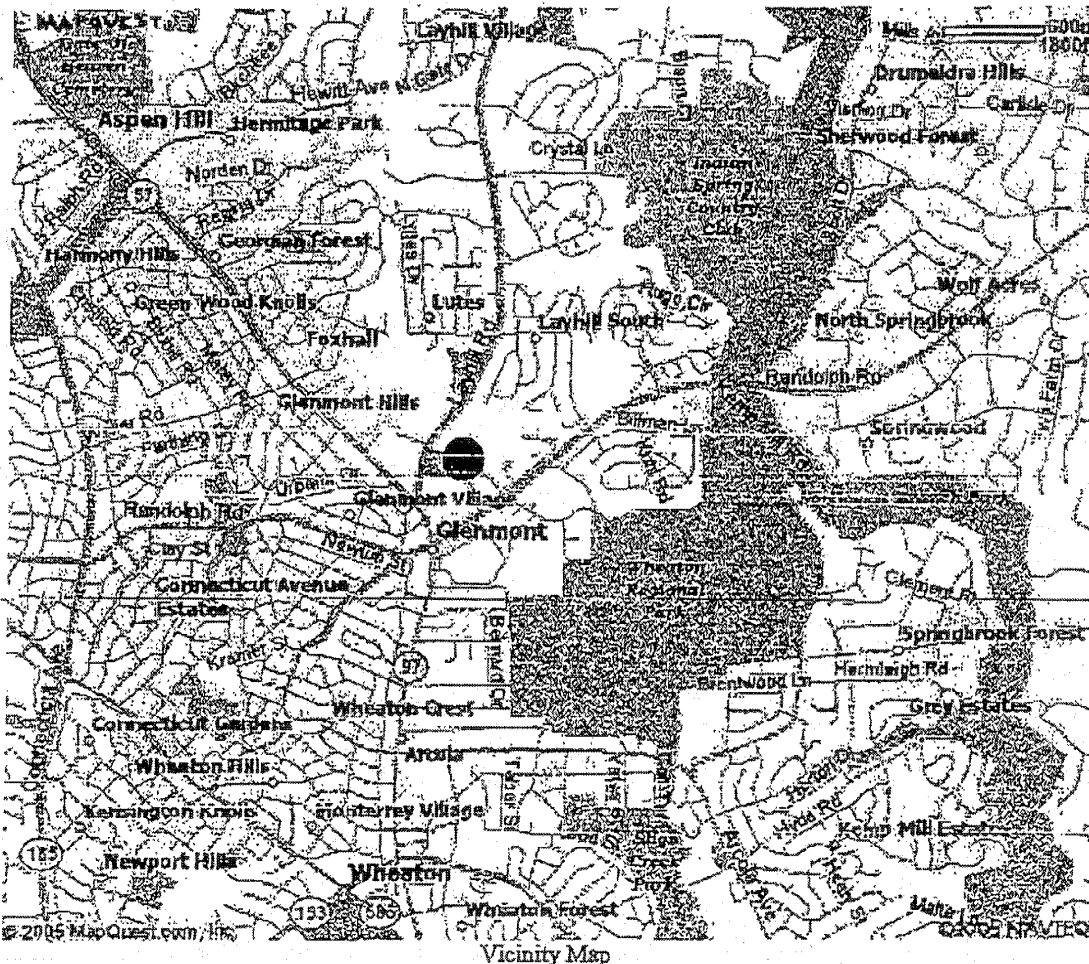


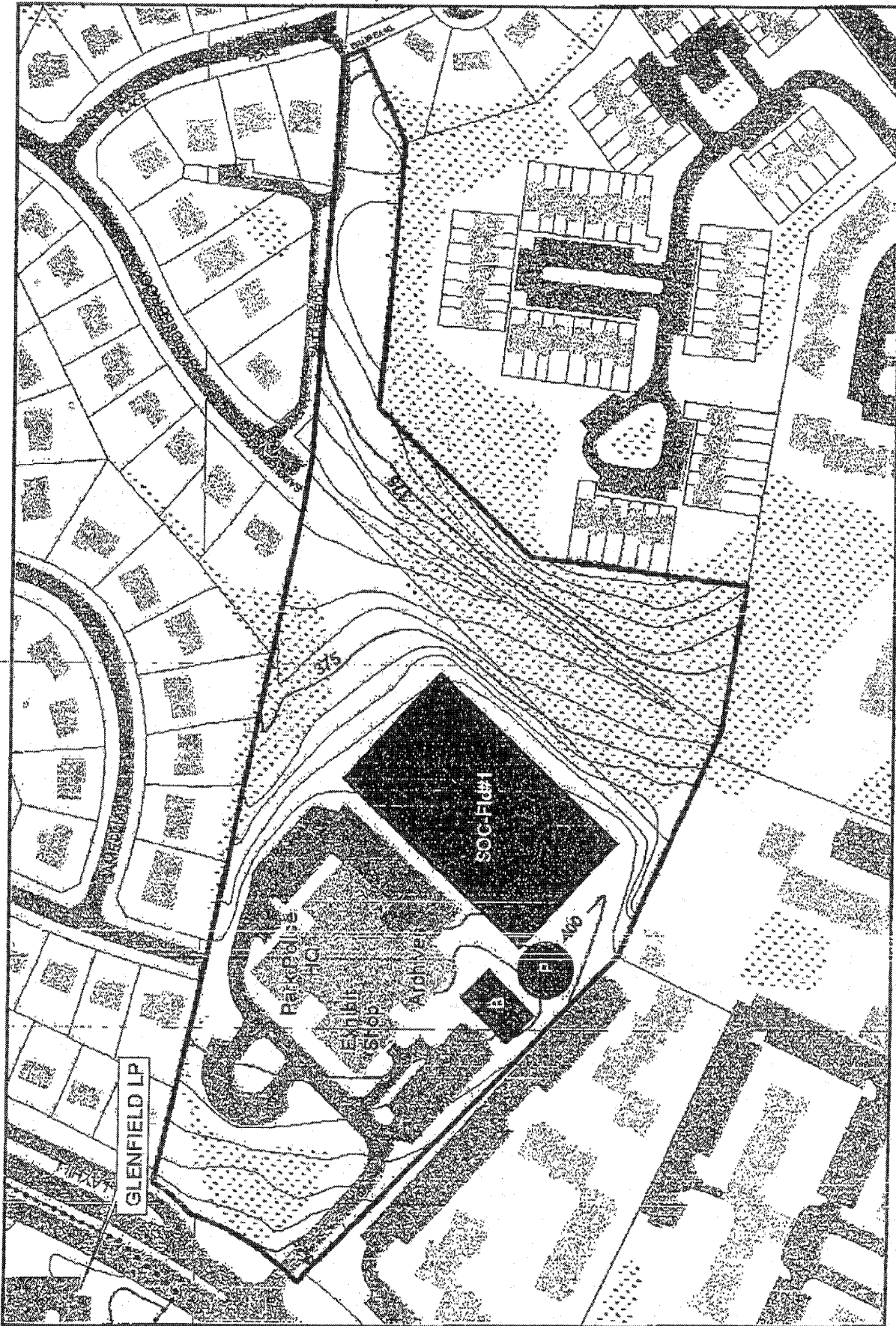
### SADDLEBROOK LOCAL PARK

- LOCATION:** 12751 Layhill Road, Silver Spring
- OWNER:** Montgomery County Government
- SIZE:** 15 acres
- MAPS:** Tax: JQ13  
ADC: 30-H10  
Soil Survey: Map 20
- WATERSHED:** Unnamed tributary of Bel Pre Creek, to Northwest Branch
- IMPROVEMENTS:** Former elementary school site that houses Maryland-National Capital Park Police Headquarters/Community Soccer Field
- TOPOGRAPHY:** Generally level, sloping to stream on the eastern portion
- CONSTRAINTS:** Occupied by Maryland-National Capital Park Police, with proposed co-location for a Montgomery County Police District Station



