



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

MCPB
Item # 7
October 21, 2010

MEMORANDUM

DATE: October 7, 2010

TO: Montgomery County Planning Board

VIA: Mark Pfefferle, Acting Chief *MP*
Environmental Planning Division

Catherine Conlon, Supervisor *CAC*
Development Review Division

FROM: Candy Bunnag, Planner Coordinator (301-495-4543) *CB*
Environmental Planning Division

Stephen Smith, Senior Planner *SSS*
Development Review Division (301-495-4522)

REVIEW TYPE: Record Plat and Special Protection Area Preliminary and Final Water Quality Plan

APPLYING FOR: Minor Subdivision to Convert an Outlot into a Record Lot

PROJECT NAME: Granby Woods

CASE #: 220090500

REVIEW BASIS: Section 50-35A(a)(2), Montgomery County Subdivision Regulations; Article V (Water Quality Review in Special Protection Areas), Montgomery County Code; Section 59-C-18.24, Environmental Overlay Zone for the Upper Rock Creek Special Protection Area

ZONE: RE-1

LOCATION: West side of Shremor Drive, 500 feet south of Granby Road

MASTER PLAN: Upper Rock Creek Master Plan

APPLICANT: Melvin and Megan Coursey

ENGINEER: Benning and Associates, Inc./Thomas Maddox

HEARING DATE: October 21, 2010

EXECUTIVE SUMMARY

The applicant proposes to record a plat to convert an existing outlot into a 3.59 acre lot, for a single-family dwelling in the RE-1 zone, under the minor subdivision provision described in Section 50-35A(a)(2) of the Subdivision Regulations. Since the property is located within the Upper Rock Creek Special Protection Area, the approval of a Preliminary/Final Water Quality Plan is required in conjunction with the minor subdivision (record plat) application. The Water Quality Plan proposes the construction of a single-family house and driveway with associated stormwater measures on the portion of the property near Shremor Drive, and the retention of forest on the back portion of the site.

RECOMMENDATION:

Part I. Special Protection Area (SPA) Preliminary and Final Water Quality Plan
Approval of the SPA combined preliminary and final water quality plan subject to the following condition:

- 1) The Preliminary/Final Water Quality Plan must be revised to show a limit of disturbance that is consistent with that shown on the approved Preliminary Forest Conservation Plan.
- 2) The applicant must conform to the conditions as stated in the Department of Permitting Services (DPS) letter dated November 18, 2009.

Part II. Minor Subdivision

Approval of the record plat subject to the following conditions:

- 1) The applicant must comply with the conditions of approval for the Preliminary/Final Water Quality Plan.
- 2) The record plat must show a Category I conservation easement over 2.30 acres of onsite forest retention.
- 3) Other necessary easements must be shown on the record plat.

SITE DESCRIPTION (Attachment A – vicinity map)

Granby Woods, Outlot D (Proposed Lot 16), Block F, “Property” or “Subject Property”, covers 3.59 acres. The site lies within the North Branch of Rock Creek watershed (Use III). It also lies within the Upper Rock Creek Special Protection Area (SPA) and its associated Environmental Overlay Zone. The entire property is forested. Recorded septic and well easements for the proposed lot are located on Lot 15, which lies to the north of the outlot.

No streams, wetlands, floodplains, or associated environmental buffers lie on or adjacent to the subject site or on Lot 15 (where the recorded septic and well easements for the subject site are located). The site slopes downward from north to south. There are two stands of forest on the site. A little over half of the subject property is in a high priority

forest stand that is composed of oaks, black cherries, tulip poplars, hickories, and other native hardwoods; this forest stand includes trees that are between 20 to 30 inches at diameter breast height (DBH), as well as, trees that are 30 inches and greater DBH. The second forest stand is younger and is located near the front of the property along Shremor Drive. The younger forest stand includes trees that are smaller (2 to 6 inches DBH), and there are more non-native invasive species (e.g., Tree of Heaven, Japanese honeysuckle, Japanese stiltgrass).

