

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

**MCPB
ITEM #17
10/28/04**

MEMORANDUM



DATE: October 22, 2004

TO: Montgomery County Planning Board

VIA: Richard Hawthorne, Acting Chief *RH*
Development Review Division

FROM: Richard A. Weaver, Coordinator (301) 495-4544 *RAW*
Catherine Conlon, Acting Supervisor *CC*
Development Review Division

REVIEW TYPE: Preliminary Plan of Subdivision for 8 single-family detached residential units

APPLYING FOR: Preliminary Plan Review and Final Water Quality Plan

PROJECT NAME: Briarcliff Meadows South

CASE NOS. 1-04036

REVIEW BASIS: Pursuant to Chapter 59, the Zoning Ordinance and Chapter 50, the Subdivision Regulations

ZONE: RE-1 w/cluster

LOCATION: Located on Thompson Road approximately 950 feet west of Peach Orchard Road

MASTER PLAN: Cloverly

APPLICANT: Winchester Homes

ENGINEER: Macris, Hendricks & Glascock, P.A.

HEARING DATE: October 28, 2004

Staff Recommendation: Approval, including a waiver of the minimum area of development pursuant to Section 59-C-1.532 of the Zoning Ordinance, and subject to the following conditions:

- 1) Approval under this preliminary plan application is limited to eight (8) single-family detached residential dwelling units.
- 2) At least 90 days prior to submission of any building or construction permit on the subject property, the applicant must provide written notice to the Maryland State Highway Administration, Engineering Access Permits Division Office of Highway Development, of the applicant's plan to proceed forward with development of the site. Applicant concurrently shall send a copy of this letter to MNCPPC, c/o Chief, Transportation Planning.
- 3) Any contract of sale between the applicant and any prospective buyer in the subdivision must (a) advise the buyer in writing that a reservation area as shown on Attachment 1, dated October 4, 2004 ("Reservation Area") is located adjacent to the subdivision; and (b) advise the buyer that they can contact the State Highway Administration for current information on the alignment within the Reservation Area. This notification requirement is binding on the applicant's heirs/successors and/or assigns.
- 4) Compliance with the conditions of approval for the preliminary forest conservation plan dated 10/22/04. The applicant must meet all conditions prior to recording of plat or MCDPS issuance of sediment and erosion control permit(s), as appropriate. Conditions include, but are not limited to, the following:
 - a. Final forest conservation plan to include methods to clearly mark the Category I conservation easement boundary, such as permanent fencing and signage.
 - b. Planting plan to include a mix of 1" and 2" caliper native trees. The specific mix to be determined as part of the final forest conservation plan.
- 5) Record plat to reflect a Category I easement over all areas of forest conservation areas.
- 6) Record Plat to reflect all areas under Homeowners Association ownership and stormwater management areas.
- 7) Record plat to reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant shall provide verification to Commission staff prior to release of final building permit that Applicant's recorded HOA Documents incorporate by reference the Covenant.
- 8) Compliance with the MCDPS conditions of approval of the Preliminary Water Quality Plan and stormwater management concept letter dated, October 22, 2004.
- 9) Dedicate, and show on final record plat, adequate right-of-way along Thompson Road (to the south of the site) to provide 35 feet of right-of-way from the roadway centerline.

- 10) Upgrade the northern half of Thompson Road (i.e., 12 feet from centerline) along the property frontage as a 24-foot wide open-section roadway, with no bike lane and no sidewalk (except as referenced in Condition 12).
- 11) Provide a HOA-maintained pervious path within a 10-foot easement between the Rowland Lane cul-de-sac to the north and Thompson Road property line to the south (within a 20-foot WSSC easement between Lots 4 and 5, and to the west of Lot 6).
- 12) Construct a five-foot wide sidewalk connection along the north side of Thompson Road (within the roadway right-of-way) from the terminus of the proposed pervious path (referenced in Condition 11) to an existing sidewalk/crosswalk to the east along the north side of Thompson Road.
- 13) Construct a four-foot wide sidewalk along the north side of Rowland Lane, extending the sidewalk around the cul-de-sac to the driveway to Lot 4, to provide a connection to the proposed pervious path (referenced in Condition 11).
- 14) Per Montgomery County Department of Public Works and Transportation (DPWT) letter dated August 31, 2004, construct Rowland Lane within the property as a 60-foot wide secondary residential street, with proper termination (a cul-de-sac) and connection to the existing roadway terminus.
- 15) Coordinate with the Montgomery County Department of Public Works and Transportation (DPWT) per letter dated August 31, 2004, and the Department of Permitting Services on design requirements for the proposed Rowland Lane, and on any frontage improvements along Thompson Road.
- 16) Compliance with conditions of approval of MCDPWT letter dated, August 31, 2004 unless otherwise amended by DPWT.
- 17) Access and improvements as required to be approved by MCDPWT prior to recordation of plat(s).
- 18) Prior to record plat, applicant to enter into an agreement with the Planning Board to limit impervious surfaces to no more than 9.7 percent.
- 19) Prior to release of building permits, applicant to demonstrate conformance to impervious surface limits as specified in Condition 18.
- 20) This preliminary plan will remain valid for thirty-seven (37) months from the date of mailing of the Planning Board opinion. Prior to this date, a final record plat must be recorded for all property delineated on the approved preliminary plan, or a request for an extension must be filed.

- 21) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion.
- 22) Other necessary easements.

