



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

Staff Report: Site Plan 82008140 Damascus-Smart Miner

ITEM #: _____

MCPB HEARING

DATE: June 5, 2008

REPORT DATE: May 23, 2008

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RYK*
 Robert Kronenberg, Supervisor *RAK*
 Development Review Division

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APPLICATION DESCRIPTION: Proposal for fifteen (15) one-family, detached dwelling units in the RNC-TDR-1 Zone; located on the south side of Bethesda Church Road, 500 feet west of Ridge Road (MD 27) part of the Damascus Master Plan

APPLICANT: JR 15 Lot, LLC

FILING DATE: November 6, 2007

RECOMMENDATION: Approval with conditions

EXECUTIVE SUMMARY: The proposed development would create fifteen (15) single family detached, lots on 15.53 acres of land. Ingress to the site is from Bethesda Church Road, with property frontage on Bethesda Church Road and Ridge Road. The development is designed around a private drive terminating in a cul-de-sac. The design proposes 67.4% of the site to be retained as Rural Open Space. Forest, wetlands, stream headwaters, open pastureland and stormwater management facilities are included within the rural open space boundaries. Stormwater management is controlled with structured stormwater management ponds and dry wells on six (6) of the individual lots. Public water and sewer serve this site.

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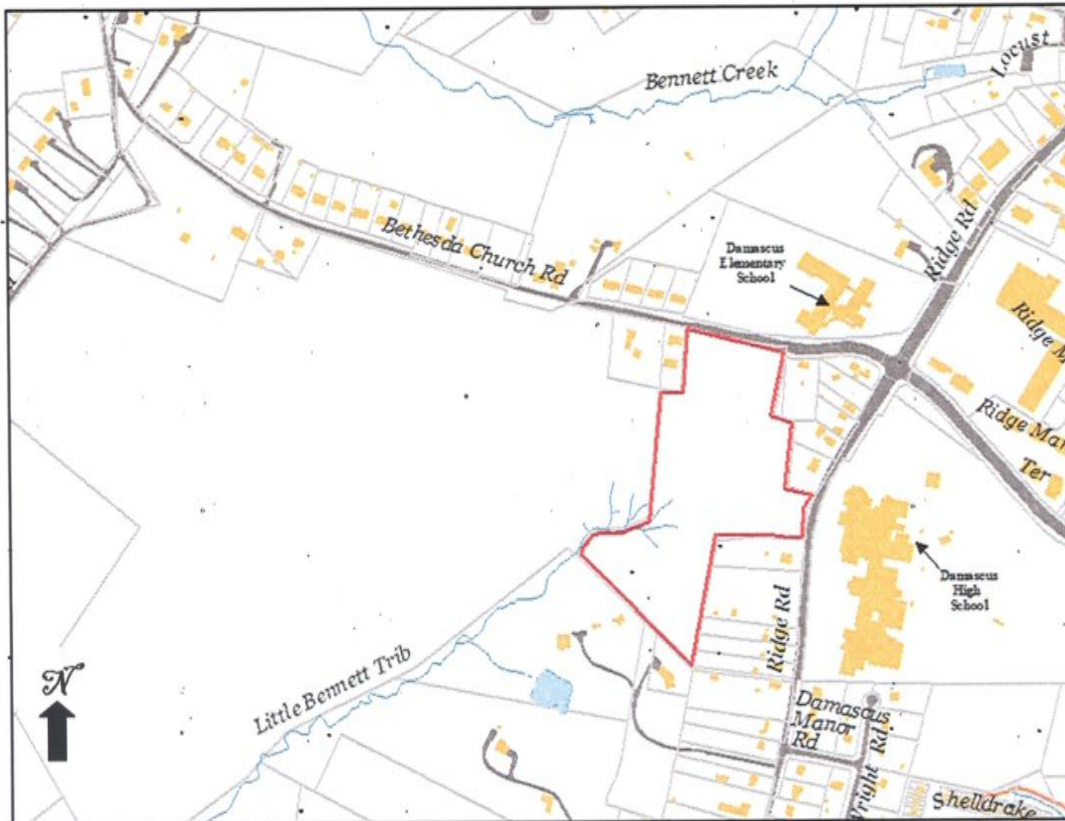
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SITE DESCRIPTION

Vicinity

The subject site is located on the south side of Bethesda Church Road, 500 feet west of Ridge Road (MD 27). Surrounding land uses include a public elementary school and single-family detached homes zoned RE-2C to the north, one-family detached homes zoned RE-2C to the south, a public high school zoned R-200 to the east and one-family detached homes zoned RE-2C and agricultural uses zoned RDT west of the site.

The general character of the site and the surrounding built environment retains its rural landscape form and the majority of the housing stock is single-story residential, sited on 18,000 – 90,000 sq. ft. lots with the average being 20,000 sq. ft. lots, even though the Damascus Town Center is in close proximity to the site.



Vicinity Map

Site Analysis

The subject site was historically utilized for agricultural purposes. As such, there is a significant portion of the central core of the property which is void of trees, and remains grassy pastureland. Forest has been identified in the southwest and southeast corners of the site. Located within the



Aerial Photo (Looking North)

Little Bennett Watershed, the site drains to the Little Bennett Tributary with soils classified as 9C-Linganore-Hyattstown channery silt loams, 5B-Glenville silt loam, and 6A-Baile silt loam. Almost a tenth of an acre of forested wetlands currently exist on the site. There are no known rare, threatened, or endangered species, no 100-year floodplains, and no historic properties or features identified on the site. There is a stream valley buffer measuring 650' in length and 160' average width and a headwater spring that forms the beginning of Little Bennett Creek. The site is currently served by public water and sewer.

PROJECT DESCRIPTION

Previous Approvals/Background

The Planning Board approved the Preliminary Plan (120070340) for this property at its Public Hearing on July 26, 2007. A formal resolution was issued on November 20, 2007. There are no other previous approvals that encumber this site.

During the Preliminary Plan public hearing, the Board addressed concerns about the amount of impervious area on the site. They also noted that the Preliminary Plan sets absolute lot numbers and the applicant might need to reduce the number of lots to reach design goals. Additionally, they requested the applicant explore alternatives for the cul-de-sac design to reduce its impervious area calculations.