PART I. SPA PRELIMINARY AND FINAL WATER QUALITY PLAN

ANALYSIS AND FINDINGS

2004 Upper Rock Creek Area Master Plan Recommendations

The Upper Rock Creek Area Master Plan designated the Upper Rock Creek watershed within the Planning Area north of Muncaster Mill Road as a Special Protection Area. The master plan recognizes the high quality natural resources associated with the streams and forests of the Upper Rock Creek watershed and provides recommendations to preserve these resources.

Review for Conformance to the Special Protection Area Requirements, Including the Environmental Overlay Zone

Under the provision of Article V of the Montgomery County Code (Special Protection Area Law), the Montgomery County Department of Permitting Services (DPS) and the Planning Board have different responsibilities in the review of a water quality plan (Attachment B – proposed plan). DPS reviews and acts on those elements of the water quality plan that relate to water quality protection performance goals, stormwater management, sediment and erosion control, and monitoring of best management practices. **DPS has reviewed and conditionally approved the elements of the preliminary water quality plan under its purview (see Attachment C).** The Planning Board's responsibility is to determine if environmental buffer protection, SPA forest conservation and planting requirements, and site imperviousness limits have been satisfied.

Site Performance Goals

Project goals for this site are: minimize increases to ambient water temperature, minimize stormwater runoff, and minimize sediment loading.

Site Imperviousness

Section 59-C-18.242 of the Environmental Overlay Zone for the Upper Rock Creek Special Protection Area states that, "all development or subdivisions requiring a building permit or sediment control permit ... and served by community sewer will be subject to

these regulations.”¹ Since the proposed project will be served by a private septic system and not by community sewer, the project is not subject to the overlay zone requirements, including the zone’s imperviousness limit of 8 percent.

However, the Upper Rock Creek Area Master Plan includes recommendations for new development in the SPA to “employ all planning and zoning options, and design techniques to reduce imperviousness” (page 49 of the master plan). The proposed location of the house near Shremor Drive is consistent with one of the design techniques identified in the master plan: “locating houses at the front of the building envelope to reduce driveway lengths.” The Preliminary/Final Water Quality Plan drawing proposes a house and driveway configuration that minimizes the length of driveway needed to connect the house to the public street. This results in a project imperviousness of about 2.6 percent. This proposed imperviousness is acceptable since the project minimizes imperviousness and it is significantly less than the 8 percent imperviousness limit of the Environmental Overlay Zone.

Environmental Buffers

There are no streams, wetlands, floodplains, or associated environmental buffers on either the subject property or the adjoining Lot 15 where the proposed lot’s well and septic easements are located. Therefore, the proposed project will not disturb or clear any environmental buffer areas.

Forest Conservation (Attachment D)

A Preliminary Forest Conservation Plan (PFCP) was conditionally approved at staff level on June 3, 2010. The PFCP was submitted as a project requiring a sediment control permit only. Under the County Forest Conservation Law, a forest conservation plan submitted for a project requiring only a sediment control permit may be reviewed by the Planning Director, or the Director’s designee. Environmental Planning staff is the Director’s designee, for purposes of the Forest Conservation Law.

The conditionally-approved PFCP allows the house and driveway to be located near Shremor Drive. It also permits forest clearing onsite to create usable yard areas around the house and to install the initial water well. Offsite forest clearing will occur within the recorded septic easement on adjoining Lot 15 to install the septic system for the subject property.

Forest will be retained on 2.30 acres of the site in a Category I conservation easement. The retained forest includes the majority of the onsite high-quality forest stand. To provide permanent protection of these forest stands, a Category I conservation easement is shown on the record plat that is the subject of the minor subdivision.

¹ There are some specific types of developments that require a building or sediment control or building permit and are served by community sewer but are exempt from the zone’s provisions. These types of developments are listed in the overlay zone.

The configuration of the forest retention area is such that this forest is a continuation of retained, existing forest on developed lots to the east of the subject property (Lots 11-14). Although the retained forest on these developed lots does not have conservation easements over it, the homes on these lots have been in place since the late 1980s.