# Saddlebrook Local Park

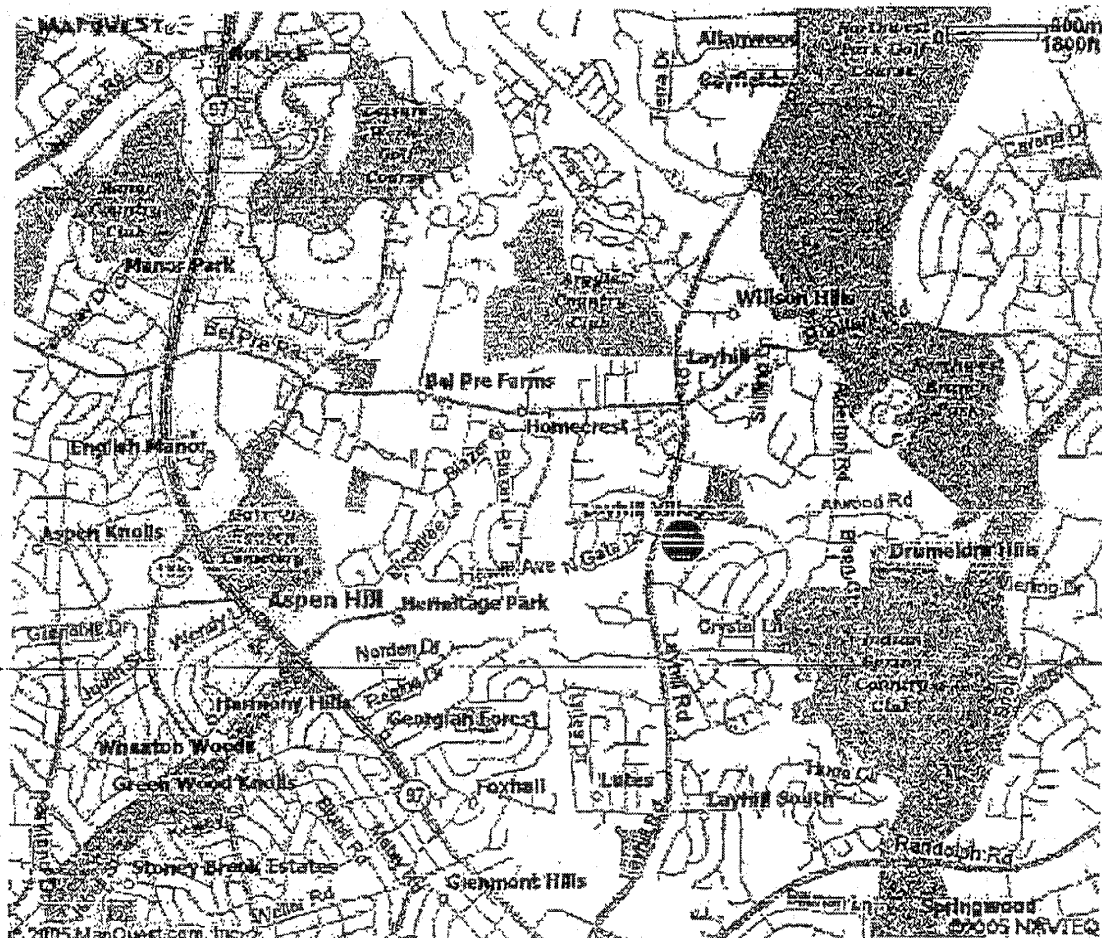
12751 Layhill Road, Silver Spring



Acreage 15.0 Region S  
 Facility Code P54 Area WH Date 07/09/2002

### A Portion of the Matthew Henson Greenway

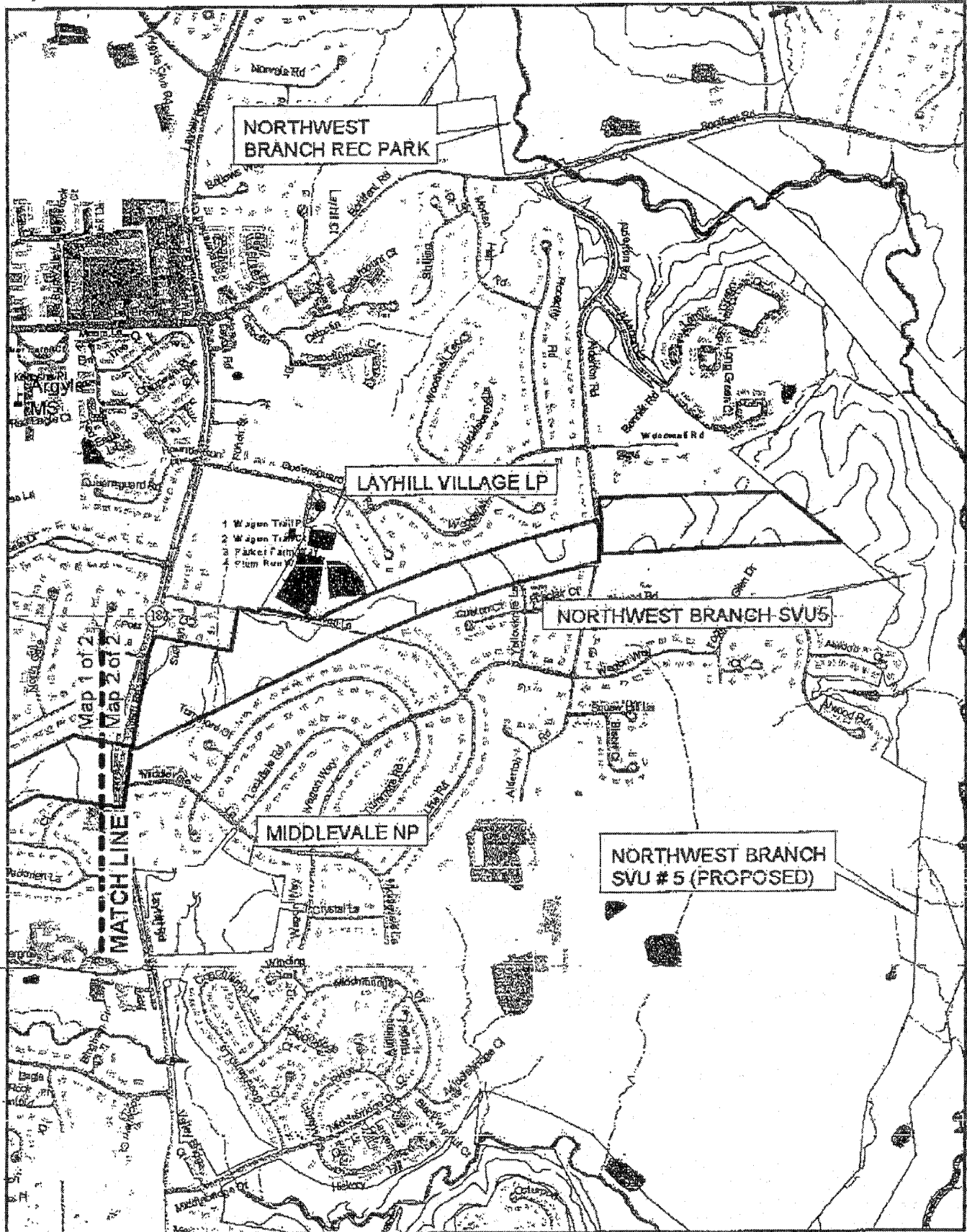
- LOCATION:** Layhill Road, Silver Spring
- OWNER:** Maryland-National Capital Park & Planning Commission
- SIZE:** 52.7, actual acreage of subject area undetermined
- MAPS:** Tax:JR12  
ADC:30-J6  
Soil Survey: Map 20
- WATERSHED:** Unnamed tributary of Bel Pre Creek, to Northwest Branch
- IMPROVEMENTS:** None
- TOPOGRAPHY:** Generally level, sloping to stream
- CONSTRAINTS:** Part of a Master Planned Trail System.



Vicinity Map

# Matthew Henson Greenway - Proposed (Map 2 of 2)

## Layhill Road Northeast to Northwest Branch Stream Valley Park, Wheaton



Acreage 527  
 Facility Code 141

Region S  
 Area WH

Date 07/08/2002



# MIDDLEVALE NEIGHBORHOOD PARK

**LOCATION:** 13512 Wagon Way, Layhill

**OWNER:** Maryland-National Capital Park & Planning Commission

**SIZE:** 15.8 Acres

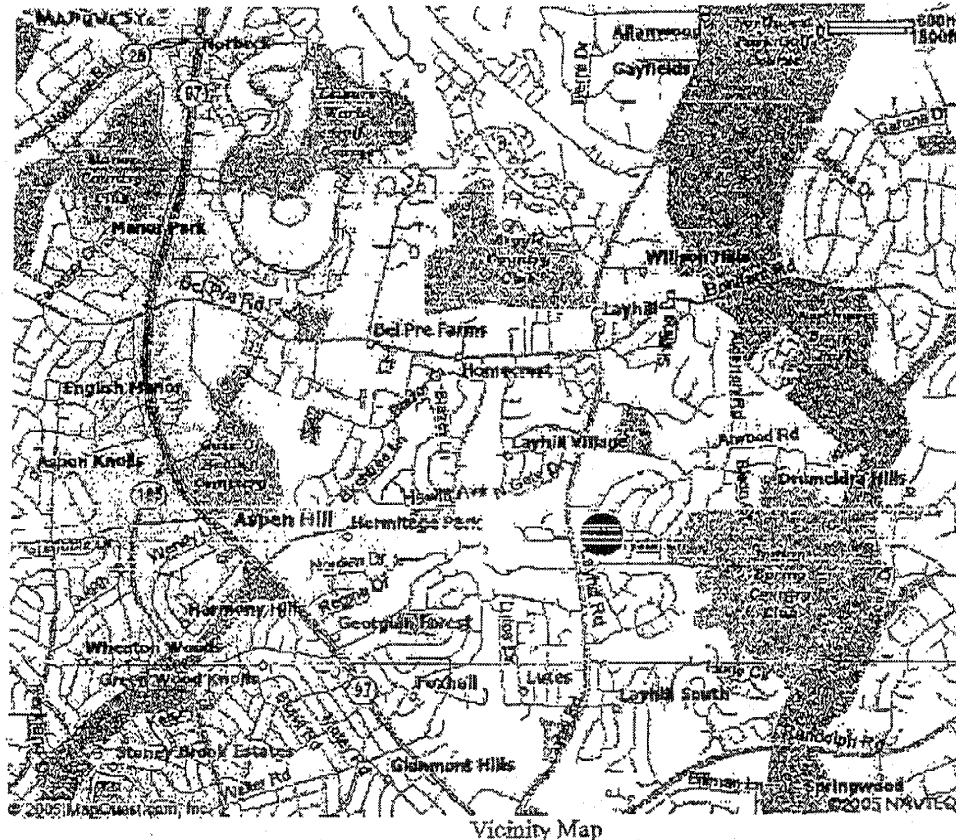
**MAPS:** Tax: JR12  
ADC: 30-H7  
Soil Survey: Map 20

**WATERSHED:** Bel Pre Creek, to Northwest Branch

**IMPROVEMENTS:** None

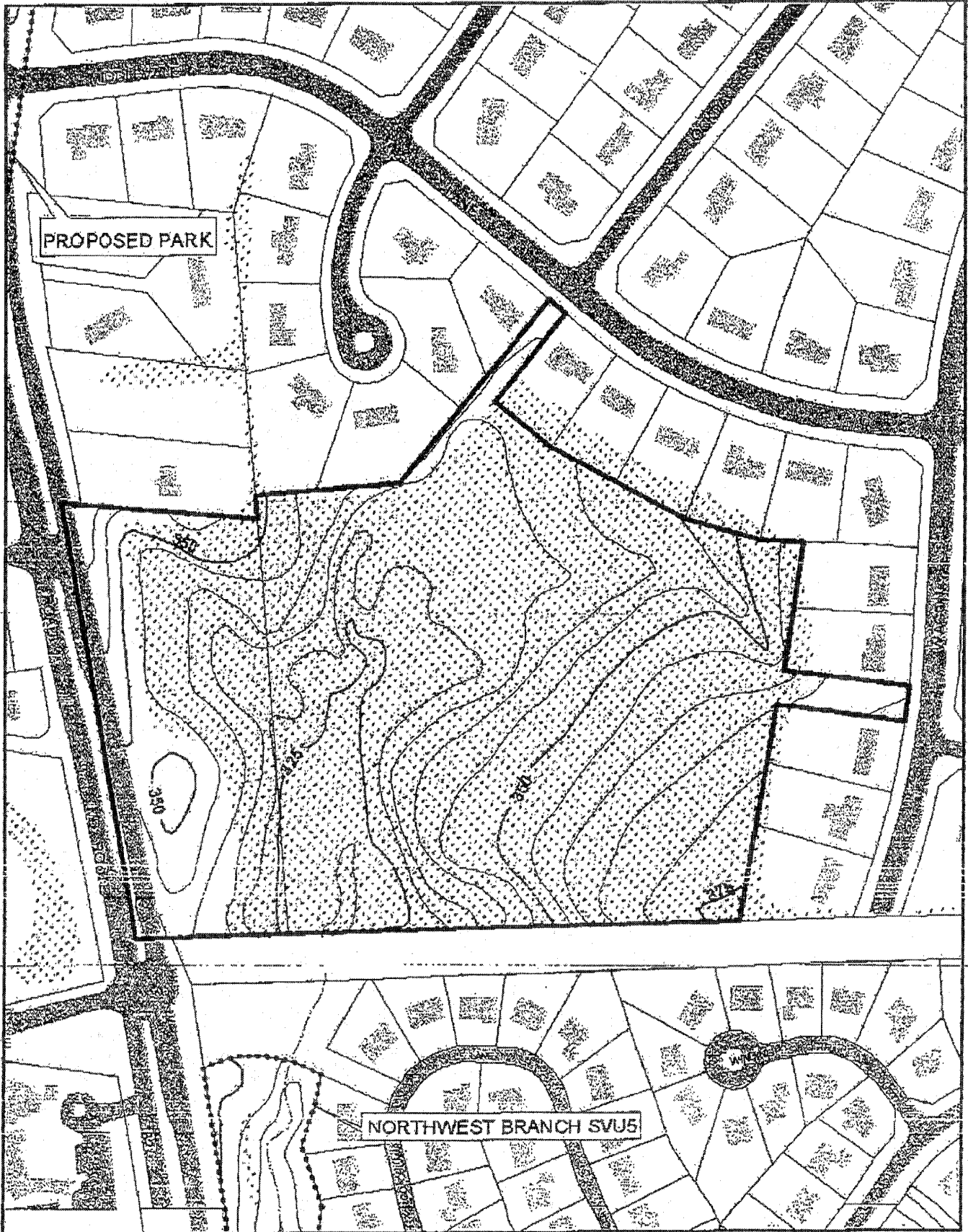
**TOPOGRAPHY:** Rolling with forested cover

**CONSTRAINTS:** Traversed by two streams



# Middlevale Neighborhood Park

13512 Wagon Way, Layhill



Acreage 15.8

Region S

Facility Code 074

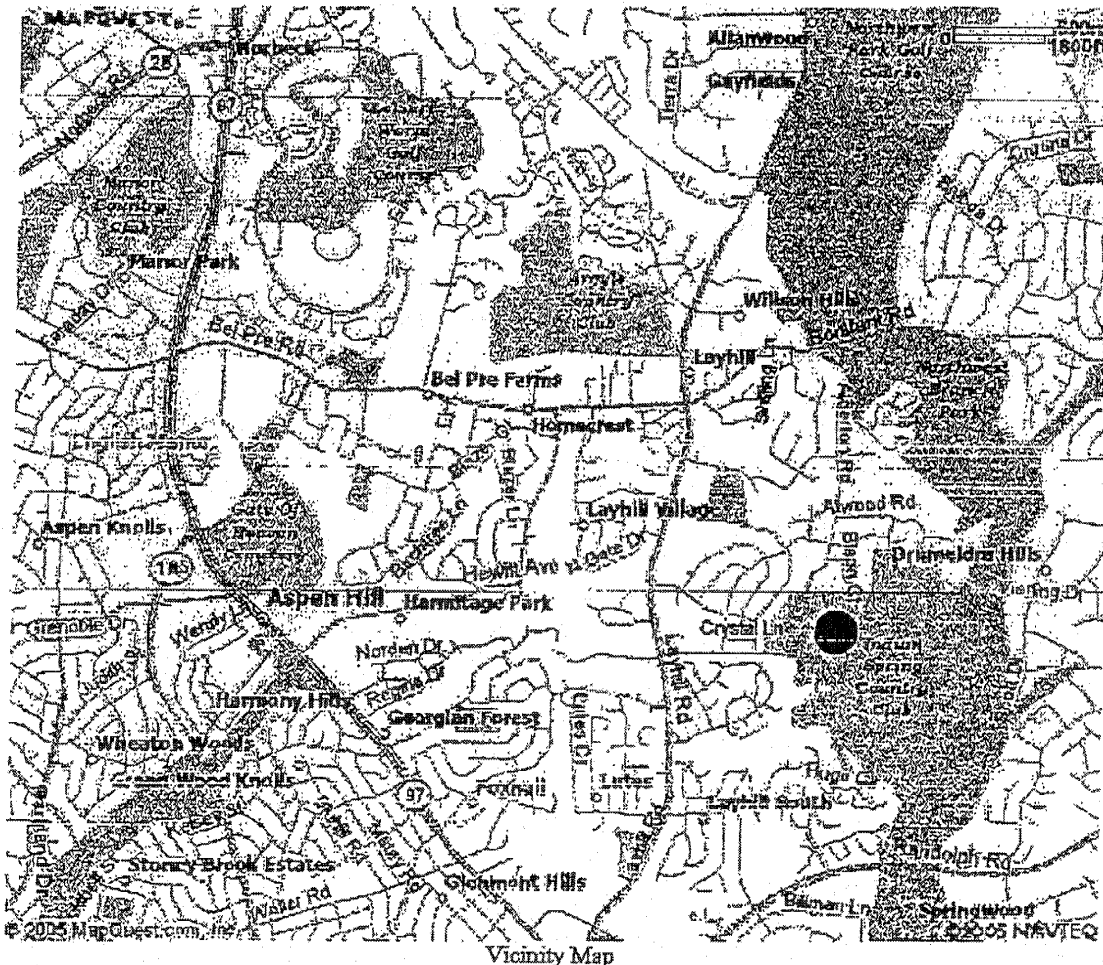
Area WM

Date 07/01/2002



# A portion of the Indian Spring Development

- LOCATION:** 13501 Layhill Road, Silver Spring
- OWNER:** Indian Spring Country Club LLC
- SIZE:** 95.4 Acres
- MAPS:** Tax: JR12  
ADC: 30-K7  
Soil Survey: Map 20
- WATERSHED:** Bel Pre Creek and Northwest Branch direct
- IMPROVEMENTS:** Country Club facilities including clubhouse, golf courses and swimming pool
- TOPOGRAPHY:** Rolling with some forested cover and stream
- CONSTRAINTS:** Proposed to be subdivided into residential development with undetermined availability and cost prohibitive acquisition costs



# INDIAN SPRING PROPERTY



MapData.com, Inc. February 25, 2005 11:55:58 AM - 578-00286-01-0346749-00 - 37UNW02

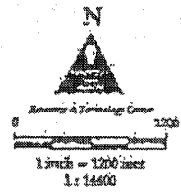
### NOTICE

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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 1:144,000 scale aerial photography using stereo photogrammetric methods.