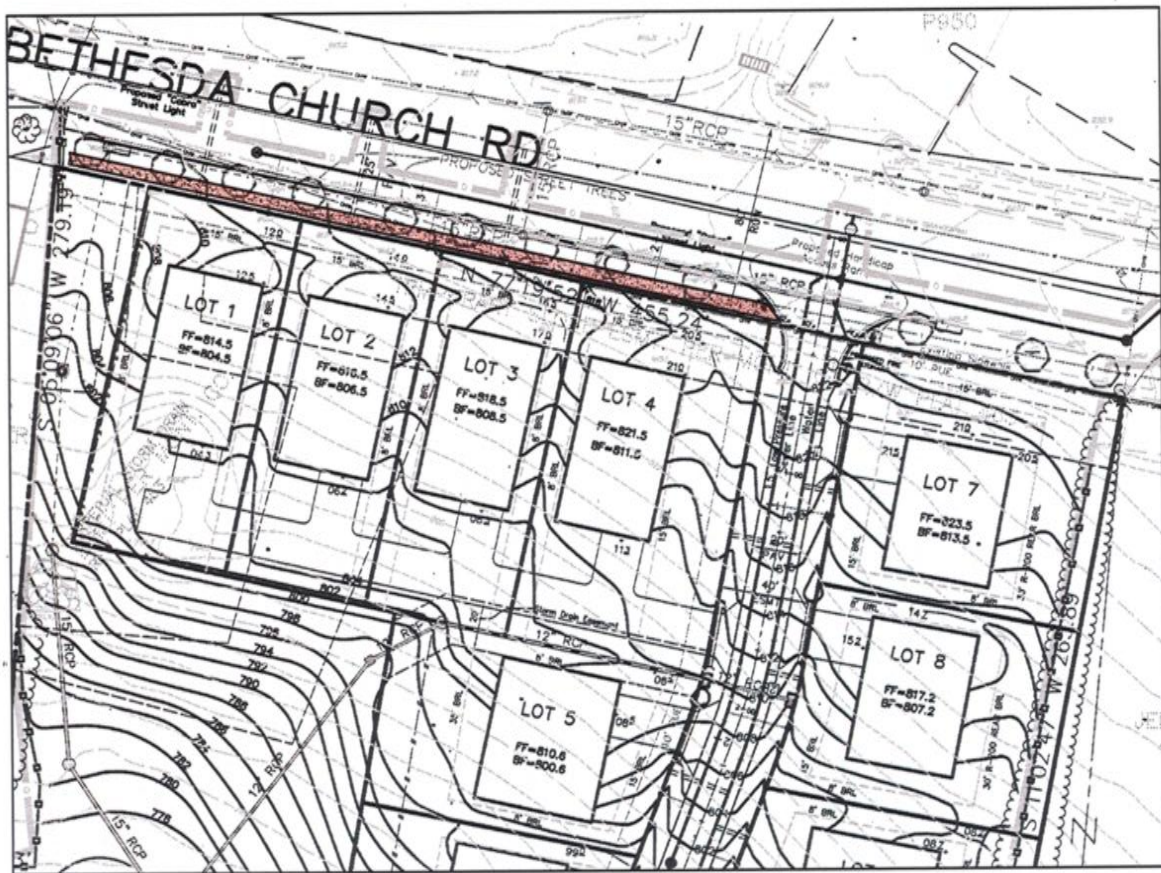


Proposed Layout for Residential Lots

Proposal

The proposed development is for fifteen (15) detached, one-family homes on the subject 15.53 acre property. The development has been designed utilizing a mix of lot sizes ranging from 9,000 to 20,000 sq. ft. There is one vehicular entrance to the site from Bethesda Church Road. This entrance will access a private drive and conclude in a cul-de-sac. Street dedications will be provided along the property frontage abutting the Ridge Road. Dedication has not been requested along Bethesda Church Road.

Sidewalks (10' wide) will be constructed across the property frontage to connect to an existing sidewalk located at the eastern side of the property. Until the properties to the west of the site are re-developed, no sidewalks are proposed beyond the subject site's western property line.



Proposed sidewalks along property frontage

Two parcels of land on the subject site, Parcel A and Parcel D, totaling 461,242 sq. ft. (67.4% of total gross tract area) are being retained as Rural Open Space. Parcel D, totaling 82,216 sq. ft. (12% of total gross tract area) contains the three (3) structured stormwater management ponds

for the site and is included within the Rural Open Space calculations. The stormwater management facilities occupy 31,366 sq. ft. of Parcel D, 7% of the proposed 67.4% Rural Open Space.

The approved and adopted Preliminary Plan Resolution for this case (120070340) notes that the Planning Board found the 67.4% Rural Open Space calculations complied with the recommendations adopted in the Master Plan. The language specifically states:

“...the RNC zone requires a minimum of 65 percent, and up to 85 percent, of the tract area for Rural Open Space. The Applicant has increased the amount of Rural Open Space being provided to 67 percent from a previous submittal that indicated 65 percent of tract area.” (Page 5)¹

It is unclear from the Preliminary Plan Staff Report, or the Audio Transcripts of the Public Hearing, if the Board realized their approval supported an exception to the design standards for Structural Stormwater Management within the site's Rural Open Space. If the structural stormwater management parcel was excluded (7%) the proposed plan would only provide 60 percent (60%) of Rural Open Space, 5 percent (5%) below the minimum requirement.

Street trees and lamp posts will also be installed along the frontage to develop an urban streetscape. The internal street will remain rustic, by design, which includes an open-section road and the absence of sidewalks and formal landscaping, such as street lamps and equally-spaced street trees. The properties fronting Bethesda Church Road will have driveway access through a rear alley. Additionally, six (6) of the lots at the rear of the site have been designed with shared driveways.

The storm water management ponds will require significant retaining walls; yet, they will be installed down slope and the landscape plan specifies proposed planting along the access road to help screen this significant change in topography.

PROJECT ANALYSIS

Master Plan

The subject site is located within a Rural Transition Area within the boundaries of the Damascus Master Plan. This area is subject to the Master Plan recommendations outlined for the Damascus Smart-Miner property, the development guidance specified for clustered development within Transition Areas as outlined in the Master Plan, and the criteria outlined in the underlying zone in the Zoning Ordinance.

There are numerous recommendations in the Master Plan for this specific property. However,

¹ Montgomery County Planning Board Resolution, Preliminary Plan No. 120070340, November 20, 2007

the overall objective for the development of this site is:

The site's "proximity to the Town center, and the ability to access sewer in Ridge Road make this area a suitable location for clustered development, with measures to protect environmental features and the headwaters of Little Bennett Creek.
(Page 31)

The specific guidelines applicable to cluster development within the Transition Area are (pages 25-26):

- Minimize impervious surfaces through environmentally sensitive site design techniques (for example the use of shared driveways, pervious pavement, and narrow roads that still meet safety requirements).
- Provide stormwater management controls utilizing environmentally sensitive design techniques that avoid concentrating stormwater runoff into high quality flows, with a preference for on-lot quantity and quality treatment options (or alternatives that provide similar environmental benefits) and disconnected imperviousness design techniques, infiltration of runoff, and open section roadways.
- Design to allow views of protected open space and vistas of surrounding rural areas.
- Protect sensitive environmental features, minimizing development impact.
- Create a defined "edge" clearly separating the developed neighborhood from the rural open space that is preserved.
- Provide internal and external connections for easy non-vehicular access using trails, sidewalks, and bicycle paths.
- Replicate the scale, design and pattern of historic small town residential neighborhoods.
- Locate a minimum of three-fourths of the lots in the clustered small lot portion of the development unless the Planning Board finds that the fewer clustered lots would better implement the goals of the Master Plan

This fifteen (15) lot development incorporates several of the above goals and objectives in its design. The proposal includes a shared driveway or alley system and dry wells on six (6) of the proposed lots. A "window" of open space has been retained at the southern end of the private drive allowing for views over to the protected Category I Forest Conservation Easement beyond; creating a vista overlooking the designated Rural Open Space parcel. The environmental features on the site, including wetlands, streams, and forest, are being protected as part of this plan. Fencing along the rear lot lines, where residential lots meet the Rural Open Space parcels, has been specified to delineate public from private space. Sidewalks have been included along the property frontage to continue the pedestrian connection from the property into the Town Center.