The Preliminary/Final Water Quality Plan shows a limit of disturbance which would clear some offsite forest and impact the critical root zone of a 31.5-inch, diameter at breast height, tulip poplar within the offsite well easement for the property. Staff recommends that the Water Quality Plan be revised so that the installation of the primary well does not go offsite and clear forest or affect the large tree; such a revision would be consistent with the limits of disturbance shown on the conditionally approved Preliminary FCP. If the limits of disturbance are not changed to remove the impact to the 31.5 inch tree, the applicant must submit and obtain approval of a tree variance according to Section 1607(c) of the Natural Resources Article, MD Ann. Code, before any land disturbing activities occur on site. Therefore, staff requests the applicant modify the limits of disturbance shown on the water quality plan to negate the need for a variance.

Stormwater Management Concept

DPS is not requiring control of the channel protection storm (i.e., water quantity) since the one-year post development peak discharge is less than 2 cubic feet per second. Stormwater quality control and groundwater recharge will be provided through the use of non-structural measures, including dry wells, rooftop and non-rooftop disconnections.

Sediment Control

DPS is requiring an engineered sediment control plan. Super silt fence will be used, and standard silt fence can be used for only very limited areas of disturbance. Site disturbance will be limited as much as possible.

Water Quality Monitoring

The applicant will be required to pay a stream monitoring fee. No onsite monitoring is required.

PART II. MINOR SUBDIVISION (Record Plat 220090500 – Attachment E)

ANALYSIS AND FINDINGS

Section 50-35A(a)(2) of the Subdivision Regulations establishes the ability for an applicant to convert an existing outlot into a buildable lot through the minor subdivision process. Applications for minor subdivision under Section 50-35A(a)(2) must meet the following criteria:

- a) *The outlot is not required open space or otherwise constrained so as to prevent it being converted into a buildable lot;*

- b) There is adequate sewerage and water service to the property, which may be either public service and/or approved private septic system/private well;*
- c) All applicable requirements and/or agreements that may be relevant, in accordance with the provisions for adequate public facilities, as contained in Section 50-35(k) and the Annual Growth Policy, are satisfied prior to recordation of the plat;*
- d) All applicable conditions and/or agreements applicable to the original subdivision approval creating the outlot will also apply to the new lot. The conditions and agreements may include, but are not limited to, any adequate public facilities agreement, conservation easement or building restriction lines; and*
- e) If the outlot is located within a special protection area, as shown on an approved and adopted master plan, all applicable special protection area requirements and guidelines, including the approval of a water quality plan are satisfied prior to recordation of the plat.*

With respect to the above provisions:

- a) The outlot is not required open space per the previous approval of Preliminary Plan No. 1-87072, entitled Granby Woods, as all lots created as a part of that plan were developed under the standard method, and exceed 2 acres in size in the RE-1 zone and, as such, the outlot retains all applicable density. The outlot is oriented and sized consistent with adjoining lots in the area and had percolation tests conducted to obtain approval as a lot as part of that plan. Unable to receive the approval for the septic field at that time, the area was made into an outlot. There are no stream buffers, floodplain, steep slopes, recorded easements or any other constraint upon the property that would render it not buildable.
- b) The property has adequate sewerage and water service in the form of a septic easement on adjoining Lot 15 and private well water. The applicant's Well and Septic Plan was approved by MCDPS on June 3, 2008.
- c) There are no outstanding agreements or additional requirements with regard to adequate public facilities associated with this proposal.
- d) Any conditions applicable to the original outlot will carry forward with this proposal and, as previously noted, the property will now contain a Category I Conservation Easement.
- e) The property is located within a special protection area and therefore is subject to the approval of a Water Quality Plan as discussed in Part I of this report.