This map is derived 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 ground plan of the area pictured and other uses of the data is continuously updated. Use of this map, other than for general planning purposes is not recommended. • Copyright 1995

Key Map



**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**  
 THE MARL AND NATIONAL CAPITAL PARK AND PLANNING COMMISSION

2005 George Mason University, Inc. 9909 Northgate



Conclusion

The East Layhill site is the best choice for an elementary school site in the Kennedy High School Base Area. It is located within the targeted area, has compatible adjacent use and offers the ability to collocate a school and community facility at the same location, which is an efficient use of public funds.



**MARYLAND DEPARTMENT OF THE ENVIRONMENT**  
 1800 Washington Boulevard • Baltimore MD 21230  
 410-537-3000 • 1-800-633-6101

Robert L. Ehrlich, Jr.  
 Governor

Water Management Administration  
 Wetlands and Waterways Program  
 Phone: 410-537-3768  
 Fax: 410-537-3751

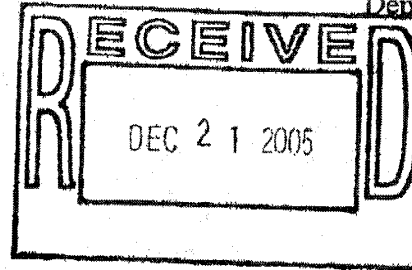
Kendl P. Philbrick  
 Secretary

Michael S. Steele  
 Lt. Governor

Jonas A. Jacobson  
 Deputy Secretary

December 19, 2005

Montgomery County Public Schools  
 Department of Facilities Management  
 Attn: Richard G. Hawes, Director  
 7361 Calhoun Place, Suite 400  
 Rockville, Maryland 20855



Project: Montgomery County Public Schools – East  
 Layhill Elementary School Site (Pre-application)

Dear Mr. Hawes:

I am responding to your submittal dated December 1, 2005 to the Nontidal Wetlands and Waterways Division of the Water Management Administration regarding the above referenced project. The submittal included an Alternative Site Analysis and requested "guidance as to whether to proceed with the wetlands application for the proposed site".

At this time the Division cannot recommend proceeding with plans to use the proposed site for an elementary school. This is based on the fact that the site contains extensive forested nontidal wetlands and the headwaters to an unnamed tributary to the Northwest Branch, a Use IV waterway. Under the State's Nontidal Wetlands Regulations (COMAR 26.23.01.01), wetlands adjacent to Use IV waters are considered to have "significant plant or wildlife value". According to preliminary plans presented by Montgomery County Public Schools (MCPS), the entire wetland system and headwater stream would need to be impacted to use this site. MCPS staff was advised of the Division's concerns over this site at the Montgomery County Wetlands Coordinating Committee meeting on August 30, 2005 and again during a field review of the site on September 13, 2005.

In addition to the Division's concerns it should be noted that the wetland and waterway impacts associated with the proposed site would also be subject to approval by the U. S. Army Corps of Engineers. As part of the joint State/federal permitting process, the application would be subject to comment by various State and federal agencies including the Md. D.N.R., Md. Historical Trust, U.S. E.P.A, and U.S. Fish and Wildlife Service. The State and federal resource agencies generally oppose projects that involve lot fill in wetlands and waterways. The application would also be subject to public comment with the opportunity for a public informational hearing. Based on recent permit applications in the Northwest Branch watershed, significant public concern over the project could be expected.

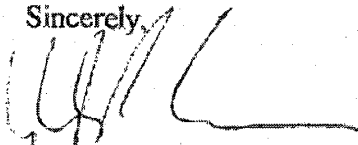
It is recommended that a more intensive alternative site search be conducted. The

alternative site analysis indicates that four additional sites were examined however three of them are existing parks which would unlikely be suitable sites due to their existing use. If existing parks are considered suitable for school development, more detail about why the sites were rejected should be provided. For instance, the analysis for Middlevale Neighborhood Park lists constraints as "traversed by two streams" but there is no indication of whether this site would require greater impact than the proposed East Layhill site. Aren't the extensive forested nontidal wetlands and headwater stream channel a constraint for the East Layhill site? In addition to addressing alternate sites, consideration of expansion of existing school facilities to meet the need for additional capacity should also be thoroughly addressed. Further information on the Alternative Site Analysis requirements can be found in COMAR 26.23.02.05.

If after further consideration of alternative sites the East Layhill site is selected as the only practicable alternative, significant efforts must be made to minimize adverse impacts to nontidal wetlands and waterways on the site. Finally, mitigation for unavoidable stream and wetland impacts will be required within the watershed.

Thank you for providing the opportunity for pre-application comments on this project. Should you have any further questions regarding the above comments, please contact me at (410) 537-3803.

Sincerely,



Robert P. Cooper  
Chief, Southern Region  
Nontidal Wetlands and Waterways Division

Cc: U. S. Army Corps of Engineers (Jack Dinne)  
MNCPPC Environmental Review (Steve Federline)  
Environmental Systems Analysis, Inc. (Mark Burchick)

# **Alternative Analysis Options of Potential Elementary School Sites**

Montgomery County Public Schools  
Downcounty Consortium Elementary School #29

## **Background**

Enrollment figures indicate that an elementary school is needed in the area designated as the Kennedy High School Base Area, highlighted in red on the attached drawing labeled "Downcounty Consortium Base Area" map. A new elementary school would relieve overutilization at Bel Pre/Strathmore, Georgian Forest and Glenallan elementary schools.

In considering candidate school sites, staff with Montgomery County Public Schools (MCPS) identified the following sites: East Layhill Site, Matthew Henson Greenway Trail, Saddlebrook Local Park, Middlevale Neighborhood Park and the existing Indian Spring Country Club.

The preferred site for the elementary school is the East Layhill site on Queensguard Road. A concept plan was prepared, proposing collocation with the future Midcounty Community Recreation Center. The community recreation center, currently in the design stage of development, is to be located on a 9.3-acre site adjacent to the Layhill Village Local Park. The collocation design would require acquisition by the Board of Education of a three-acre parcel adjacent to the recreation parcel for assemblage with the 9-acre site.

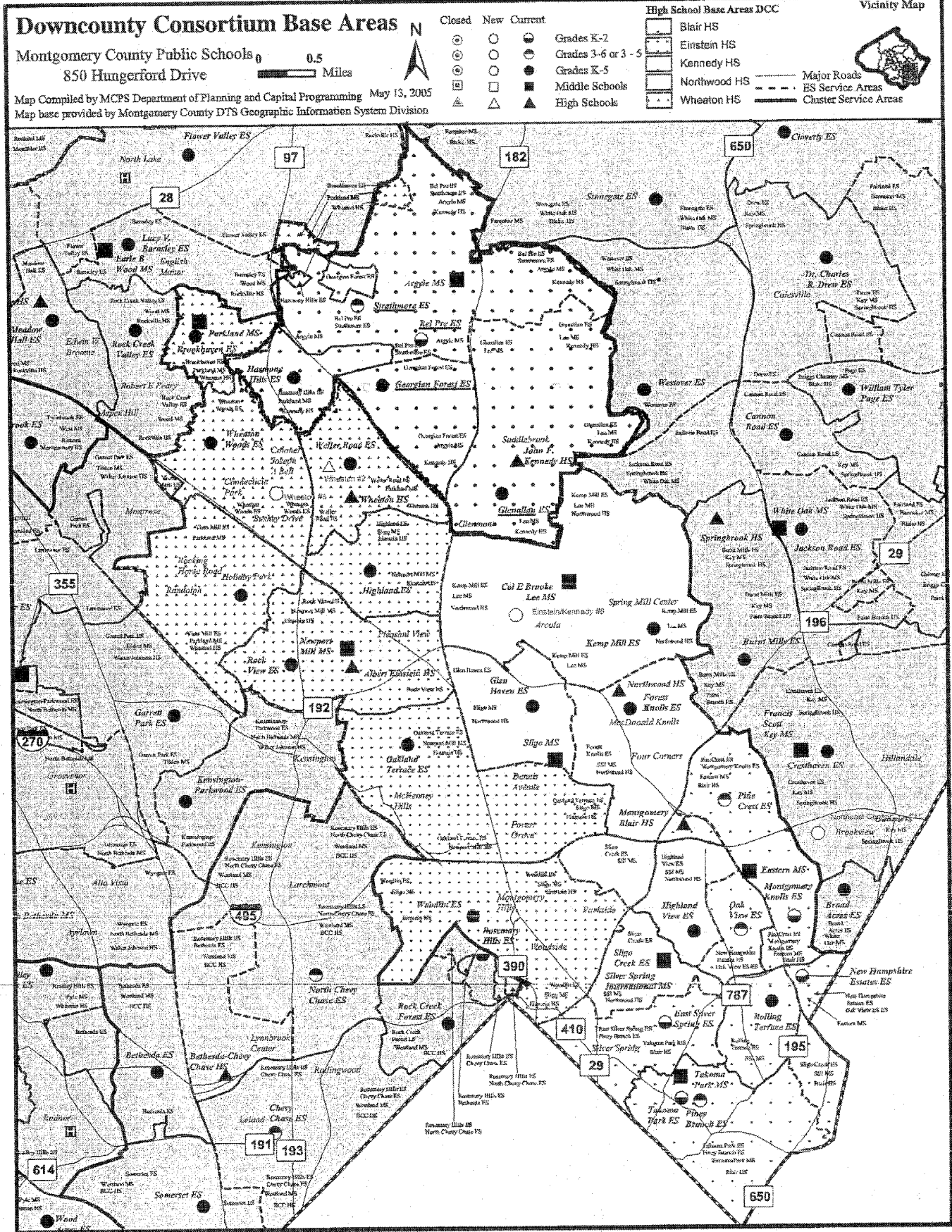
After a wetlands delineation determined the existence of wetlands on a portion of the three-acre site, a Wetland Permit Pre-Application Meeting was held on September 13, 2005 with Mr. Bob Cooper of the Maryland Department of the Environment, Mr. Mark Burchick of ESA and Mary Pat Wilson of Montgomery County Public Schools. At the recommendation of Mr. Cooper, following is an updated review of alternative analysis options of potential elementary school sites.

## **Site Criteria**

The current Board of Education standard for an elementary school is 12 usable acres. Some departure from the standard can be accepted if playfields, afforestation or stormwater management facilities can be provided off-site. In any case, the total programmed facilities of an elementary school must be accommodated on the site. Additional criteria include location in a specific target area, access to a primary road, availability of utilities, cost, compatible adjacent use and reasonable timing of site availability.