To address the goal of achieving compatibility with the area's established small town residential neighborhoods in terms of scale, design and development patterns; the houses lining Bethesda Church Road are oriented to face the public road and the building restriction lines are reduced in width to provide larger side yard setbacks. Although driveways are not permitted to access Bethesda Church Road, which would have maintained existing development patterns, the

proposed design achieves goals of the Master Plan, as the rear loading driveways enable the new houses to conform to the established building setback. This allows for the new houses to be more compatible with their surrounding properties and assist in maintaining the neighborhood's existing streetscape.

Transportation

The proposed development is not subject to the Local Area Transportation Review (LATR) or Policy Area Mobility Review (PAMR). PAMR trip mitigation was not required as the APF test was accepted with the Preliminary Plan No. 120070340 approval on July 26, 2007, before the commencement date of the program (November 13, 2007).

The Planning Board supported the use of a private street for this development in their Preliminary Plan approval. The private street detail will include 20 feet of paving within a 40 foot easement. This road design provides the resident and pedestrian safe and adequate access, while maintaining the integrity of the rural landscape.

The Applicant will provide a 10' wide sidewalk, 2' from the property line with a 5' wide landscape panel along the property's Bethesda Church Road frontage.

The Applicant is dedicating 0.15 acres of frontage for street dedication along Ridge Road.

Environment

The subject site is within the Little Bennett Creek Watershed and drains to the Little Bennett Creek tributary, classified as a Class III-P (recreational trout waters) watershed. Additional environmental features of the site include 2.52 acres of forest, 0.09 acres of wetlands, and two (2) streams. A stream valley buffer has been delineated to protect these streams as they have been identified as the headwaters for the Little Bennett Creek.

The Damascus Master Plan has specific recommendations for this property to ensure the protection of its natural and environmental resources. The Master Plan's focus is to develop existing "open areas" on land "rather than disturbing forest, wetland, and environmental buffers." The Master Plan outlines that this property must provide "on-lot infiltration of stormwater on the majority of the developed area." Additionally, a key note in the plan is a statement which pertains specifically to the selected development method on the subject site, "Optional method development should not be approved on this property unless all the environmental recommendations are addressed by the proposed development. Meeting all the recommendations may result in less than the full density on any or all of these properties."

Documentation provided to the Board at Preliminary Plan (Preliminary Plan Staff Report, and Audio Transcripts of the Public Hearing) suggests that the Board was unaware their approval was supporting an exception to the design standards for stormwater management facilities within the site's Rural Open Space.

In recent Planning Board cases in the RNC zone (Optional Method), the Board has not supported the inclusion of Structural Stormwater Management Facilities (SSMF) in land accumulation calculations for Rural Open Space.² Planning Board approval is usually based on a formal presentation justifying the infeasibility of providing Non-Structural Stormwater Management for the subject property, and submitting documentation that the SSMF would not negatively impact the RNC zone or the intent of the applicable Master Plan. That did not occur in this case.

Nevertheless, it is staff's recommendation that the Board support their Preliminary Plan findings on this issue, to include Structural Stormwater Management Facilities within the Rural Open Space calculations.

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) for this site was approved on October 11, 2006. The approval specifies the planting of 0.89 acres of required forest and an additional 0.63 acres of environmental buffers to ensure the protection of the headwaters of the Little Bennett Creek.

An additional note, the site plan delineates only 0.15 acres of forest to be cleared and the retention of 2.37 acres of forest, with an additional 1.52 acres of forest planted.

All the environmentally sensitive areas and environmental buffers on-site as defined by the approved NRI/FSD will be placed into a Category I Forest Conservation Easement. This site plan has been reviewed and deemed approvable under Section 22A of the Montgomery County Code and the M-NCPPC Environmental Guidelines with the conditions set forth in the final forest conservation plan, per the memorandum from environmental planning staff dated May 14, 2008.

² 59-C-9.574(h) The Zoning Ordinance outlines design guidelines for Rural Open Spaces within the RNC zone. These guidelines specify that the intent of Rural Open Space is to:

- 1) Protect rural features and other sensitive areas identified within the applicable master plan.;
- 2) ... by retaining a sizable contiguous area of land 65-85% of the total gross tract area...;
- 3) ... may be modified to improve its appearance, function, or overall conditions by...
 - a. Reforestation
 - b. Woodland Management
 - c. Meadow Management
 - d. Stream Bank Protection
 - e. Non-Structural stormwater best management practices

Development Standards

The subject site is zoned RNC-TDR-1. The purpose of the RNC Zone is to provide a method of development that focuses on preserving the integrity of the land's rural character, while providing close, compact communities surrounded by large areas of contiguous rural open-space and protected forest and natural resources, where applicable.

Section 59-C-9.584.3(c) of the Zoning Ordinance requires that a Site Plan must be submitted and approved in accordance with the provisions of Division 59-D-3 for any property within Rural Neighborhood Cluster zone choosing an Optional Method of development. The property is subject to design guidelines for the Rural Neighborhood Cluster (59-C-573(c)), which specifies:

- 1) The development must be clustered so as to maximize that portion of the tract appropriate for open space, farming or other permissible uses listed in section 59-C-9.52.
- 2) Cluster Development – must be designed so as to remain as harmonious as possible with the natural environment, minimizing as much as possible the clearing of trees, grading of earth, disturbing of streams, and other similar dislocations of the natural environment.

The property is subject to development standards of the RNC Optional Method (59-C-9.574), which include the items on the table below, and:

- 1) Diversity of Lot Sizes – Under the optional method, a diversity of lot sizes is required for developments. The Planning Board must evaluate the range of lot sizes provided and insure that a proposed development is compatible with existing development on adjoining properties and consistent with the purpose and intent of the zone.
- 2) Diversity of House Sizes – The Planning Board should encourage diversity of house sizes where such diversity would be consistent with neighboring communities.

The property is subject to additional findings as per the RNC-TDR (59-C-9.84.3(d)), which requires that the development:

- 1) Not exceed the limitation on the density or number of dwelling units permitted in the zone and the applicable master plan by the district council;
- 2) Is in accordance with provisions of Chapter 59-C9.5;
- 3) Is in accordance with Chapter 50, Subdivision of Land;
- 4) Is consistent with other recommendations of the master plan approved by the district council; and
- 5) Achieves a desirable development compatible with both site conditions and surrounding existing and future development.