CONCLUSION

The proposed lot:

- Meets all of the requirements of Section 50-35A(a)(2) of the Subdivision Regulations;
- Meets the SPA water quality plan requirements if DPS' conditions and staff's recommended conditions of approval are followed;
- Meets the master plan's intent of minimizing impervious surfaces and maximizing forest retention through the siting of the proposed house and driveway near Shremor Lane; and,
- Is not subject to the Environmental Overlay Zone of the Upper Rock Creek SPA because the proposed development will not be served by community sewer.

Therefore, staff recommends approval of the application with the conditions specified above.

Citizen Correspondence and Issues

Staff notified adjacent and confronting property owners as well as community groups and civic associations of this public hearing.

DPS posted a public notice for the SPA water quality plan on the Planning Board's September 10, 2009 agenda. DPS did not receive any requests for review of the water quality plan or correspondence.

Attachments

Attachment A - Vicinity Map

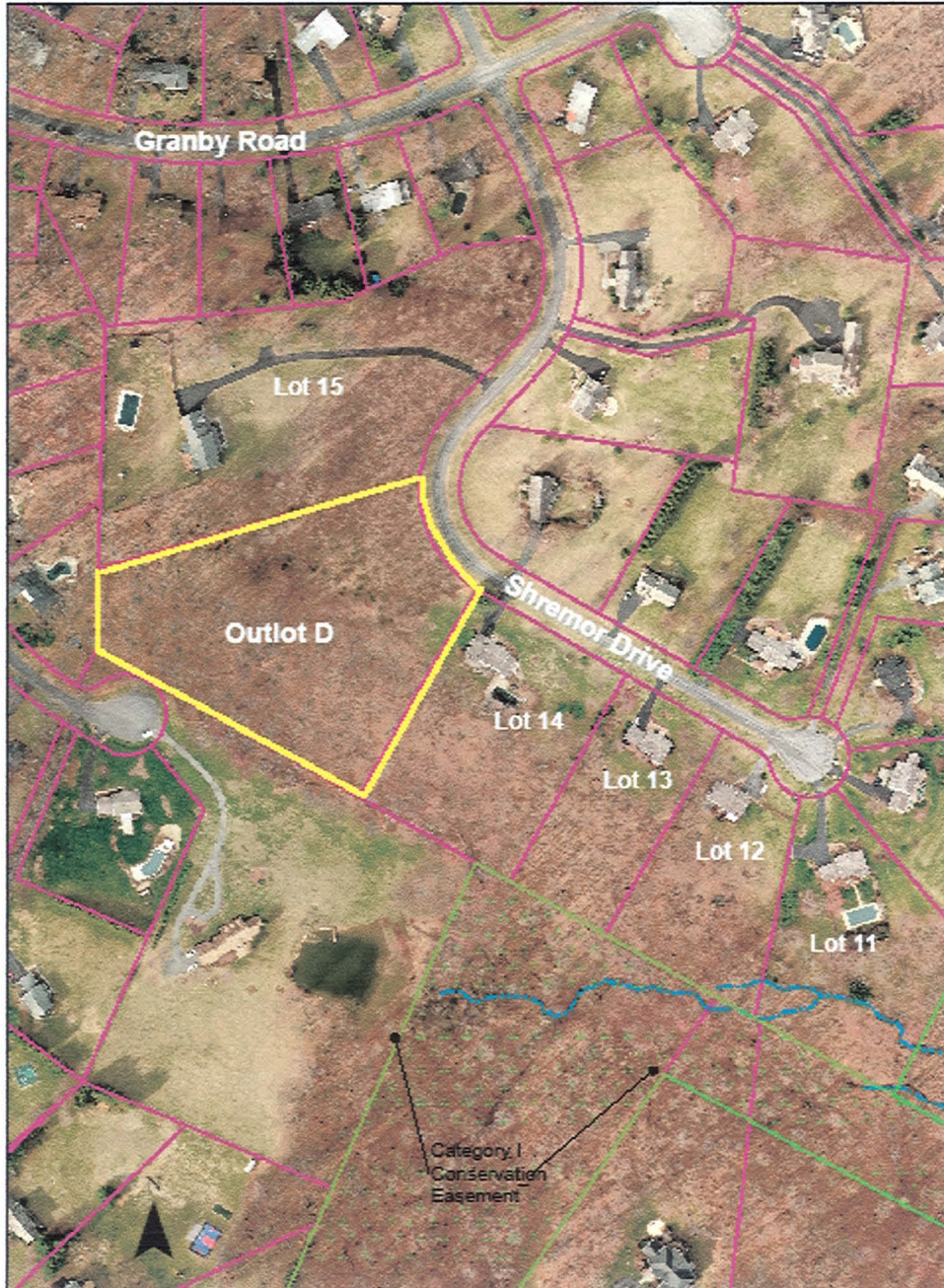
Attachment B - Proposed SPA Water Quality Plan