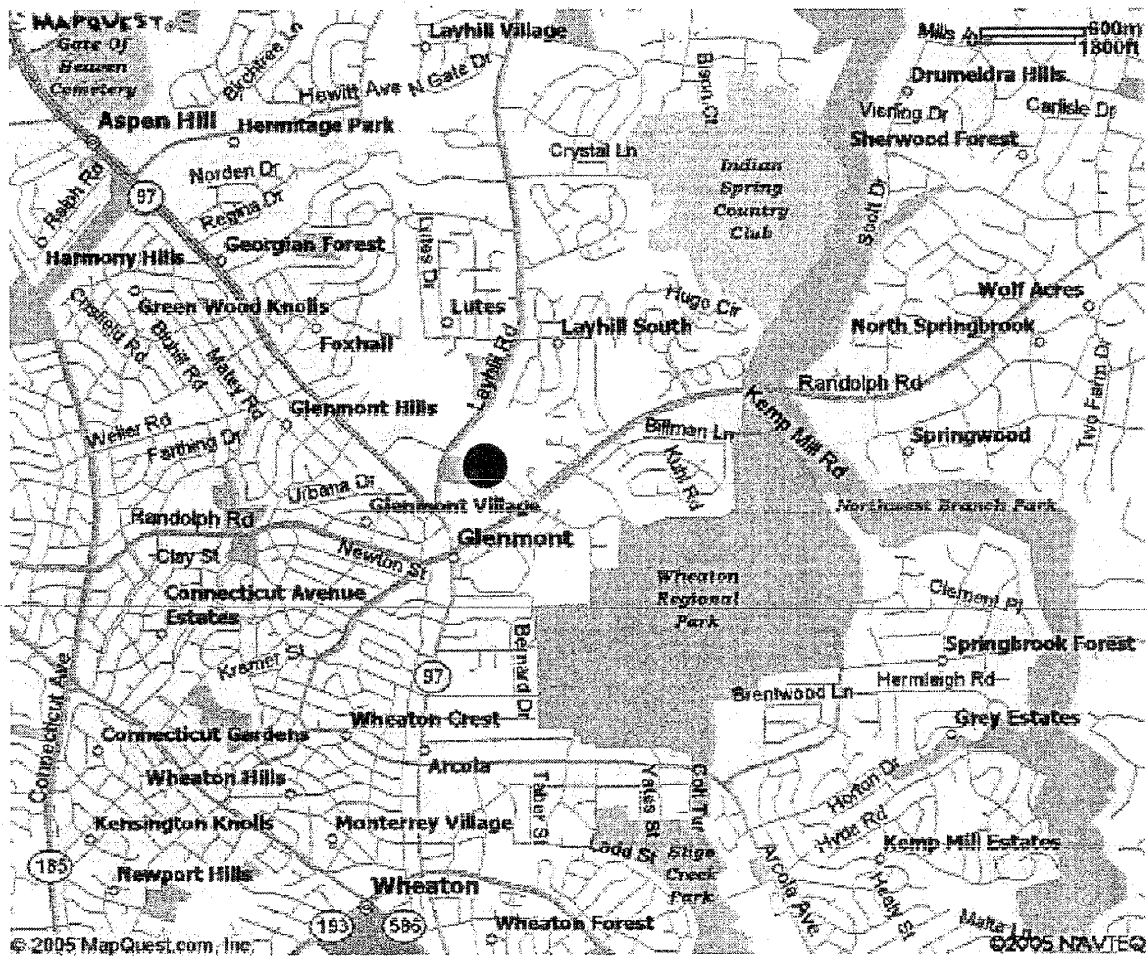
Following is an analysis of the four alternative sites that supports the reasoning behind a collocated facility at the East Layhill site.

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# SADDLEBROOK LOCAL PARK

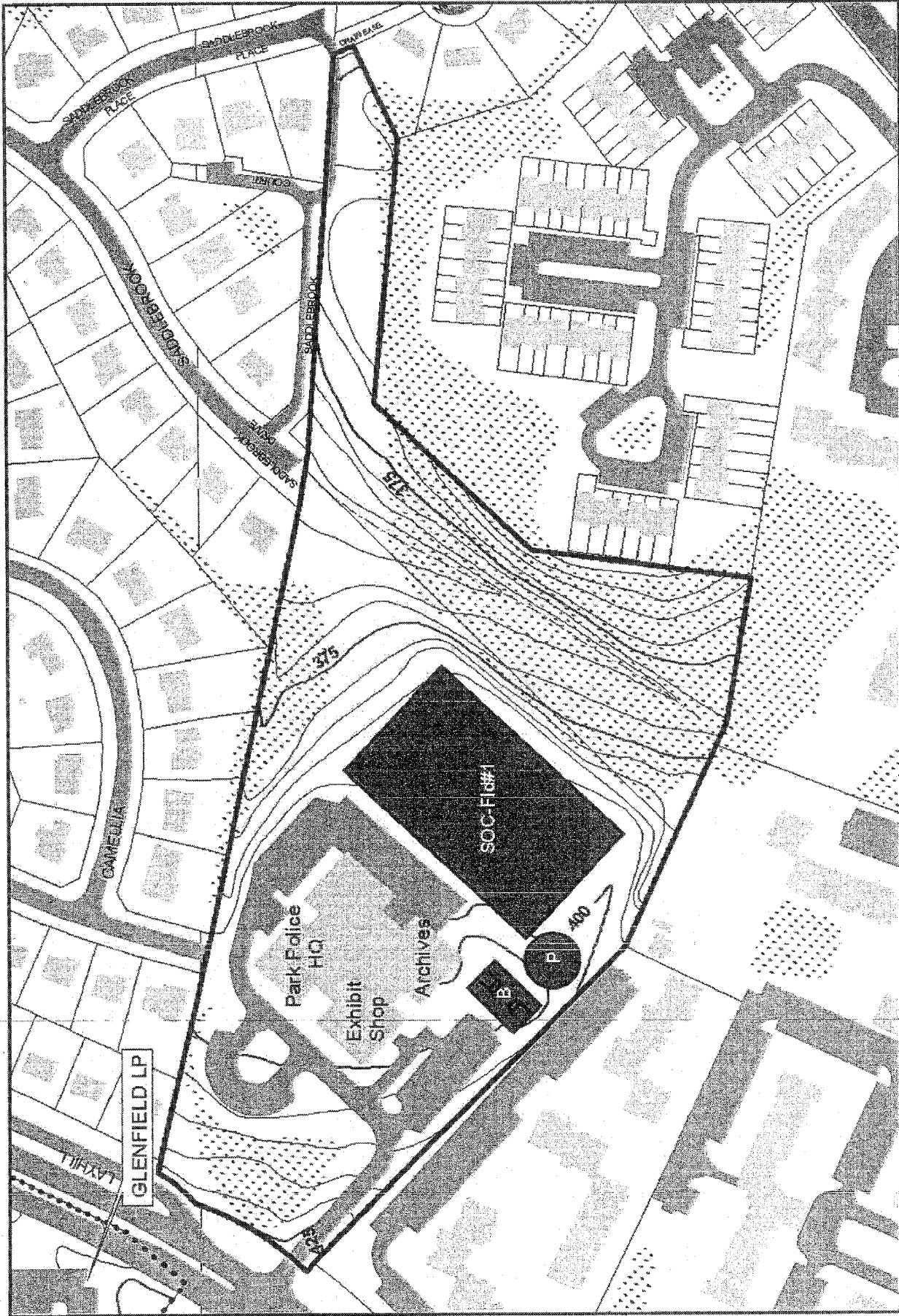
- LOCATION:** 12751 Layhill Road, Silver Spring
- OWNER:** Montgomery County Government
- SIZE:** 15 acres
- MAPS:** Tax: JQ13  
ADC: 30-H10  
Soil Survey: Map 20
- WATERSHED:** Unnamed tributary of Bel Pre Creek, to Northwest Branch
- IMPROVEMENTS:** Former elementary school site that houses Maryland-National Capital Park Police Headquarters/Community Soccer Field
- TOPOGRAPHY:** Generally level, sloping to stream on the eastern portion
- CONSTRAINTS:** Occupied by Maryland-National Capital Park Police, with proposed co-location for a Montgomery County Police District Station



Vicinity Map

# Saddlebrook Local Park

12751 Layhill Road, Silver Spring



M-NOPPC

Acreage 15.0

Facility Code E54

Region S

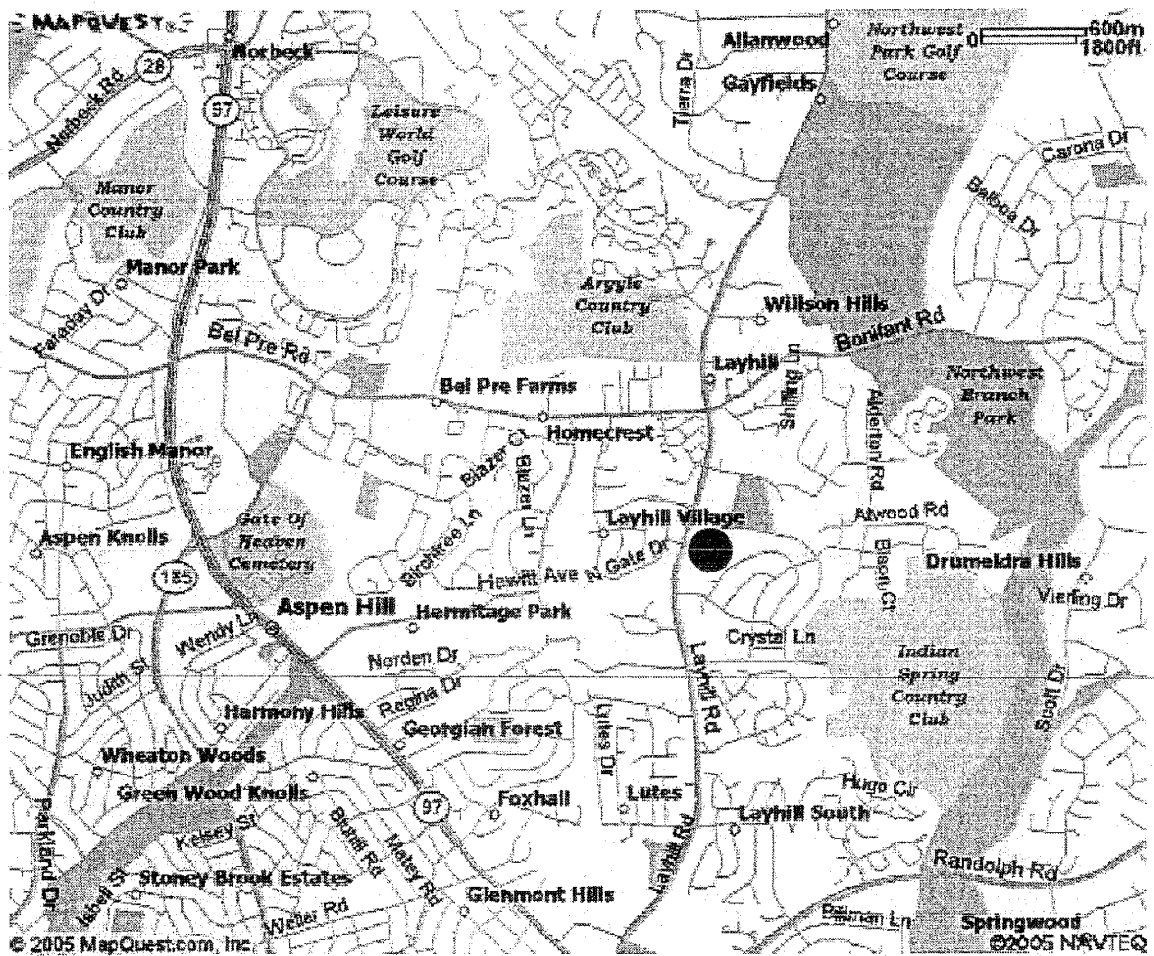
Area WH

Date 07/09/2002

1" = 200'

## A Portion of the Matthew Henson Greenway

<b>LOCATION:</b>	Layhill Road, Silver Spring
<b>OWNER:</b>	Maryland-National Capital Park & Planning Commission
<b>SIZE:</b>	52.7, actual acreage of subject area undetermined
<b>MAPS:</b>	Tax:JR12 ADC:30-J6 Soil Survey: Map 20
<b>WATERSHED:</b>	Unnamed tributary of Bel Pre Creek, to Northwest Branch
<b>IMPROVEMENTS:</b>	None
<b>TOPOGRAPHY:</b>	Generally level, sloping to stream
<b>CONSTRAINTS:</b>	Part of a Master Planned Trail System.