The following data table outlines the remaining development standards for the RNC Optional Method as specified in the Zoning Ordinance.

Project Data Table for the RNC.4-TDR-1

Development Standard	Permitted/Required	Proposed for Approval
Density of Development (d.u./acre)	1	0.97
Min. Area of Development (acres)	10	15.50
Base Density		RNC 0.4 du/ac
Net Tract Area		
(sq. ft)		668,831
(acres)		15.35
Density Tabulation		
Base Density RNC 0.4 du/ac		15.35 ac x 0.4 du/ac = 6 du
TDR-1 Density		1.0 du/ac x 15.35 ac = 15 du (0.97 du/ac) w/ 9 TDRs to be purchased
Proposed Density		15 du (0.98 du/ac)
Min Lot Area (sq. ft.)	4,000	9,000
Max Building Height (feet)	35 ⁴	35
Min Building Setbacks (feet)		
From Street	15	15
Side Yard	8 (if provided) ⁵	8'
Side/Rear Yard	30 ⁶	30
Min Lot Width at Street (feet)	25	25
Rural Open Space (65%-85% of the gross tract area)	65% - 85%	67.4% ⁷
Maximum Lot Coverage	35%	35%
HOA Open Space Parcel A		379,026
HOA Common Open Space Parcel B		4,250
HOA Common Open Space Parcel C		8,385
SWM Facility/Access Parcel D		82,216
HOA Private Drive Parcel E		27,668

⁴ The measurement is taken from the specified point delineated on the site plan.

⁵ 59-C-9.574(d)(iii) Yard requirements (in feet). A side yard, if provided, must be at least 8 feet.

⁶ 59-C-9.574(d)(iii) ...For a side or rear yard that abuts a lot that is not developed under optional method of this section, the setback must be at least equal to that required for the abutting lot, provided that no rear yard is less than 30'.

⁷ Seven percent (7%) of the gross tract area is Structural Stormwater Management, which has been included in order to meet the minimum 65% Rural Open Space requirements of the RNC – Optional Method.

COMMUNITY OUTREACH

A notice and copy of the proposed plan was sent to the Damascus Area Community and Citizen Associations of record by M-NCPPC on November 19, 2007. The File of Record has been supplied with a copy of the Notice of Application.

Signage required by the Montgomery County Planning Board was posted on or about December 12, 2007. The Applicant has supplied the File of Record with an Affidavit of Posting and photo documentation.

A pre-submittal meeting was held by the Applicant on Wednesday, October 10, 2007 at Baker Middle School. A notification was sent to the adjoining and confronting property owners and to the list of civic associations on September 28, 2007. A copy of the notice and the sign-in sheet from the public meeting has been supplied for the File of Record.

FINDINGS

1. *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

Neither a development plan, diagrammatic plan, schematic development plan, nor a project plan was required for the subject site.

2. *The site plan substantially conforms to the design guidelines for new development contained in the approved and adopted Damascus Master Plan.*

The Damascus Master Plan outlines specific development guidance for cluster development within the boundaries of its identified Transition Area. The proposed Site Plan conforms to the development guidelines of the Master Plan in a number of respects. The dwellings, which will flank Bethesda Church Road, are being sited with their principal facades facing this public road. Additionally, the location of the access road behind these houses enables their front yard setbacks to be consistent with the neighborhood's established development pattern. Thirdly, the plan incorporates shared driveways on six (6) of the fifteen (15) lots, and utilizes a private road system to reduce the amount of paving on the neighborhood street and maintain the rural character, while still meeting safety requirements. Environmentally sensitive resources are being protected though conservation easements and vistas have been designed to provide views of the protected open space. The plan addresses the environmentally sensitive design techniques for stormwater management by incorporating the use of three (3) stormwater management ponds and installing dry wells on six (6) of the lots. Finally, non-vehicular connections are being provided though the extension of the sidewalk along the Bethesda Church Road property frontage.

3. *The site plan is consistent with the recommendations in the approved and adopted Damascus Master Plan.*

The proposed development is consistent with the recommendations of the Master Plan. It will provide its future residents with a neighborhood designed to focus development on existing vistas, preserve the natural resources, including the Little Bennett Creek headwaters, and maintain stream buffers and existing forest areas. Additionally, the shapes and sizes of the lots have been configured to utilize the open-section road standards on the proposed private drive.

Furthermore, in a May 6, 2008 memorandum, Community-based Planning Staff supported the above finding by expressing that the plan is “consistent with the general design guidelines in the Plan and contributes as well to the creation of an overall design that offers diversity of lots sizes and strives to create a unique layout for the property.” (Attachment E).

4. *The site plan meets all the requirements of the underlying zone.*

The site plan fulfills the purposes of the zone by providing a clustered development which seeks to preserve large areas of contiguous Rural Open Space within a rural setting, and is consistent with the recommendations and guidelines of the Damascus Master Plan.

This site plan meets the development standards for the Optional Method of Development in the RNC zone as outlined on the project data table on page 12 of this report.

5. *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

The majority of the dwellings within the subdivision contain 15' front yard setbacks. Although this number is a minimum standard, this design was intentional to encourage the evolution of a streetscape pattern, and create a level of intimacy between neighbors, especially since there will not be a formal sidewalk along the private road. The internal landscaping and road system has been designed with an informal intent so to continue the preservation of the property's rural character. These features include the open-section private road, utilization of split rail or board fencing along the open-space boundaries and the informal distribution of plant material. There are no formal recreation facilities required for this site plan, however four (4) benches are being provided in the Common Open Space Parcel B, which is the green space provided within the center of the cul-de-sac.

The land within the Rural Open Space requirement is either forest (within a Category I Conservation Easement), open pasture land or storm water management ponds. The stormwater management (SWM) ponds, upon approval from Department of Permitting Services, will receive a heavily landscaped screen along the perimeter of the SWM access

road. This landscaping will double as a screen for the stormwater management ponds and provide a focal "arrow" for the pasture land and forested vista. The open spaces, landscaping and site details adequately and efficiently address the needs of the proposed use and the recommendations of the Master Plan, while providing a safe and comfortable environment.

Vehicular ingress/egress to the site is provided through a single access point along Bethesda Church Road. The internal road will be private and open-section in design, although it will be constructed to County tertiary road standards. In order to retain the rural integrity of the site, sidewalks will not be constructed within this small fifteen (15) lot subdivision. However, the road section will contain a 20' wide paved surface with 10' wide gravel shoulders for pedestrian safety. The pedestrian access to and from the site will be enhanced by the installation of the proposed sidewalk along the Bethesda Church Road property frontage. This sidewalk will connect to an existing sidewalk at the eastern property line, and will ultimately provide an adequate and safe connection to this growing Town Center. This frontage will also be modified to a formal "Main Street" character. In addition to the sidewalk, equally spaced street trees and lamp posts will be incorporated to finish the urban streetscape design. The proposed street lighting will create enough visibility to provide a safe passage for the pedestrian walking into the Town Center, while not negatively impacting vehicular traffic on the adjacent roads or existing or proposed properties. These designs are an efficient and adequate means to provide a safe atmosphere for pedestrians, cyclists, and vehicles.