Attachment C - MCDPS SPA Water Quality Plan Approval Letter

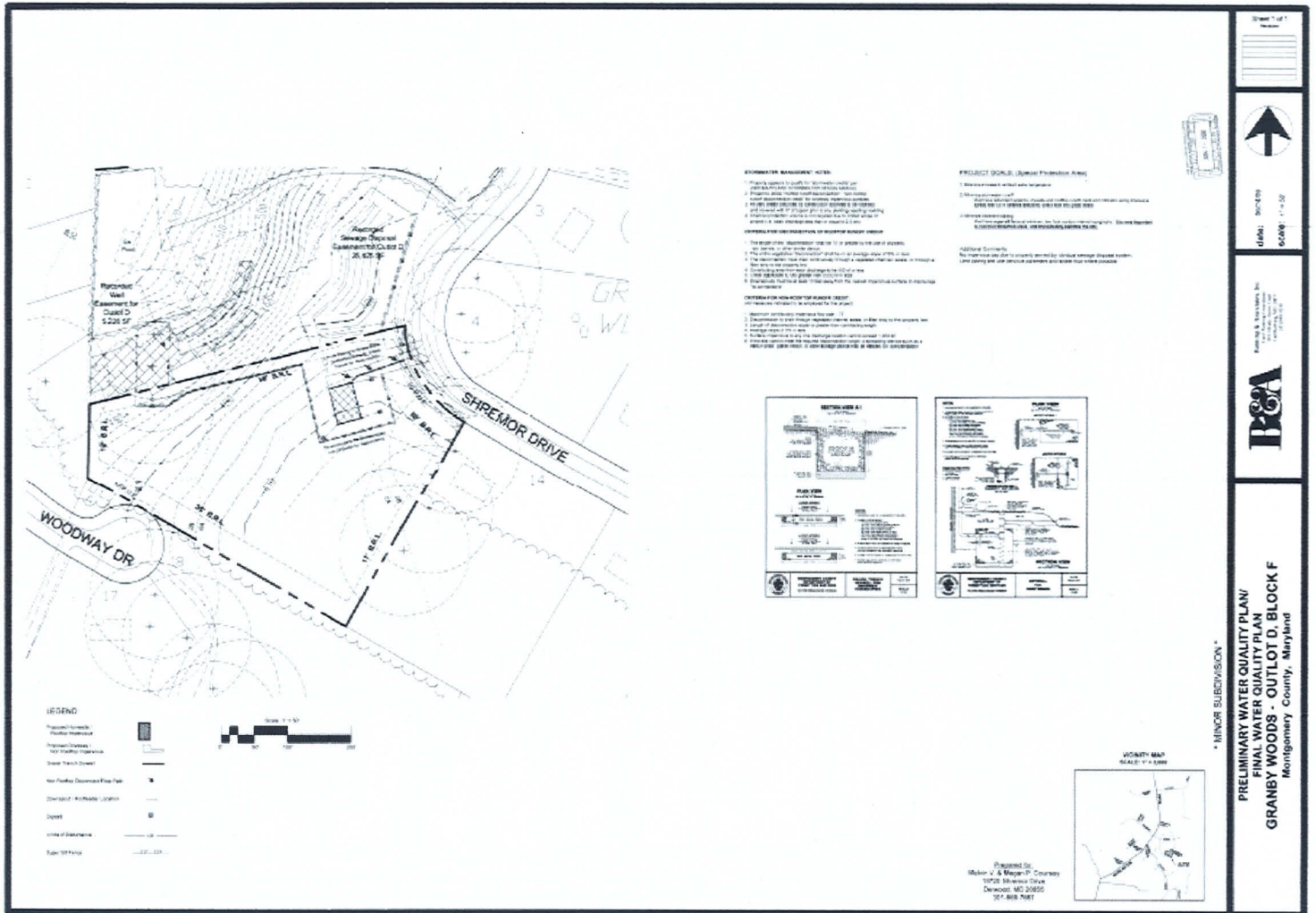
Attachment D - Approved Preliminary Forest Conservation Plan