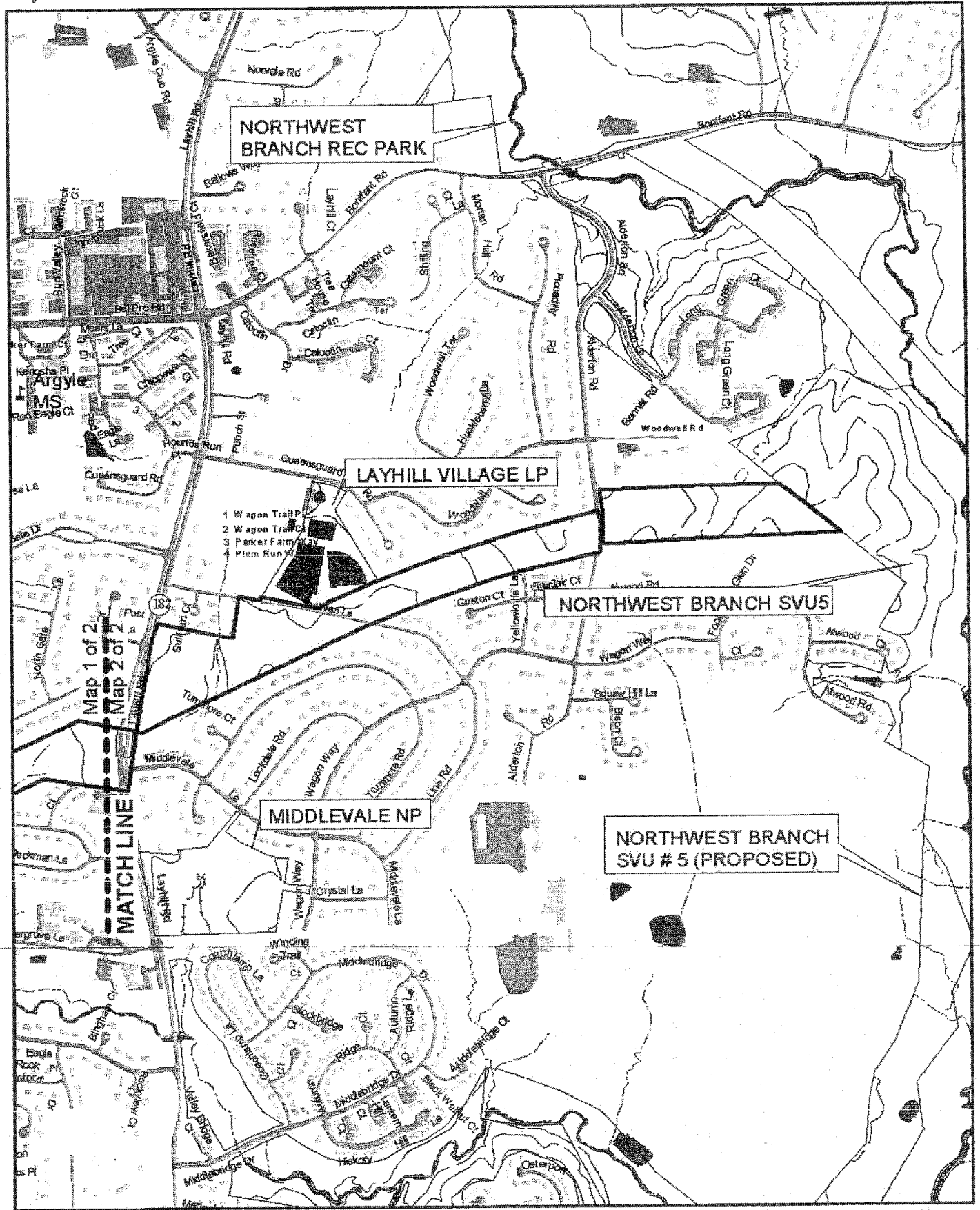


Vicinity Map



# Matthew Henson Greenway - Proposed (Map 2 of 2)

Layhill Road Northeast to Northwest Branch Stream Valley Park, Wheaton



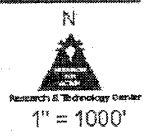
- 1 Wagon Trail Pl
- 2 Wagon Trail Ct
- 3 Parker Farm Way
- 4 Plum Run Way



Acreage 52.7  
 Facility Code L11

Region S  
 Area WH

Date 07/08/2002



# MIDDLEVALE NEIGHBORHOOD PARK

**LOCATION:** 13512 Wagon Way, Layhill

**OWNER:** Maryland-National Capital Park & Planning Commission

**SIZE:** 15.8 Acres

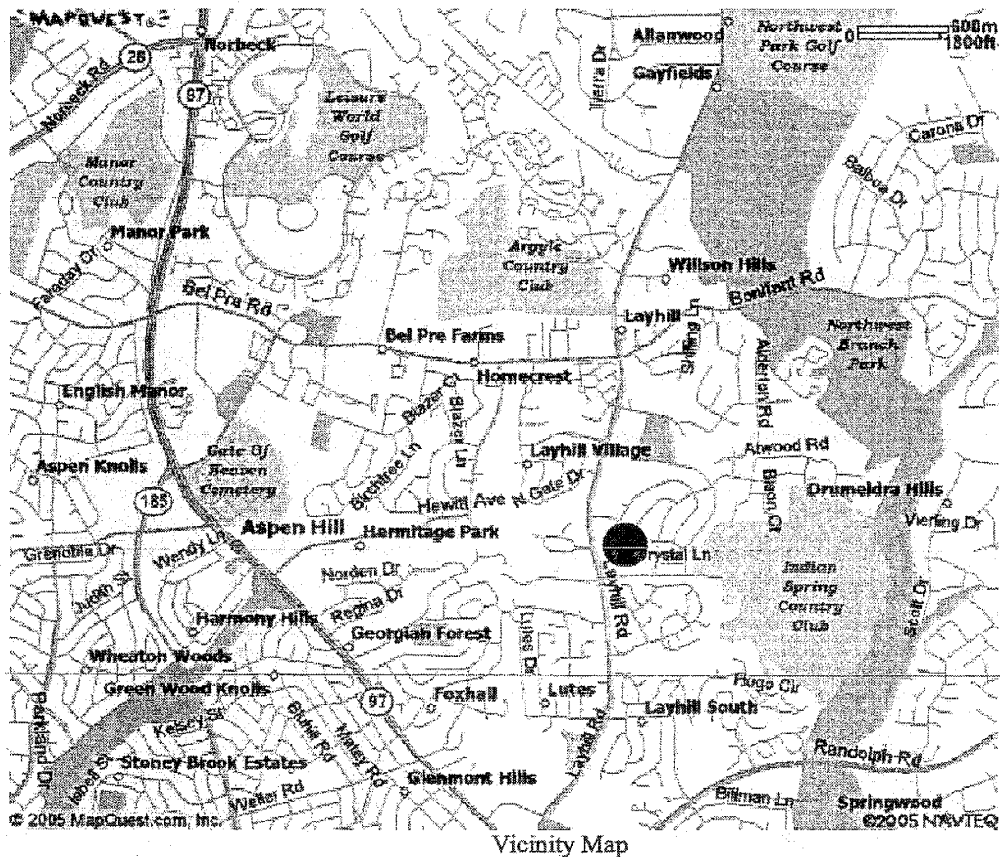
**MAPS:** Tax: JR12  
ADC: 30-H7  
Soil Survey: Map 20

**WATERSHED:** Bel Pre Creek, to Northwest Branch

**IMPROVEMENTS:** None

**TOPOGRAPHY:** Rolling with forested cover

**CONSTRAINTS:** Traversed by two streams



# Middlevale Neighborhood Park

13512 Wagon Way, Layhill



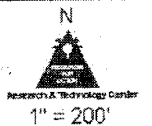
Acreage 15.8

Region S

Facility Code D74

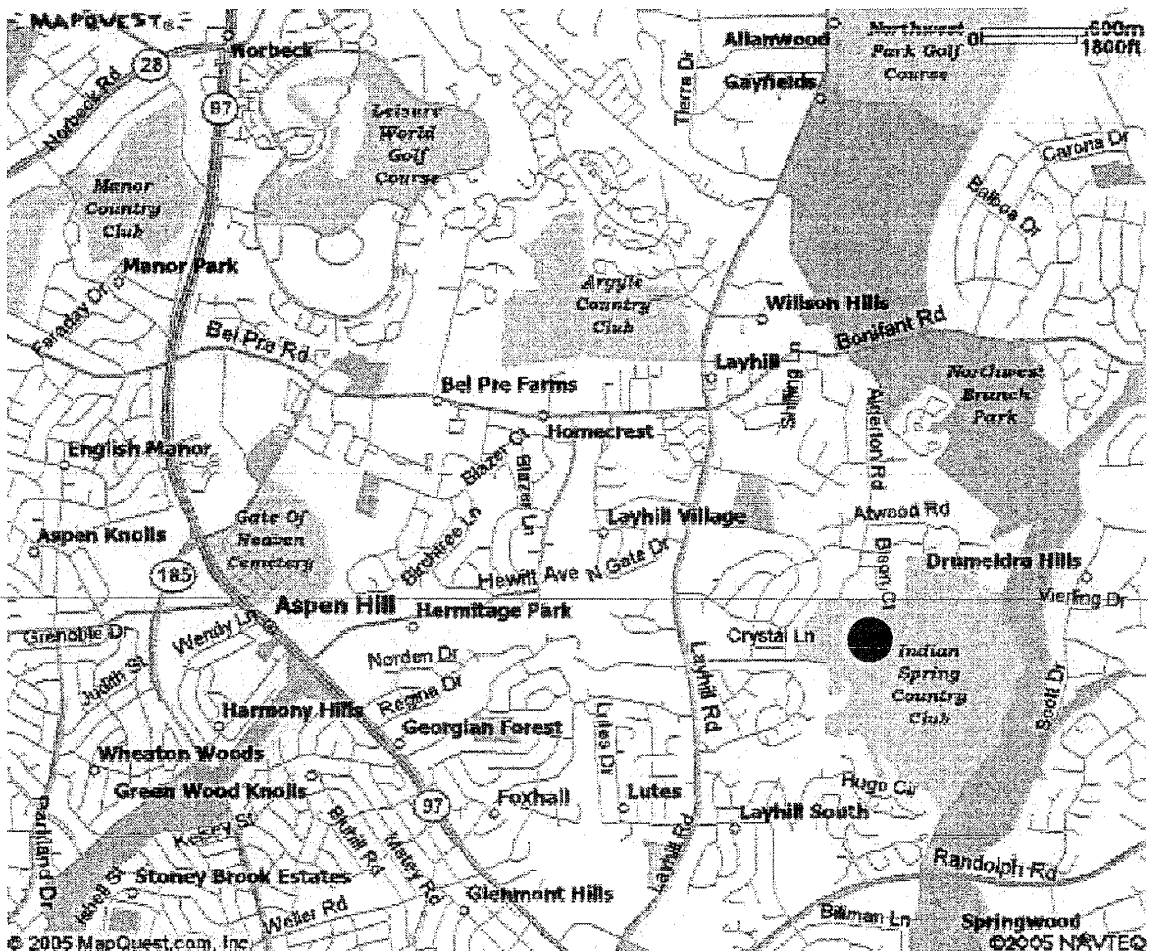
Area WH

Date 07/01/2002



## A portion of the Indian Spring Development

<b>LOCATION:</b>	13501 Layhill Road, Silver Spring
<b>OWNER:</b>	Indian Spring Country Club LLC
<b>SIZE:</b>	95.4 Acres
<b>MAPS:</b>	Tax: JR12 ADC: 30-K7 Soil Survey: Map 20
<b>WATERSHED:</b>	Bel Pre Creek and Northwest Branch direct
<b>IMPROVEMENTS:</b>	Country Club facilities including clubhouse, golf courses and swimming pool
<b>TOPOGRAPHY:</b>	Rolling with some forested cover and stream
<b>CONSTRAINTS:</b>	Proposed to be subdivided into residential development with undetermined availability and cost prohibitive acquisition costs



Vicinity Map

# INDIAN SPRING PROPERTY



Map compiled on February 25, 2005 at 8:55 AM. | Site located on base sheet no. 218NW02

## NOTICE

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Key Map



N



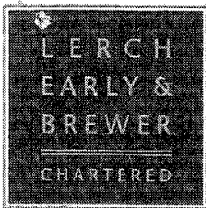
0 1200

1 inch = 1200 feet  
1:14400

**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
8787 Geographic Avenue - Silver Spring, Maryland 20910

## Conclusion

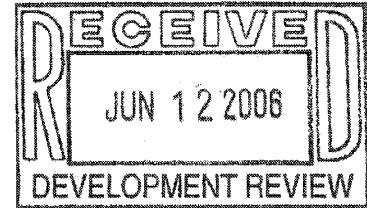
The East Layhill site is the best choice for an elementary school site in the Kennedy High School Base Area. It is located within the targeted area, has compatible adjacent use and offers the ability to collocate a school and community facility at the same location, which is an efficient use of public funds.



ATTORNEYS

STEVEN A. ROBINS  
DIRECT 301.657.0747  
SAROBINS@LERCHEARLY.COM

June 12, 2006



**BY HAND DELIVERY**

Ms. Rose Krasnow, Chief  
Ms. Catherine Conlon  
Mr. Richard Weaver  
Development Review Division  
Maryland-National Capital Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 30920

**Re: Winchester Homes/Additional Waiver Request from  
Subdivision Regulations for Preliminary Plan No.  
120060501 for the Indian Spring Property**

Dear Ms. Krasnow, Ms. Conlon and Mr. Weaver:

Our firm represents Winchester Homes ("Winchester"), the applicant for Preliminary Plan of Subdivision No. 120060501. Winchester is seeking subdivision approval for the Indian Spring property located off of Layhill Road in Silver Spring, Maryland (the "Property"). As you know, our team has been working on this Preliminary Plan for quite some time and is looking forward to appearing before the Planning Board on July 13, 2006.