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

The proposed development is compatible with the adjacent and confronting residential and educational uses, since the majority of the development is being sited off the major roadways, along a private road and down slope from all of the existing roadways and buildings which surround it. A small segment of the development, which is sited to face the public road, was designed to be compatible with adjacent existing residential dwellings. These houses' setbacks are consistent with the established building line and the widths of the new footprints are similar in size to the widths of the existing houses. Additionally, the lots within this development are diverse in their proposed lot sizes, ranging from 9,000 sq. ft. to 20,000 sq. ft., a common practice within the existing community. Finally, the subject site plan will increase the variety of housing stock that currently is pedestrian accessible to the Town Center.

7. *The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

The proposed development is not subject to water resources protection but is subject to forest conservation law.

The stormwater management concept consists of on-site water quality and quantity control via three (3) structured stormwater management ponds; and on-lot water quantity control via dry wells on six (6) of the subject lots.

The Planning Board supported the inclusion of the Structured Stormwater Management Facilities within the Rural Open Space in their Preliminary Plan approval. Although, these facilities not a recommended practice in the design guidelines for Rural Open Space in the RNC – Optional Method, the Planning Board is authorized to approved facilities, if the location and appearance is consistent the general intent of the RNC zone, and with the policy and guidance of the relevant Master Plan for use of the open space.

RECOMMENDATION AND CONDITIONS

Staff recommends approval of site plan 820080140, Damascus-Smart Miner, fifteen (15) lots for fifteen (15) one-family, detached dwelling units, on 15.5 gross acres. All site development elements shown on the site and landscape plans stamped “Received” by the M-NCPPC on April 11, 2008 are required except as modified by the following conditions.

1. Preliminary Plan Conformance

- a. The proposed development must comply with the conditions of approval for Preliminary Plan 120070340 as listed in the Planning Board Resolution. This includes but is not limited to all references to density, rights-of-way, dedications, easements, transportation conditions, DPWT conditions, and DPS stormwater conditions. The conditions denote record plat requirements:
- The record plat must reflect common ingress/egress and utility easements over all shared driveways.
 - The record plat must reflect a public use and access easement over al private streets and adjacent sidewalks.
 - The record plat must reflect all areas under Homeowners Association (“HOA”) ownership and specifically identify stormwater management parcels.
 - The record plat must have the following note” The land contained hereon is within an approved cluster development, and subdivision or resubdivision is not permitted after the property is developed.”
 - The record plat must show necessary easements.

2. Forest Conservation

Applicant shall comply with the following conditions of approval from M-NCPPC’s Environmental Planning office in the memorandum dated May 14, 2008 [Attachment A]:

- a. The proposed development shall comply with the conditions of the final forest conservation plan. The applicant shall satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits.

- b. Record plat of subdivision shall reflect a Category 1 Conservation Easement over all areas of stream buffers and forest conservation.
3. Development Program

The Applicant shall construct the proposed development in accordance with a Development Program. The Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of the certified site plan. A development program for each detailed site plan shall include a phasing schedule to incorporate the following site plan elements:

 - a. Street lamps and sidewalks must occur within six months after street construction is completed. Tree planting may wait until the next growing season.
 - b. On-site sidewalks, benches and fences must be installed upon completion of the green area in the cul-de-sac.
 - c. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Certified Site Plan, Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
 - d. The development program must provide phasing for installation of on-site landscaping and lighting.
 - e. The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, or other features.
 4. Transfer Development Rights (TDRs)
 - a. Prior to recording of plat, the applicant shall provide verification that 9 TDRs have been acquired for the proposed development. These TDRs must be acquired in accordance with the provisions set forth in 59-C-584.2 in the Zoning Ordinance.
 5. Transportation
 - a. The applicant shall comply with the following conditions of approval from Maryland State Highway Administration (SHA) in the memorandum dated December 12, 2007 and [Attachment B]:
 - Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
 - An engineered sediment control plan must be submitted for this development.
 - Structural pre-treatment is required prior to sand filter #1.
 - The maintenance easement for the existing sand filter must be terminated prior to removal of the structure.
 - b. The Applicant shall either construct a five (5) foot wide sidewalk, two (2) feet from the property line, with a five (5) foot wide landscape panel along the entire frontage of Bethesda Church Road a business district street.
 - c. The Applicant shall either construct a five (5) foot wide sidewalk along the property's Ridge Road frontage or request a waiver from the Planning Board to pay into the DPWT sidewalk CIP project in lieu of construction.
 - d. The Applicant must construct all private streets to the widths shown on the Site Plan. The streets must be built to the structural standards of a tertiary road, as specified in Section 50-25(h) of the Subdivision Regulations.

- e. The Applicant must dedicate approximately 6,541 sq. ft. of land to the State of Maryland for the right of way for Ridge Road (MD 27) along the property frontage, as shown on the Site Plan.
6. Fire and Rescue
The proposed development is subject to the conditions of approval from the Montgomery County Fire and Rescue Service dated December 17, 2007 [Attachment C].
7. Stormwater Management
The proposed development is subject to Stormwater Management Concept approval conditions dated May 4, 2007, unless amended by the Department of Permitting Services [Attachment D].
8. Common Open Space Covenant
Record plat of subdivision shall reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant shall provide verification to M-NCPPC staff prior to the issuance of the use and occupancy permit to insure that Applicant's recorded Homeowners Association Documents are incorporated by reference in the Covenant.
9. Clearing and Grading
No clearing or grading is permitted prior to Certified Site Plan.
10. Certified Site Plan
Prior to approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:
- Include the final forest conservation approval, stormwater management concept approval, development program, inspection schedule, and site plan resolution on the approval or cover sheet.
 - Add a note to the site plan stating that "M-NCPPC staff must inspect all tree-save areas and protection devices prior to clearing and grading".
 - Add a note to the site plan stating that "The house footprints shown on the site plan are illustrative and will be determined during the building permit process. Please refer to the data table for the development standards such as setbacks, building restriction lines, lot coverage and impervious coverage for each lot"
 - Modify notes to include M-NCPPC Staff approval required for planting plan substitutions.
 - Standardize driveway sizes on plan.
 - Show building height measuring points on site plan.
 - Include a detail, cross-section, and cut-sheet for specific manufacturer for retaining walls on site plan.
 - Fencing along Bethesda Church Road will be rustic in form to retain the rural streetscape. The fence may either be a wood split rail or horizontal board fence (Attachment G).