Attachment E - Proposed Record Plat

Attachment A. Vicinity Map



Attachment B. Proposed SPA Preliminary/Final Water Quality Plan



Attachment C. MCDPS SPA Water Quality Plan Approval Letter



ATTACHMENT C
(page 1 of 2)

DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Carla Reid
Director

November 18, 2009

Mr. Patrick Perry
Benning and Associates, Inc.
8933 Shady Grove Court
Gaithersburg, Maryland 20877

Re: **Preliminary/Final Water Quality Plan**
for Granby Woods Outlot D/Block B
SM File #: 236091
Tract Size/Zone: 3.59 Ac/RE-1
Watershed: Upper Rock Creek

SPECIAL PROTECTION AREA

Dear Mr. Perry:

Based on a review by the Department of Permitting Services Review Staff, the Preliminary/Final Water Quality Plan for the above mentioned site is conditionally approved. This approval is for the elements of the Preliminary/Final Water Quality Plan of which DPS has lead agency responsibility, and does not include limits on imperviousness or stream buffer encroachments.

Site Description: The site is 3.59 acres in size and is located on Shremor Drive. This area is within the Upper Rock Creek Special Protection Area. The development will consist of one new single family detached dwelling unit.

Stormwater Management: Control of the channel protection storm is not required because the one-year post development peak discharge is less than 2.0 cubic feet per second. Quality control and recharge will be provided via non-structural measures that include dry wells, and rooftop and non-rooftop disconnections.

Sediment Control: Disturbance of the site is to be limited as much as possible. The use of super silt fence will be acceptable for sediment control. The use of silt fence is acceptable for very limited areas of disturbance. The disturbed area is to be permanently stabilized as soon as possible after the initial disturbance. An engineered sediment control plan is required for this development.

Conditions of Approval: The following condition must be addressed during the detailed sediment control/stormwater management plan stage. This list may not be all inclusive and may change based on available information at the detailed plan review stage.

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.

255 Rockville Pike, 2nd Floor • Rockville, Maryland 20850 • 240-777-6300 • 240 777-6256 TTY
www.montgomerycountymd.gov

ATTACHMENT C
(page 2 of 2)

Patrick Perry
November 18, 2009
Page 2

- 2 Maryland Department of the Environment regulations require all final sediment control and stormwater management plans approved on or after May 4, 2010 must comply with the most recent changes to the Maryland Stormwater Design Manual. After that date, previously approved stormwater management concept plans are no longer valid unless they have been designed to the new standards or have been reconfirmed by the Department of Permitting Services.

Payment of the stream monitoring fee is required prior to the approval of the sediment control plan. The stream monitoring fee computation is to be submitted for verification during the stormwater management/sediment control review process.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. 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. Note that monitoring is not required for this site.

If you have any questions regarding these actions, please feel free to contact Leo Galanko at (240)777-6242.

Sincerely,



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

RRB:CN236091

cc: D. Johnsen (MNCPPC-EP)
C. Conlon (MNCPPC-DR)
L. Galanko
R. Gauza (MCDEP)
SM File # 236091

Qn not required; Acres: 3.59
QI on-site; Acres: 3.59
Recharge provided

Attachment E – Proposed Record Plat