If you will recall, in one of our most recent meetings with Technical Staff, we discussed the configuration of two sticks of town homes that are reflected on Exhibit "A" to this letter. Staff commented that these town homes would require a Section 50-38 waiver from Section 50-29(a)(2) of the Subdivision Regulations since the units, as proposed, do not technically front on either a public or private right-of-way as required by the Subdivision Regulations. This letter sets forth the justification for the granting of this waiver.

Section 50-29(a)(2) states:

Lots To Abut on Public Street. Except as otherwise provided in the zoning ordinance, every lot shall abut on a street or road which has been dedicated to public use or which has acquired the status of a public road. In



June 12, 2006

Page 2

exceptional circumstances, the board may approve not more than two (2) lots on a private driveway or private right-of-way; provided, that proper showing in made that such access is adequate to serve the lots for emergency vehicles, for installation of public utilities, is accessible for other public services, and is not detrimental to future subdivision of adjacent lands. In multi-family and town house development, not subdivided into individually recorded lots, the board may approve more than two (2) lots or buildings on private roads or drives, provided there is adequate access from such roads or drives to a public street, as above.

While this waiver request is somewhat unusual, it is our understanding that similar requests have been reviewed and approved by the Board, particularly in more recent large scale subdivisions where open space and lot configuration goals are a central focus. More specifically, Winchester is seeking a waiver of the Subdivision Regulations because the two sticks of town homes at issue technically do not front public rights-of-way or private drives/streets. Instead, these units actually front open space and access the public streets via a private driveway. The units are positioned to front the open space in order to maximize open space, provide variation in design and also to allow for greater environmental protection. As referenced in Section 50-29(a)(2), the Subdivision Regulations provide a mechanism for the Planning Board to approve more than two town home lots to be located on a private road or private drive – the units, however, are not envisioned to be subdivided into individually recorded lots. In the instant case, Winchester would be subdividing each town house lot into individual fee simple lots. But for the division of land into individual lots, the application of the above referenced provision would be virtually identical.

During the review process, Winchester has been guided by Technical Staff, including but not limited to, Environmental Planning Staff, to adhere closely to all of the environmental guidelines and requirements that apply to the development. In an effort to protect stream buffers, address topography related issues, grading difficulties and to protect forest and environmentally sensitive areas of the Property, Winchester also is proposing road configurations that



June 12, 2006

Page 3

include a cul-de-sac longer than that permitted by the Subdivision Regulations, variations in road width, closed section roads and variations in sidewalk requirements. The site design feature that triggers this waiver also is being requested by Winchester in an effort to protect the environment and provide more green and open space, while, at the same time incorporating street design and access that is appropriate for this type of development. The waiver is justified.

In the cover letter that was sent to you with the filing of the revisions to the Preliminary Plan on March 9, 2006, we also reiterated our understanding that the Planning Board is specifically focusing on portions of a plan that contain townhouses fronting private roads. There is a section identified on the Preliminary Plan where private roads are incorporated into the project. As we pointed out in that letter, given the lot configuration and environmental constraints affecting the relevant portion of the Property (as identified on the Preliminary Plan), the use of private roads is the best method to satisfy various competing goals at this particular location.

Winchester understands that in order for the Board to approve the waiver request herein (as well as certain other requests previously submitted), fire and rescue related needs must be satisfied for all roads within the development, including private roads and driveways. We have met with Captain John Feissner of the Montgomery County Department of Fire and Rescue Service and, as you will see from his anticipated approval letter, Fire and Rescue concerns have been addressed so that the Department is able to conclude that the plan provides for adequate emergency access.

Section 50-38(a)(1) of the Subdivision Regulations permits the Board to grant a waiver from the requirements of Chapter 50 upon a determination that "the practical difficulties or unusual circumstances exist that prevent full compliance with the requirements from being achieved, and that the waiver is: 1) the minimum necessary to provide relief from the requirements; 2) is not inconsistent with the purposes and objectives of the General Plan; and 3) is not adverse to the public interest. Winchester's request fulfills each of these requirements. There are only two sticks of town homes wherein this waiver applies and the design of the plan has been carefully considered to minimize the need for further waivers from this particular section of the Subdivision Regulations. This waiver request, if granted, would not be inconsistent with the purposes or objectives of the General Plan and also certainly would be in the

June 12, 2006

Page 4

public interest. The thrust of this request is to provide for a lot configuration that maximizes open space and a respect for environmental conditions on the Property. This design configuration achieves both goals. Through the evolution of this preliminary plan, a central theme has been to provide as much open, green and forested space as it practicable. The waiver request is an important component to fulfill this goal.

Of great importance to this request is the application of Section 50-38(a)(2)b that states:

(2) Large Scale Development or Preservation of Open Space, Forest and Tree Conservation, Environmentally Sensitive Areas, or Prevention of Soil Erosion. The standards and requirements of this Chapter may be modified by the Board if it determines that:

b. a variance will promote the preservation or creation of open space, forest and tree conservation, preservation of environmentally sensitive areas, or the prevention of soil erosion in the public interest. The Board shall also have the power to modify or vary the requirements of this Chapter where, in the opinion of the Board, the preservation or creation of open space, the prevention of soil erosion or the preservation of exceptional natural topography and trees worthy of preservation in the public interest will best be served. (Emphasis added).

Winchester's waiver request also meets the requirements set forth in Section 38(a)(2)b. Creating and preserving open space preservation is the central element of this section and the waiver request. The Board has the authority to grant a Section 50-38(a) waiver to waive the requirement contained in Section 50-29(a)(2) of the Subdivision Regulations. For the reasons set forth herein, Winchester respectfully requests that the Board exercise its discretion and grant this waiver request.



ATTORNEYS

June 12, 2006

Page 5

On behalf of the entire Winchester team, thank you for your consideration regarding this waiver request. We trust that this request, along with our prior waiver letter referenced above will be forwarded to the Board as part of the Technical Staff Report. We look forward to presenting the Preliminary Plan to the Planning Board on July 13<sup>th</sup>. Please let me know if you have any questions or comments regarding this request.

Sincerely,

A handwritten signature in black ink, appearing to read 'SAR', written over a horizontal line.

Steven A. Robins

Enclosures

Cc: Michael Lemon  
Development Team  
Patrick L. O'Neil

Exhibit "A"

NAD 83 DATUM  
SCALE: 1" = 100'

SEE SHEET 2





ATTORNEYS

STEVEN A. ROBINS  
DIRECT 301.657.0747  
SAROBINS@LERCHEARLY.COM

March 9, 2006

***BY HAND DELIVERY***

Ms. Rose Krasnow, Chief  
Ms. Catherine Conlon  
Development Review Division  
Maryland-National Capital Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 30920

**Re: Winchester Homes/Submission of Revisions to  
Preliminary Plan No. 120060501 for the Indian Spring  
Property**

Dear Ms. Krasnow and Ms. Conlon:

Our firm represents Winchester Homes in its efforts to develop the Indian Spring property located off of Layhill Road in Silver Spring, Maryland (the "Property"). As you know, our team has been working on modifications to the Preliminary Plan based, in large part, on comments received at the Development Review Committee meeting held on November 21, 2005, and thereafter at subsequent meetings with Technical Staff from M-NCPPC, DPS, DPW&T and MDSHA. As a result of these efforts, we are submitting revised plans that address a host of issues, including but not limited to, transportation, forest conservation, stream buffer protection, lot layout and design, grading and stormwater management. We are confident that the revised Preliminary Plan and related materials addresses all of the comments and issues that have been raised since the Preliminary Plan was originally filed on October 28, 2005.

There are certain matters that we discussed at the various meetings that are addressed below. All of these items are relevant to the Preliminary Plan approval and will be presented to the Planning Board. They include:

**Waiver/Approval Requests**

As part of the Preliminary Plan submission, there are a number of waivers or approvals that Winchester is seeking from the Board or lead agency as the case may be. These waivers are listed below and are essential for this

March 9, 2006

Page 2

development. Winchester already has requested a number of the waivers. A complete set of these requests are included with this submission for your review.

The follow is a listing of the waivers being requested:

- Waiver to allow closed section roadways.
- Waiver for entry road cross section.
- Waiver for sidewalks only on one side of the roadway, where applicable.
- Waiver to allow certain structures (retaining walls) to be constructed within the public right-of-way.
- Letter requesting approval of mitigation compensation for certain encroachments within buffer areas.
- Waiver to clear forest below allowable thresholds.
- Letter requesting approval of park dedication/afforestation concept plan.

As part of the subdivision review process, Winchester also is seeking a waiver of Section 50-26(d) of the Subdivision Regulations pertaining to the overall length of a cul-de-sac. Section 50-26(d) states that, unless permitted by the Board, a cul-de-sac shall not be longer than 500 feet, unless, by reason of the property shape, size, topography, large lot size or improved street alignment, the Board may find a greater length to be justified. In this situation, a waiver is justified for the very reasons articulated in the standards. During the review process, Winchester has been guided by Environmental Planning Staff to adhere closely to the environmental guidelines and requirements that apply to the development. In an effort to protect stream buffers, address topography related issues, grading difficulties and to protect forest and environmentally sensitive areas of the Property, Winchester is proposing a road configuration that includes a cul-de-sac longer than that permitted by the Subdivision Regulations. Staff and the Applicant both recognize that the cul-de-sac in question is designed specifically to protect the environment, while, at the same time incorporating street design that is appropriate for this type of development. The waiver is justified.

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We understand that the Planning Board now may be specifically focusing on those portions of a plan that contain townhouses on private roads. There is a section identified on the revised Preliminary Plan where private roads are incorporated into the project. Given the lot configuration and environmental constraints affecting the relevant portion of the Property (as identified on the Preliminary Plan), the use of private roads is the best method to satisfy various competing goals at this particular location. Winchester understands that fire and rescue related needs must be satisfied for all roads within the development, including private roads and requests that the Board approve the use of the private roads for this limited portion of the development.

### **Phasing and Recordation**

Pursuant to Section 50-34(g) of the Subdivision Regulations, Winchester is proposing a development staging schedule for the recordation of plats and the validity period for the APFO approval. This schedule is based on three phases of development. Given the size and complexity of the proposed development, we are requesting that the Planning Board approve the following phasing and recordation schedule:

- Phase 1 – Record Plat recorded within 3 years of the Preliminary Plan approval.
- Phase 2 – Record Plat recorded within 6 years of the Preliminary Plan approval.
- Phase 3 – Record Plat recorded within 9 years of the Preliminary Plan approval.
- An APFO validity period of 12 years for the entire project, commencing upon the approval of the Preliminary Plan (Phase 1).

Details regarding this phasing and recordation plan may be further articulated as part of the site plan approval (as permitted pursuant to Section 50-24(g) of the Subdivision Regulations).

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### Forest Conservation and Mitigation Banking

Winchester's Preliminary Forest Conservation Plan identifies a base planting requirement of 20.5 acres, a mitigation requirement of 8.24 acres for certain encroachments into the stream valley buffer, and, at this point in time, a mitigation banking area of approximately 30 acres. At our most recent meeting on March 2, 2006 with Technical Staff, we discussed the various aspects of the mitigation bank. Staff indicated that the preferred approach for the bank would be for all of the planting to be accomplished at one time instead of a piecemeal approach. While Winchester also agreed with Staff's position, it was not without reservation – one related to up-front cost. More specifically, without users readily available to purchase the banked forest, Winchester would be reluctant to plant until a need arises (and purchaser(s) are available). It is our understanding that Staff will be discussing this mitigation banking matter internally and will report back to Winchester regarding (i) the availability of private sector users, (ii) whether public sector users may avail themselves of Winchester's bank and (iii) whether certain "fee-in-lieu" funds already collected by M-NCPPC for other forest conservation requirements could be allocated for this mitigation banking effort.

### Forest Retention

Section 22A-12(f)(2)(B) of the Montgomery County Code, dealing with Forest Conservation, and more specifically, forest retention, states in part that, "In a planned development or a site developed using a cluster or other optional method of development in a one-family residential zone, on-site forest retention must equal the applicable conservation threshold in subsection (a) . . . etc." In other words, if a property contains existing forest in an amount less than the conservation threshold, all forest must be preserved on site. In the case of the Property, the 32 acres of existing forest is less than the conservation threshold of 62 acres (20%); thus, by Code, all of the 32 acres should be preserved. The applicant is seeking a waiver to clear approximately 3 acres of the 32 acres of existing forest. The areas to be cleared (18 locations) are very small and widely scattered across the 300 acre property. No large concentrated areas of forest are to be removed. The clearing areas proposed are for tie out of grading, utility extensions and master planned road construction (that Staff has asked Winchester to include in the calculation). The required and voluntary planting of 63 acres of new forest overwhelmingly offsets the small amount of



March 9, 2006  
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clearing requested. Section 22A-12(f)(3) of the County Code allows for the Planning Board to approve this waiver.