APPENDICES

- A. Environmental Planning Memorandum
- B. SHA Approval Letter
- C. Fire and Rescue Memorandum
- D. DPS Stormwater Management Concept Approval Letter
- E. Community-Based Planning Memorandum
- F. Montgomery County Planning Board Preliminary Plan Resolution, November 20, 2007
- G. Exhibit of Fence Examples



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

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

MEMORANDUM

TO: Michele Oaks, Development Review

VIA: Stephen Federline, Supervisor, Environmental Planning *SFH*

FROM: Josh Penn, Environmental Planning *JP*

DATE: May 14, 2008

SUBJECT: **Site Plan # 820080140 - Damascus Smart-Miner**

RECOMMENDATION

The Environmental Planning staff has reviewed the Site Plan referenced above. Staff recommends approval of the Site Plan with the following conditions:

- 1) The final forest conservation plan must comply with all conditions in the forest conservation plan comment letter to the applicant, dated 5/14/08. The applicant shall satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits.

DISCUSSION

The Damascus Smart-Miner property is a 15.55-acre site southwest of the intersection of Bethesda Church Road and Ridge Road. The site is in the Little Bennett Creek watershed, a Use III-P watershed. There is 2.52-acres of forest, 0.09-acres of wetlands, and 2 streams. Both streams are the upper most headwaters of Little Bennett Creek. The property is zoned RE-2C.

Environmental Guidelines

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #4-06272 for this site was approved on October 11, 2006. The NRI/FSD identifies the environmental constraints and forest resources on the subject property. There is 2.52-acres of forest, 0.09-acres of wetlands, and 2 streams. Both streams are the upper most headwaters of Little Bennett Creek. This project is in compliance with the Environmental Guidelines.

Forest Conservation

The applicant submitted a preliminary forest conservation plan as part of the preliminary plan of subdivision. Under Forest Conservation Section 22A-12 of the Montgomery County Code properties must retain, plant, or mitigate up to a certain threshold (percentage) of forest. The applicant proposes to meet the 0.89-acre planting requirement via on-site planting.

Additionally the applicant proposes to plant an additional 0.63-acres of Environmental Buffers to help ensure protection of the headwaters of Little Bennett Creek. The total amount of forest planting on-site will be 1.52-acres. This plus 2.37-acres of forest retention and 0.02-acres of tree save bring the total amount of Category I Conservation easement on-site to 3.91-acres.

All of the environmentally sensitive areas and Environmental buffers on-site as defined by the approved NRI/FSD will be placed into a Category I conservation easement.

STAFF RECOMMENDATION

Environmental Planning staff recommends approval of the Site Plan and the final forest conservation plan with conditions. The plan complies with Section 22A of the Montgomery County Code and the M-NCPPC Environmental Guidelines.

SDF:JP:



Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor

John D. Porcari, Secretary
Neil J. Pedersen, Administrator

Maryland Department of Transportation

December 12, 2007

Ms. Catherine Conlon
Supervisor, Development Review
Subdivision Division
Maryland National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

Re: Montgomery County
Damascus Smart-Miner
File #: 8-20080140
MD 27 – General File

DEC 20 2007


Dear Ms. Conlon:

The State Highway Administration (SHA) appreciates the opportunity to review the site plan application for the Damascus Smart-Miner development. We offer the following comments:

- Right-of-way dedications/donations along MD 27 need to be in accordance with the Master Plan of Highways. SHA will require that right-of-way dedications/donations be platted to SHA standards. These plats must be submitted in hard copy format for review, checking and final issuance. Please contact Mr. Daniel Andrews of the Plats and Surveys Division @ 410-545-8860 for additional information. For questions regarding the plat review process, please E-mail Mr. Andrews at dandrews@sha.state.md.us. Additionally, please contact Mr. Paul Lednak, District 3 Right of Way Chief at 310-513-7470 for information regarding the deed process.
- Proposed access to the site is from a County-maintained road and is subject to the permit process and requirements of the Montgomery County Department of Public Works and Transportation.

If you have any questions or require additional information, please contact John Borkowski at 410-545-5595 or by using our toll free number in Maryland only at 1-800-876-4742.

Sincerely,


Steven D. Foster, Chief
Engineering Access Permits Division

SDF/gfc/jab

cc: Mr. Hans Baumann / MHG / 9220 Wightman Road, Suite 120, Montgomery Village, MD 20886
Mr. Shahriar Etemadi / M-NCPPC
Ms. Michele Oaks / M-NCPPC
Mr. Sam Farhadi / Montgomery County DPW&T
Mr. Jeff Wentz *sent via e-mail*
Ms. Kate Mazzara *sent via e-mail*
Mr. Augustine Rebish *sent via e-mail*
Mr. Daniel Andrews *sent via e-mail*
Mr. Paul Lednak *sent via e-mail*

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street · Baltimore, Maryland 21202 · Phone: 410.545.0300 · www.marylandroads.com



FIRE MARSHAL COMMENTS

DATE: DECEMBER 17, 2007
TO: HANS BAUMANN, MHG
FROM: TYLER MOSMAN
RE: DAMASCUS SMART MINER 820080140

PLAN APPROVED.

1. Review based only upon information contained on the plan submitted 12-17-06. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

cc: Department of Permitting Services

MNCPPC-MC



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Carla Reid Joyner
Director

May 4, 2007

Mr. Pearce Wroe
Macris, Hendricks, and Glascock, P.A.
9220 Wightman Road
Montgomery Village, MD 20886

Re: Stormwater Management **CONCEPT** Request
for Damascus Smart-Miner
Preliminary Plan #: Pending
SM File #: 229176
Tract Size/Zone: 15.5/RNC-TDR
Total Concept Area: 15.5ac
Lots/Block: 15 Proposed
Parcel(s): P088
Watershed: Little Bennett Creek

Dear Mr. Wroe:

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 the use of a dry pond. On-site water quality control and onsite recharge are provided via the use of surface sand filters and non structural measures.

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. Structural pre treatment is required prior to sand filter # 1.
5. The maintenance easement for the existing sand filter must be terminated prior to removal of the structure.

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 not 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 Thomas Weadon at 240-777-6309.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard R. Brush". The signature is fluid and cursive, with a large initial "R" and "B".

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

RRB:dm CN 229176

cc: C. Conlon
S. Federline
SM File # 229176

QN - On Site; Acres: 15.5ac
QL - On Site; Acres: 15.5ac
Recharge is provided



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

May 6, 2008

To: Michelle Oaks
Development Review Division

From: Frederick Vernon Boyd
Community-Based Planning Division

Subject: Site Plan 820080140—Smart/Miner properties

Recommendation: Approval

The Community-Based Planning Division has reviewed Site Plan 820080140 for the Smart-Miner properties in Damascus and offers the following comments.

