowners Association Board of Directors respectfully implores you to not permit this property to be rezoned.

Respectfully,

Judy Starr

President, Inverness North Homeowners Association

7865 Muirfield Court

Potomac, MD 20854

301-983-0107

cc: Callum

3/23/2005

March 22, 2005

The Honorable Derick P. Berlage  
Montgomery County Planning Board, Chairman  
8787 Georgia Ave.  
Silver Spring, MD 20910

Dear Chairman Berlage:

We write to express opposition to the request for rezoning in case G-809, a.k.a. the Burley Property, at 10421 & 10525 Seven Locks Road. We live in the Inverness North Community immediately north of the proposed development and strongly object to any change in the current zoning of the property. We have a two year old son whose bedroom window looks out onto the property and we strongly oppose this major disruption to our life. It will create significant health and noise pollution that we did not expect when we purchased our home almost four years ago on the grounds that the Master Plan showed the property to be only possibly future single family homes.

There are several serious problems with the proposed development that should necessitate the Board's rejection of the application, which are, but not limited to, the following:

- The site is designated as single family in the Montgomery County Master Plan. We all purchased our homes believing it would be single family (or purchased as parkland as in the Draft Master Plan). Therefore it should remain as single family, and any change to the Master Plan should undergo the thorough review process that occurs through the next updating of the Master Plan .
- The townhouse development will have negative impact on Cabin John Stream, which is located adjacent to the development and is a resource for all county residents. According to the County Department of Permitting Services, if the site is developed as townhouses the county will have to waive State stormwater management regulations that were developed to protect our streams. The site developed as townhouses cannot meet the regulations. Waiving of the State stormwater management regulations undermines State and Federal efforts to maintain water cleanliness and habitat preservation.
- 42 townhouses are too many units for the site. The proposed design calls for very steep slopes (2H:1V), retaining walls, filler soil, limited access behind the buildings, the elimination of several significant trees, compromising the root systems of several significant trees, and inadequate addressing of stormwater management. Although the request is for RT-8 on 5 acres, in reality it is much higher density because of the limited land developable. Inverness North currently has erosion problems on slopes that are much less steep.
- I am concerned about the blasting, excavation, and construction that will be required for this development and the impact to our units that are about 30 years old. Blasting would create health and noise pollution in our and surrounding communities, all of which have a large population of children and retirees.
- I am concerned about the steep slope of the new road as it enters Seven Locks Road. It will be a hazard to cars and pedestrians, particularly during severe weather conditions. The current heavy

traffic load on Seven Locks Road would be further impaired by the potential dangers the new road would create.

In the interest of preserving a healthy and enjoyable community, I respectfully implore you to not permit this property to be rezoned.

Respectfully,

Steve and Amy Dye  
10607 Muirfield Dr.  
Potomac, MD 20854  
301-983-1280