### **Park Dedication**

The revised plans reflect a significant portion of the Property that ultimately will be conveyed to the Park's Department. At our most recent meeting with you, we reiterated our position regarding the timing of the conveyance. It is Winchester's intention to deed the property in question to the Park's Department once the project is completed and the Park's Department thereafter accepts the parkland. As part of this approach, we will identify the property to be transferred along with a note indicating that the transfer will occur by deed on the Record Plat(s).

### **Community Outreach**

As part of the development approval process, Winchester has spent a significant amount of time since the original filing of the Preliminary Plan meeting with interested community groups and associations. Winchester has conducted numerous meetings with the Tivoli Home Owners' Association, the Layhill View Civic Association and the Greater Colesville Civic Association. We also are scheduled to meet with the Layhill Alliance next week. Other outreach efforts are underway. Winchester will continue to provide meaningful community outreach, not only while the development makes its way through the land use approval processes, but also once the development is fully approved and under construction.

### **Distribution of the Submitted Materials**

In order to facilitate the review of the revisions to the Preliminary Plan (and related materials), we are forwarding copies to the following Staff, all of whom have taken a role in the review of this development:

Richard Weaver  
Candy Bunnag  
Shahriar Etemadi and David Paine  
Sam Farhadi  
Sarah Navid  
Captain John Feissner


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We would appreciate it if we could receive any comments on the revised Preliminary Plan by April 1, 2006 so we are able to address the comments and submit a final plan for Planning Board review by May 1, 2006. We certainly are available to meet with Staff, at any time, if questions or comments arise.

On behalf of the entire Winchester team, thank you for your consideration regarding this matter. We look forward to receiving Staff comments on the revised plan and related materials and, ultimately, to presenting the Preliminary Plan to the Planning Board. Please let me know if you have any questions or comments regarding this matter, if you need any additional information or if other Staff members would like a copy of the submission.

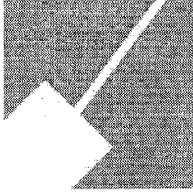
Sincerely,



Steven A. Robins

Enclosures

Cc: Michael Conley  
Michael Lemon  
Development Team  
Patrick L. O'Neil



**THE MARYLAND-NATIONAL CAPITAL PARK AND  
PLANNING COMMISSION**

Department of Park & Planning, Montgomery County, Maryland  
8787 Georgia Avenue, Silver Spring, Maryland 20910

**MEMORANDUM**

TO: Richard Weaver, Planner Coordinator, Development Review Division

FROM: Candy Bunnag, Planner Coordinator, Environmental Planning Section,  
Countywide Planning Division

DATE: July 3, 2006

SUBJECT: Preliminary Plan 120060051, Indian Spring Property

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**STAFF RECOMMENDATION**

The Environmental Planning staff has reviewed the preliminary plan referenced above. Staff recommends approval of the preliminary plan of subdivision with the following conditions:

1. If a pedestrian path is to be constructed instead of a road to connect the subdivision to existing Tivoli Lakes Boulevard, the proposed design will be reviewed at site plan and will minimize fill in the environmental buffer, disruption to Bel Pre Creek, and forest clearing.
2. If Tivoli Lakes Boulevard is to be extended through the environmental buffer, the final design of the road crossing will be reviewed as part of the site plan. At a minimum, the site plan design shall include an arched culvert over Bel Pre Creek that restricts the road to no more than two lanes and a sidewalk on one side. The culvert will also provide wildlife passage on both sides of the stream.
3. At the site plan stage, the stormwater management concept shall be revised so that Stormwater Management Facility #1 provides water quality controls for offsite drainage. Such controls will be reviewed and approved by DPS and M-NCPPC.
4. The site plan shall locate all lots outside of areas of forest retention, forest planting, and environmental buffers.
5. The record plats shall show all areas of forest retention, forest planting, and environmental buffers within Category I conservation easements or park dedication.
6. Prior to the transfer of deed(s) to M-NCPPC for any parkland that will be used for forest mitigation banking, the applicant must satisfy the planting and maintenance

requirements for the forest bank area.

7. The applicant shall comply with the conditions of approval of the preliminary forest conservation plan. These conditions include, but are not limited to, the following:
  - a. The final forest conservation plan will include the following items:
    - i. Permanent markers (such as fences or signs) that clearly identify the boundaries of forest retention, forest planting, and environmental buffers.
    - ii. Final alignments of proposed sewer lines, stormwater management outfalls, and paths within environmental buffers.
    - iii. Reforestation of part of the environmental buffer where the existing golf course pond will be removed. Removal of the pond is required by DPS in its stormwater management concept letter of June 27, 2006.
    - iv. Plan to control invasive plants to minimize their adverse impacts on forest planting areas.
    - v. Tree protection plan for individual trees 24 inches and greater in diameter at breast height that are located outside a forest stand.
    - vi. Final grading for lots that are adjacent to environmental buffer areas. Any proposed grading within environmental buffers in the rear of these lots must be reviewed and approved by M-NCPPC at site plan and must include mitigation through forest planting in and adjacent to the affected environmental buffers at a denser rate than the minimum required by the forest conservation law.
    - vii. Final configuration of areas proposed for forest planting. The final forest conservation plan must delineate forest bank areas and areas of forest planting to mitigate approved environmental buffer encroachments.
    - viii. Planting plan and schedule for forest bank areas, including access to allow for maintenance of planted areas.
    - ix. Restoration plan for environmental buffer areas that currently have golf course features and where the existing entrance road crosses the buffer.
    - x. Plan for stream channel restoration, wetlands creation, and any other proposed grading within the environmental buffers as part of converting the golf course to a natural area. Such measures must be submitted for review and approval by M-NCPPC, DPS, and DEP as part of the site plan review process.
  - b. In administering the onsite areas approved for use as a forest bank, the applicant shall sell credits to offsite private development projects for at least one year after the financial security for the forest planting has been set up.

## **DISCUSSION**

### **Site Description**

The 308.4-acre site lies within the Northwest Branch watershed (Use IV, or recreational

trout waters<sup>1</sup>. The mainstem of Northwest Branch lies to the east in M-NCPPC parkland and Bel Pre Creek, a major tributary of Northwest Branch, lies within the site adjacent to the southern property boundary. Five smaller streams also flow within the site. Northwest Branch Stream Valley Park surrounds the property to the south and east.

The majority of the land cover on the site is associated with the country club and golf course uses that have existed since the 1950's. The country club facilities include the club house, parking lots, maintenance building and area, tennis courts, driving range, swimming pool, and golf course. Only about 10 percent of the site (32.05 acres) is covered in forest, most of which are associated with stream valleys.

There are 99.5 acres of environmental buffers onsite. Currently, 72.4 acres of these buffer areas are in golf course use. Buffers on site have been disturbed to varying degrees because of the existing golf course use. Some buffer areas are fully forested and are considered to be high priority for preservation. Others are partly or completely within the golf course and are covered in grass that is mowed down to the stream channel. Still other parts have stream channels that have been partly or completely piped or been converted to aesthetic ponds. Staff is not recommending buffers for long sections of piped stream channels.

Floodplains cover 45.8 acres of the site, all of which are in golf course use. Much of the upland topography on the site is rolling, with some areas of steep slopes along parts of wooded stream valleys adjacent to the flat floodplains of Northwest Branch and Bel Pre Creek. There are numerous individual trees and tree stands that exist throughout the site. Many of these trees are 24 inches or greater in diameter at breast height or are specimens.

## **Forest Conservation**

### *Overview*

The preliminary forest conservation plan shows 2.50 acres of forest clearing (including 0.40 acre of offsite forest removal for Tivoli Lakes Boulevard extended and a connection of a new sewer line to an existing line) and 29.55 acres of forest retention. The plan proposes 66.81 acres of forest planting, of which 19.19 acres are required for the project to meet Forest Conservation Law requirements. Another 7.23 acres are proposed to mitigate avoidable encroachments into the environmental buffer (see discussion below under "Environmental Buffers") and 40.39 acres are for a forest mitigation bank. Staff recommends approval of the preliminary forest conservation plan with conditions.

### *Special Provisions for Minimum Retention, Reforestation, and Afforestation*

Section 22A-12(f) of the County Forest Conservation Law includes special provisions for minimum retention, reforestation and afforestation. The special provisions apply to specific types of proposed development, including cluster or other optional methods of development in

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<sup>1</sup> Use IV waters is the state use designation for Maryland streams which has the second highest water quality standards.

a one-family residential zone. Since this preliminary plan proposes to use the MPDU option in the R-200 and R-90 zones, this section of the law applies. Section 22A-12(f) is as follows:

“(1) General. Any site developed in agricultural and resource areas, any planned unit development, any site developed under cluster or other optional method of development in a one-family zone, and any waiver from a zoning requirement for environmental reasons, must include a minimum amount of forest on-site as part of meeting its total forest conservation requirement.

(2) Retention, reforestation and afforestation. Forest retention should be maximized where possible on each site listed in this subsection. At a minimum, on-site forest retention, and in some cases reforestation and afforestation, must be required as follows:

- (A) In an agricultural and resource area, on-site forest retention must equal 25% of the net tract area.
  - (B) In a planned development or a site developed using a cluster or other optional method of development in a one-family residential zone, on-site forest retention must equal the applicable conservation threshold in subsection (a). This requirement also applies to any site seeking a waiver or variance from base zone standards under Section 59-C-1.393(b), 59-C-1.395, 59-C-1.532, 59-C-1.621, or 59-C-7.131, if as a condition of the waiver or variance the Planning Board or County Council must find that the resulting development is environmentally more desirable.
  - (C) On a site covered by this subsection, if existing forest is less than the minimum required retention, all existing forest must be retained and on-site afforestation up to the minimum standard must be provided. If existing forest is less than the applicable afforestation threshold in subsection (a), the afforestation threshold is the minimum on-site forest requirement.
  - (D) If a site covered by this subsection is unforested, on-site afforestation must equal the applicable afforestation threshold.
- (3) If the Planning Board or Planning Director, as appropriate, finds that the forest retention required in this subsection is not possible, the applicant must provide the maximum possible on-site retention in combination with on-site reforestation and afforestation, not including landscaping.
- (4) Retention, reforestation, and afforestation must adhere to the priorities and sequence established in subsections (b) and (e).”

For this subdivision, the existing forest cover, which is 32.05 acres, is less than the afforestation threshold (46.24 acres). In such a situation, the Forest Conservation Law states that all existing forest must be retained and forest planting must occur on-site so the total on-site forest retention and planting is equal to the afforestation threshold, at a minimum (Section 22A-12(f)(2)(C) of the Forest Conservation Law, as stated above). The Planning Board may waive the forest retention requirement if it finds that retaining all of the forest is “not possible” and the applicant must provide the “maximum possible” on-site retention and on-site forest planting (Section 22A-12(f)(3), as stated above).

The applicant believes that not all of the existing forest can be retained. He has submitted a

request to waive this requirement of the Forest Conservation Law (see pages 4 and 5 of Attachment A). The applicant believes that the proposed forest clearing areas are small and widely scattered. They occur because of tie-out of grading, utility extensions, and roads. The applicant also believes the proposed forest planting more than adequately offsets the forest clearing.

In staff's opinion, all of the existing forest is not possible and the applicant should be permitted to clear up to the proposed amount of 2.50 acres. Staff finds that some of the forest clearing is unavoidable because of the need to connect to existing sewer lines, construct the entrance road from Layhill Road, and construct Tivoli Lakes Boulevard extended. Other forest clearing is due to grading associated with some proposed lots and internal subdivision roads. Most, but not all, of the individual forest clearing areas are either small or on the edges of forest stands. Of the 32.05 acres of existing forest, 2.50 acres are proposed to be cleared, which is slightly less than 8 percent of the existing forest. In addition, 19.19 acres of on-site forest planting are proposed to meet the forest conservation plan requirements. This planting, in combination with the proposed 29.55 acres of on-site forest retention, will result in a total of 48.74 acres of required forest retention and planting. This exceeds the minimum on-site forest requirement of 46.24 acres (i.e., the afforestation threshold, as stated in Section 22A-12(f)(2)(C) of the Forest Conservation Law).

Earlier submissions of the preliminary plan showed proposed forest clearing of 3.17 acres. The applicant has made some changes to reduce the amount of forest clearing to 2.50 acres. As part of the site plan review, staff believes that additional changes to proposed grading and layout will occur and may affect the final proposed amount of forest clearing. Staff will continue to evaluate changes to the project and will determine the final amount of recommended forest clearing at the site plan stage.