The 2006 *Approved and Adopted Damascus Master Plan* recommends the Smart-Miner properties for development in the Rural Neighborhood Cluster Zone at a density of one unit to the acre on community sewer service if the project's developer uses Transferable Development Rights (TDRs). The *Plan* specifies additional guidelines for the properties' development and for cluster development generally. These guidelines overlap to some extent.

The project's overall design adheres to the general design guideline recommending design that "allows views of protected open space and vistas of surrounding rural areas" (p. 25) and the specific guideline to "limit most development to open areas" (p. 32) by locating building lots in unforested areas and towards Bethesda Church Road. This creates contiguous open space in the southwestern part of the property in a forested area that envelops a headwaters tributary to Little Bennett Creek. Half of the 15 proposed homes look toward the forest, which is partially protected by a Category 1 Forest Conservation Easement. This arrangement also meets the design guideline to "create a defined edge clearly separating the developed neighborhood from the rural open space." (p. 25) The property's topography, it should be noted, poses significant obstacles to full compliance with master plan guidelines.

The development pattern retains existing forest and stream buffers, thereby avoiding disturbance to the headwaters area, avoiding stream crossings and limiting activities that affect groundwater flow, which meets a specific property guideline. Maintaining the integrity of the forested headwaters area requires the project to concentrate lot sizes at the smaller end of the allowable RNC spectrum and to include no large lots. This decision is consistent with general design guidelines in the *Plan* and contributes as well to the creation of an overall design that offers diversity of lot sizes and strives to create a unique layout for the property.



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION

NOV 20

MCPB No. 07-174
Preliminary Plan No. 120070340
Damascus Smart-Miner
Date of Hearing: July 26, 2007

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION¹

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on November 1, 2006, JR 15 Lot LLC ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 15 lots on 15.55 acres of land located on the south side of Bethesda Church Road, 500 feet west of Ridge Road (MD. 27) ("Property" or "Subject Property"), in the Damascus Master Plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120070340, Damascus Smart-Miner ("Preliminary Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated July 13, 2007, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staffs of other governmental agencies, on July 26, 2007, the Planning Board held a public hearing on the Application (the "Hearing"); and

APPROVED AS TO LEGAL SUFFICIENCY

Thomas H. Brown

M-NCPPC LEGAL DEPARTMENT

DATE 10/17/07

¹ This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on July 26, 2007, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Bryant; seconded by Commissioner Cryor; with a vote of 3-1, Commissioners Bryant, Cryor, and Hanson voting in favor, and Commissioner Lynch voting against; Commissioner Robinson absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120070340 to create 15 lots on 15.55 acres of land located on the south side of Bethesda Church Road, 500 feet west of Ridge Road (MD 27) ("Property" or "Subject Property"), in the Damascus Master Plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to 15 lots for 15 one-family detached dwelling units.
- 2) The record plat must reflect serialization and liber/folio reference for all transferable development rights ("TDRs") utilized by the development.
- 3) The Applicant must comply with all conditions of the preliminary forest conservation plan. The Applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits, as applicable.
- 4) Prior to certification of the Preliminary Plan, the Applicant must amend the data table on the Preliminary Plan to correctly show the minimum lot area and minimum rural open space area of the Preliminary Plan.
- 5) No clearing, grading or recording of plats prior to Certified Site Plan approval.
- 6) Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, and sidewalks will be determined at site plan.
- 7) The final number of TDRs, as per conditions 1 and 2 above, will be determined at the time of site plan.
- 8) The Applicant must construct all private streets to the widths shown on the Preliminary Plan. The streets must be built to the structural standards of a tertiary road, as specified in Section 50-25(h) of the Subdivision Regulations.
- 9) The Applicant must dedicate approximately 7,394 square feet of land to the State of Maryland for the right-of-way for Ridge Road (MD 27) along the property frontage, as shown on the Preliminary Plan. The dedication must provide a 100-foot-wide right-of-way, as measured from the opposite right-of-way line.
- 10) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated May 4, 2007.

- 11) The Applicant must comply with the conditions of the Montgomery County Department of Public Works and Transportation ("MCDPWT") letter dated December 1, 2006, unless otherwise amended.
- 12) The Applicant must satisfy provisions for access and improvements as required by MCDPWT prior to recordation of plat(s).
- 13) The record plat must reflect denial of access along Ridge Road (MD 27), and along Bethesda Church Road except for the interior private street.
- 14) The record plat must reflect common ingress/egress and utility easements over all shared driveways.
- 15) The record plat must reflect a public use and access easement over all private streets and adjacent sidewalks.
- 16) The record plat must reflect all areas under Homeowners Association ("HOA") ownership and specifically identify stormwater management parcels.
- 17) The record plat must have the following note: "The land contained hereon is within an approved cluster development, and subdivision or resubdivision is not permitted after the property is developed."
- 18) The record plat must reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant must provide verification to Staff prior to release of final building permit that Applicant's recorded HOA Documents incorporates by reference the Covenant.
- 19) The record plat must show necessary easements.
- 20) The Adequate Public Facility ("APF") review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board Resolution.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the Master Plan.*

According to the Damascus Master Plan, the Subject Property is located within a neighborhood transition area. The purpose of the neighborhood transition areas is to capture additional growth through the use of cluster design methods and to establish a strong edge between the town and rural areas. The majority of additional growth will be achieved through the use of TDRs. The Subject Property is a designated receiving area for TDRs in the Damascus Master Plan. With respect to community planning, the Master Plan offers the following recommendations for cluster development in neighborhood transition areas:

- Design to allow views of protected open space and vistas of surrounding rural areas.
- Create a defined "edge" clearly separating the developed neighborhood from the rural open space that is preserved.
- Provide internal and external connections for easy non-vehicular access using trails, sidewalks, and bicycle paths.
- Replicate the scale, design, and pattern of historic small town residential neighborhoods.
- Locate a minimum of three-fourths of the lots in the clustered, small lot portion of the development unless the Planning Board finds that fewer clustered lots would better implement the goals of the master plan.

During the Master Plan process, the Subject Property was described and evaluated in conjunction with the adjacent properties to the rear (Rice/Conway). The Master Plan referred to these properties as the Smart/Miner/Rice/Conway properties. Assembly of these properties was anticipated at the time of development. This assembly has not occurred, and, therefore, the Smart/Miner properties, containing 15.53 acres and the subject of this Preliminary Plan, will be developed separately from the Rice/Conway properties. Nonetheless, recommendations for development of these properties are valid for the smaller Smart/Miner tract. To that end, the Master Plan states:

The modification in density is appropriate because the properties are in close proximity to the Town Center, schools, and institutional uses. Residents will be able to walk to these community uses. The modification [in zoning] would allow smaller lot clustering (with community water and sewer) on this approximately 50-acre site. The site has frontage west of Ridge Road on Bethesda Church Road, directly across from Damascus Elementary School and along Ridge Road to the south. The property contains a headwater tributary of Little Bennett Creek. Its proximity to the Town Center and the ability to access sewer in Ridge Road make this area a suitable location for clustered development with measures to protect environmental features and the headwaters of Little Bennett Creek.