#### Forest Mitigation Bank

The applicant is required to plant 19.19 acres of forest to meet the Forest Conservation Law requirements. This planting will be located within the environmental buffers. Some environmental buffers will also be planted in forest as mitigation for proposed environmental buffer encroachments (see discussion in next section). There remain about 40.39 acres of environmental buffers that could be planted in forest. The applicant proposes to plant these remaining buffers to create a forest mitigation bank. Staff supports this concept because it creates a relatively large forest bank in a downcounty area. In addition, it is located in the Northwest Branch watershed, which currently has no forest banks. To date, the majority of forest banks have been created on upcounty sites in a limited number of watersheds, and many of these banks are on agricultural land.

Much of the proposed forest bank area is located within the park dedication area, which is currently covered with golf course features such as fairways, paths, and sand traps. Staff supports forest banking in future parkland provided the applicant satisfies the planting and maintenance requirements for the forest bank area before M-NCPPC takes ownership of the land. Through this banking, the applicant will restore the existing golf course areas within floodplains and other environmentally-sensitive areas, which are the highest priority for

reforestation, to natural, forested conditions. The applicant will also receive monetary benefits of selling bank credits. By taking ownership of this land after the applicant meets the forest planting and maintenance requirements, M-NCPPC does not have to incur the cost of restoring the dedicated parkland into a forested, natural environmental buffer.

### **Environmental Buffers**

As previously noted, there are 99.5 acres of environmental buffers on the subject site. Most of these buffer areas will be used for forest retention or forest planting. There are some environmental buffer areas that are proposed for permanent or temporary encroachments.

#### *Permanent, Unavoidable Buffer Encroachments*

There are some encroachments into the environmental buffers that staff believes are necessary and unavoidable. For these encroachments, it has been staff practice not to require mitigation, and none is recommended for these types of encroachments in this subdivision.

These encroachments include: the crossing of the proposed primary road from Layhill Road into the site, the crossing of proposed Tivoli Lakes Boulevard extended, and installation of new sewer lines from the subdivision that must connect to existing sewer lines located in the environmental buffers of Northwest Branch and Bel Pre Creek. There may also be unavoidable SWM outfalls that are located within the buffer areas, but these will be better shown as part of the site plan. For such encroachments, staff will be reviewing the site plan to ensure that the encroachments are minimized.

The proposed extension of Tivoli Lakes Boulevard has raised concerns from some citizen organizations. Therefore, this proposed road extension is discussed as a separate section below.

#### *Permanent, Avoidable Environmental Buffer Encroachments*

The applicant proposes a limited amount of permanent encroachments into environmental buffers, which could technically be avoided. These encroachments are located in three areas and are described and discussed by the applicant in Attachment B.

The three areas make up a total of about 4.25 acres of environmental buffers. In staff's opinion, these encroachments are avoidable because they do not result from necessary infrastructure elements that are required to be located in the buffer. However, staff finds each of the proposed permanent encroachments are acceptable if mitigation measures, as described below, are completed. The permanent, avoidable buffer encroachments make up a relatively small portion (about 4.3 percent) of the 99.5 acres of environmental buffers on the site, are located in highly disturbed parts of the buffer, are at or near the beginning of a buffer, and lie in those parts of the buffer that are fragmented and isolated from the rest of the buffer network. The proposed environmental buffer encroachments and staff's justification for accepting them are as follows:



Area A -- This area covers 1.93 acres that includes a roughly 350 linear feet of small stream channel and surrounding area that are all covered in grass and were part of the country club use. The stream starts on the subject site. The buffer is disconnected from the rest of the environmental buffers on the site because the channel connects into a pipe for roughly 400 feet, which outfalls into a small golf course pond. This pond is also isolated and disconnected from another environmental buffer about 250 feet downstream. The applicant proposes to locate lots in this area. This environmental buffer is also the location of Alderton Road extended if a public school site is located within this subdivision. Staff would allow this encroachment into the environmental buffer if the following mitigation measures are implemented: (1) forest planting within another area of onsite environmental buffer at the rate of 2:1 (i.e., 3.81 acres); and, (2) restoring an approximately 800 linear feet of channel into a natural stream channel that connects to an existing stream channel. The applicant has agreed to these measures. Staff believes the mitigation measures would be a greater benefit to the site's overall environmental buffer network than maintaining the existing 1.93 acres of environmental buffer as a natural, undisturbed area that is isolated and disconnected from other parts of the buffer. The proposed mitigation would allow another part of the environmental buffer to be fully reconnected and restored.

Area B -- This 1.27-acre area is part of the golf course driving range, contains a grass channel, and is the beginning of an environmental buffer for a small tributary. The applicant proposes to locate a SWM facility within this part of the buffer. In this location the SWM facility would provide stormwater quantity controls for about 11 acres of offsite residential land uses, as well as on-site quantity and quality controls for part of the proposed subdivision. These controls are standard DPS requirements. Staff would allow this encroachment if the SWM facility the facility is designed to provide SWM quality controls for offsite areas that exceed DPS requirements and if forest planting occurs within another part of the environmental buffer at a 1:1 rate (1.27 acres). The applicant has agreed to these mitigation measures. At the site plan stage, the applicant has agreed to work with staff and DPS to design features into the SWM system to allow for water quality controls for the offsite land uses that would not normally be required by DPS.

Area C -- This area, which was originally proposed by the applicant for an in-buffer SWM facility, *no longer includes a permanent buffer encroachment*. The SWM facility will be relocated outside of the environmental buffer, and this segment of the buffer will be restored and reforested.

Area D -- A small golf course pond currently lies within these 1.05 acres of environmental buffer. This buffer is isolated both upstream and downstream from other environmental buffer areas because water flows to and from the pond are piped. The pond contains some wetlands around its edges. The applicant proposes to locate part of a new SWM facility in this area. In staff's opinion, this proposed encroachment is acceptable if a forested wetland is created at a 2:1 rate (2.10 acres) in the Northwest Branch environmental buffer. The applicant has agreed to the mitigation measure. Staff finds that the creation of a forested wetland within the Northwest Branch environmental buffer will complement the floodplain and wetland features that exist in this buffer and will be more beneficial than maintaining the wetland around the existing, but isolated golf course pond.

Temporary Encroachments into the Environmental Buffers

Since much of the environmental buffers have golf course features, staff supports the concept of restoring these areas into forested natural areas. Such restoration work will involve some grading. In addition, the applicant proposes to grade some edges of non-forested environmental buffers to avoid abrupt slope changes between the rear of lots and the edge of buffers. In concept, staff finds this is acceptable if the applicant provides forest planting in and around the affected buffers at a denser rate of trees and shrubs than the minimum required in the Forest Conservation Law. At the site plan stage, staff will review the specific locations and extent of proposed grading for lots adjacent to environmental buffers, as well as proposed forest planting to offset the grading within the buffers.

**Tivoli Lakes Boulevard Extended**

From an environmental perspective, in staff's opinion, Tivoli Lakes Boulevard extended will have significant environmental impacts. The two points on either side of the stream valley that the road will connect are relatively high above the stream (Bel Pre Creek), and, therefore, a large amount of area within the environmental buffer will be permanently filled. With the initial submission of the preliminary plan, the applicant conceptually proposed a pedestrian trail to connect existing Tivoli Lakes Boulevard to the primary road within the new subdivision. From a strictly environmental review basis, staff supports a trail crossing through Bel Pre Creek stream valley because it would have much less adverse environmental impacts than a primary road crossing. The following table provides a preliminary comparison between the extension of Tivoli Lakes Boulevard and a pedestrian trail through Bel Pre Creek stream valley:

<b><u>Estimate of Environmental Impact (Approximate)</u></b>	<b><u>Type of Crossing Through Bel Pre Creek Stream Valley</u></b>	
	<b><u>Pedestrian Trail <sup>2</sup></u></b>	<b><u>Tivoli Lakes Boulevard Extended (design as proposed by developer)</u></b>
<b>Area of disturbance within environmental buffer</b>	About 0.28 ac. (12,240 s.f.). Buffer is about 280 ft. wide where disturbance would occur.	About 1.15 ac. (49,900 s.f.). Buffer is about 280 – 350 ft. wide where disturbance would occur.
<b>Forest clearing</b>	0.11 ac. (5000 s.f.)	0.56 ac. (24,400 s.f.)
<b>Proposed fill:</b> • Estimated height in and near environmental buffer	• Minimal fill	• About up to 24 feet high

2 Staff's evaluation of the environmental impacts of a trail are based on a preliminary concept that assumes a pedestrian bridge over the stream, a 10-foot wide trail surface, a 40-foot wide corridor for trail construction, same general location as the proposed primary road ROW, and as much at-grade construction as possible.

<u>Estimate of Environmental Impact (Approximate)</u>	<u>Type of Crossing Through Bel Pre Creek Stream Valley</u>	
	<u>Pedestrian Trail</u> <sup>2</sup>	<u>Tivoli Lakes Boulevard Extended (design as proposed by developer)</u>
<ul style="list-style-type: none"> <li>• <b>Estimated width in and near environmental buffer</b></li> </ul>	<ul style="list-style-type: none"> <li>• Minimal fill</li> </ul>	<ul style="list-style-type: none"> <li>• 80 to 150 ft. wide</li> </ul>
<b>Wildlife and pedestrian movement within stream valley.</b>	Movement within stream valley unrestricted by trail.	Movement within stream valley across the road; or under the road through 54-foot wide arch culvert that spans stream.
<b>Ability to plant forest in and near environmental buffer area</b>	Cannot plant on and adjacent to path -- about 0.08 ac. (3390 s.f.)	Cannot plant within road ROW -- about 1.03 ac. (44,977 s.f.)

However, it is Environmental Planning staff's understanding that based on many factors and the balancing of various planning objectives, the collective staff's recommendation is to support the extension of Tivoli Lakes Boulevard. Therefore, if it is determined that the extension of Tivoli Lakes Boulevard is necessary, the road crossing should minimize the environmental impacts as much as possible.

In Environmental Planning staff's opinion, a road crossing that would minimize environmental impacts would be a bridge structure that spans the stream valley to connect as close to the high points on either side of the valley as possible. The applicant has indicated that this kind of crossing would be cost-prohibitive and proposes a design with the following features to reduce environmental impacts: retaining walls on the southern end of the crossing to minimize clearing and disturbance of forested slopes; creation of fill slopes that are no steeper than 3:1 to allow for planting of trees and shrubs on these slopes up to the road ROW; an arch culvert over the stream that minimizes disruption to the stream channel; a 54-foot culvert opening to allow for a flat path next to the stream for pedestrian and wildlife movement under the road; a road cross-section with two lanes, no median, and a sidewalk on one side to keep the road features as narrow as possible through the stream valley.

In staff's opinion, the applicant's proposed design, short of a bridge structure spanning the stream valley, reduces environmental impacts. Staff believes the proposed design for the arch culvert and fill could be modified to further reduce impacts. Staff recommends that these modifications are reviewed during the site plan process.



ATTACHMENT A  
(1 of 9)

SUITE 460 | 3 BETHESDA METRO CENTER | BETHESDA, MD 20814-5367 | TEL 301.986.1300 | FAX 301.986.0332 | WWW.LERCHEARLY.COM

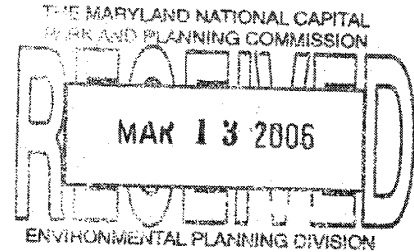
ATTORNEYS

STEVEN A. ROBINS  
DIRECT 301.657.0747  
SAROBINS@LERCHEARLY.COM

March 9, 2006

**BY HAND DELIVERY**

Ms. Rose Krasnow, Chief  
Ms. Catherine Conlon  
Development Review Division  
Maryland-National Capital Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 30920



**Re: Winchester Homes/Submission of Revisions to  
Preliminary Plan No. 120060501 for the Indian Spring  
Property**

Dear Ms. Krasnow and Ms. Conlon:

Our firm represents Winchester Homes in its efforts to develop the Indian Spring property located off of Layhill Road in Silver Spring, Maryland (the "Property"). As you know, our team has been working on modifications to the Preliminary Plan based, in large part, on comments received at the Development Review Committee meeting held on November 21, 2005, and thereafter at subsequent meetings with Technical Staff from M-NCPPC, DPS, DPW&T and MDSHA. As a result of these efforts, we are submitting revised plans that address a host of issues, including but not limited to, transportation, forest conservation, stream buffer protection, lot layout and design, grading and stormwater management. We are confident that the revised Preliminary Plan and related materials addresses all of the comments and issues that have been raised since the Preliminary Plan was originally filed on October 28, 2005.

There are certain matters that we discussed at the various meetings that are addressed below. All of these items are relevant to the Preliminary Plan approval and will be presented to the Planning Board. They include:

**Waiver/Approval Requests**

As part of the Preliminary Plan submission, there are a number of waivers or approvals that Winchester is seeking from the Board or lead agency as the case may be. These waivers are listed below and are essential for this