Additionally, the Master Plan states that if the optional method of development is used the following densities are permitted:

Optional Method: RNC-0.4, with community sewer if TDRs are not used
RNC- 1.0, with community sewer service if TDRs are used to secure the additional density.

Thus the entire Smart/Miner/Rice/Conway tract has the potential for 10 to 61 dwelling units (including MPDU bonus and 40 TDRs).

The Applicant is using the optional method of development under the Rural Neighborhood Cluster ("RNC") zone and community sewer service with TDRs to secure the additional density. Under the optional method, the Applicant is purchasing the maximum number of TDRs allowed (nine) and thus proposing the maximum number of lots allowed (15) on the subject site.

The Preliminary Plan proposes development using the clustering method to achieve smaller lot sizes and accommodate additional growth through the use of TDRs. By using smaller lots, the lot pattern creates an edge by separating the developed portion of the site from the proposed rural open space. As shown on the Preliminary Plan, the rural open space will be preserved at the rear of the site and along a portion of Ridge Road. This design will maintain the views into this rural open space from Ridge Road. A sidewalk exists along most of the site's frontage on Bethesda Church Road. As part of the subdivision process, the Applicant will be required to complete this sidewalk, thereby ensuring a sidewalk along the entire length of the site. The sidewalk along Bethesda Church Road provides non-vehicular connections to the surrounding area for future residents of this site.

The proposed subdivision will repeat the scale and pattern found in small town residential neighborhoods, such as small lots, dwelling units close together, narrower streets, and sidewalks.

The Applicant has proposed 15 lots for this site. The minimum lot size in the RNC zone using the optional method of development is 4,000 square feet. The Applicant proposes 11 lots between 7,651 square feet and 12,000 square feet and four lots of more than 12,000 square feet. This complies with the Master Plan recommendation that three-fourths of the lots be located in the small lot portion of the clustered subdivision.

Finally, the RNC zone requires a minimum of 65 percent, and up to 85 percent, of the tract area for rural open space. The Applicant has increased the amount of rural open space being provided to 67 percent from a previous submittal that indicated 65 percent of tract area.

The Planning Board finds, therefore, that the subdivision complies with the recommendations adopted in the Master Plan.

- 2. Public facilities will be adequate to support and service the area of the proposed subdivision.*

The proposed lots do not generate 30 or more vehicle trips during the morning or evening peak-hours. Therefore, the Application is not subject to Local Area Transportation Review. The Planning Board finds that proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed public improvements.

- 3. The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, Subdivision Regulations. The Application meets all applicable sections. Access and public facilities will be adequate to support the proposed lots and uses. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

The lots were reviewed for compliance with the dimensional requirements for the RNC-TDR 1 zone as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. The subdivision meets the requirement that at least 65 percent of the site be retained as rural open space by setting aside 67.4 percent of the site in Parcel A and Parcel D, which will also contain stormwater management facilities. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the Preliminary Plan.

- 4. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

The Applicant submitted a preliminary forest conservation plan as part of the Preliminary Plan of subdivision. Under Forest Conservation Section 22A-12 of the Montgomery County Code, 0.89 acres of the Subject Property must be planted. The Applicant proposes to meet this requirement by planting within the unforested buffer.

The Applicant proposes to plant an additional 0.63 acres of environmental buffers to help ensure protection of the headwaters of Little Bennett Creek. The total amount of forest planting on-site will be 1.52 acres. This, in addition to 2.37 acres of forest retention and 0.02 acres of tree save, brings the total amount of Category I Conservation Easement on-site to 3.91 acres.

The Planning Board finds that the Preliminary Plan meets all applicable requirements of the county Forest Conservation Law.

5. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by MCDPS that the Stormwater Management Concept Plan meets MCDPS' standards.*

The MCDPS Stormwater Management Section approved a Stormwater Management Concept Plan for the project on January 22, 2007, which includes on-site channel protection measures through the use of a dry pond. On-site water quality control and on-site recharge are provided through the use of surface sand filters and nonstructural measures.

6. *The use of private streets in the subdivision is approved.*

Section 59-C-9.574(f) of the Zoning Ordinance allows the use of private streets in the RNC zone if the Planning Board finds that the private street provides safe and adequate access, has sufficient width to accommodate the proposed dwelling units, will better advance the goal of preserving rural open space and rural character than would a public road, and has proper drainage.

As shown on the Preliminary Plan, the private street will have 20-foot-wide paving within a 40-foot-wide private right-of-way, which is sufficient to provide safe and adequate access to the lots. The private street will also provide safe pedestrian access in lieu of sidewalks because the street will carry low traffic volumes, allowing pedestrians to safely walk on the street. Rural open space and character are better preserved than would be the case with a public street because the standard 50-foot-wide right-of-way for a public tertiary street would reduce the amount of open space preserved by the subdivision and would be out of character with the surrounding rural area. Finally, with respect to drainage, the Applicant received approval from MCDPS for a stormwater management concept, indicating that the subdivision, including the private street, will properly drain to stormwater management facilities. The Planning Board, therefore, finds that the private street provides safe and adequate access, has sufficient width to accommodate the dwelling units, will better advance the goal of preserving rural open space and rural character than would a public road, and has proper drainage.

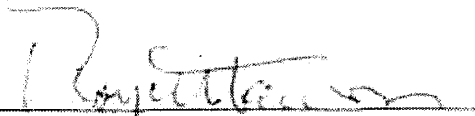
BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that the date of this Resolution is NOV 20 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

At its regular meeting, held on Thursday, November 8, 2007, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, on motion of Commissioner Bryant, seconded by Commissioner Lynch, with Commissioners Hanson, Bryant, Cryor, and Lynch voting in favor, and Commissioner Robinson abstaining, ADOPTED the above Resolution, which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for Preliminary Plan No. 120070340, Damascus Smart-Miner.

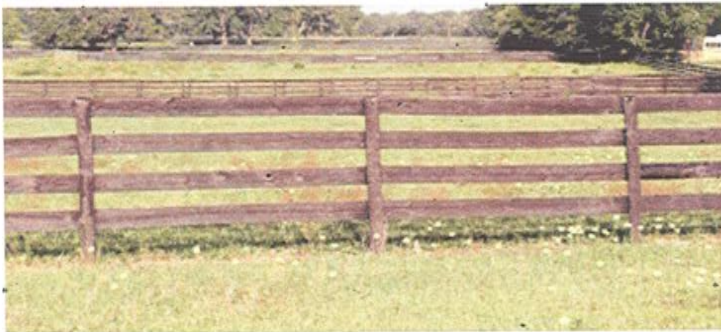


Royce Hanson, Chairman
Montgomery County Planning Board

ATTACHMENT G



Split – Rail Fence



Horizontal Board Fence (Horse Fencing)