SITE DESCRIPTION

The 9.41-acre property is located on Thompson Road approximately 950 feet west of Peach Orchard Road in Cloverly (Attachment 2). The property is zoned RE-1 and has been previously used as a single family residence with some history of commercial/agricultural use as a fruit orchard. The site is located within the Upper Paint Branch watershed, which is a Use Class III watershed and a designated Special Protection Area. This is an upland site which does not contain any streams or environmentally sensitive areas. The site is not forested, but does contain scattered trees, some of which are specimen size and will be preserved.

The site is impacted by one of the optional alignments for the Intercounty Connector (ICC) currently under study as part of the Maryland State Highway Administration's (SHA) Alternative Retained for Detailed Study process (Attachment 1). As discussed below, the optional alignment abuts the northern property boundary of the subdivision. If the alignment were chosen, there may be direct grading impacts on the three lots proposed along the northern property boundary.

PROJECT DESCRIPTION

The proposed Preliminary Plan contains eight single-family detached residential dwelling units clustered on the southeastern portion of the site and served by a secondary residential street terminating in a cul-de-sac. The proposed lot sizes range from 17,371 square feet to 35,805 square feet. The lots are clustered to provide a 3.5 acre open space parcel which will be afforested.

WAIVER OF THE MINIMUM DEVELOPMENT AREA

Section 59-C-1.532 of the zoning ordinance establishes 50 acres as the minimum size of a site for a cluster development in the RE-1 zone. However, footnote 6 of this section of the zoning ordinance states: "This minimum area requirement may be waived by the planning board upon a finding that the cluster development is more desirable for environmental reasons."

The applicant has submitted a request to waive the minimum area requirement for cluster. In addition, a concept of a non-cluster subdivision was also submitted to compare to the proposed cluster subdivision. Since there are no environmentally-sensitive features (e.g., streams, wetlands, floodplains, forest, or environmental buffers) on the subject site, the primary environmental benefit of the proposed cluster plan is afforestation on common open space that

exceeds the required forest conservation law requirements. The applicant proposes to plant 3.21 acres of forest, but is required to plant only 1.76 acres under the law.

Compared to the cluster subdivision, the non-cluster subdivision layout would have less land available for forest planting because land is needed not only for roads, homes, driveways, and usable yards, but suitable land must also be set aside for septic systems. Unlike the cluster proposal, a non-cluster plan would not be able to create a sizable afforestation area that is connected to existing and proposed conservation easements on adjacent properties. In addition, afforestation areas would be located on private lots (as opposed to common open space in the cluster subdivision). It is staff's experience that when afforestation areas are on private lots, there is more likelihood that encroachments into the afforestation areas will occur (e.g., mowing of planted trees and shrubs, construction of structures, etc.) even with Category I conservation easements recorded on the afforestation areas. Staff, therefore, believes the proposed cluster subdivision is better for environmental reasons than a non-cluster one for this site.

TRANSPORTATION

Site Location, Access, Circulation and Transportation Facilities

The site is located along the west side of Peach Orchard Road, to the north of Thompson Road, and will have access to Peach Orchard Road via an existing secondary residential roadway called Rowland Lane. Peach Orchard Road is a north-south roadway between Spencerville Road (MD 198) to the north and Briggs Chaney Road to the south. Land use in the vicinity of the site is primarily residential. The Briggs Chaney Middle School is located to the southwest of the site.

Along the property frontage, Peach Orchard Road is a two-lane primary residential roadway. Metrobus route Z3 serve MD 198 in the area.

Proposed Intercounty Connector

SHA is currently developing detailed mapping as part of its preparation of the Draft Environmental Impact Statement (DEIS) for the proposed ICC (a limited-access east-west highway intended to link areas between I-270 and I-95/US 1, through central/eastern Montgomery County and western Prince George's County).

The ICC planning process has concurrence on two alternative alignments, selected through the Alternatives Retained for Detailed Study (ARDS) process, called Corridor 1 and Corridor 2. Corridor 1 is the southern alignment that generally follows the alignment incorporated in the area master plans for the ICC, and Corridor 2 is the alignment to the north that is not represented in any area master plans. Of the above two alternative roadway alignments, based on the most current information provided by the SHA, the Corridor 2 alignment would physically impact the proposed Briarcliff Meadows South development as shown on Attachment 1 and on Attachment 2.

Master Plan Roadway and Pedestrian/Bikeway Facilities

The 1997 Approved and Adopted Cloverly Master Plan describes the nearby master-planned roadway, pedestrian and bikeway facilities as follows:

1. Spencerville Road (to the north of the site), as a four-lane Major Highway (M-76) with a minimum right-of-way of 120 feet to the west of Thompson Road to New Hampshire Avenue and a minimum right-of-way of 70 feet to the east of Thompson Road to 360 feet east of Batson Road. A Class I bikeway (PB-34) is recommended in the master plan for this roadway.
2. Thompson Road (i.e., the portion of Thompson Road to the south of the site), between the terminus of Rainbow Drive at Briggs Chaney Middle School to the west and Peach Orchard Road to the east, as a two-lane Primary (P-8), with a minimum right-of-way width of 70 feet. A Class III bikeway (PB-36) is recommended in the master plan for this roadway.
3. Kingshouse Road (to the south of the site), between Thompson Road to the north and Peach Orchard Road to the east, as a two-lane Primary (P-11), with a minimum right-of-way width of 70 feet.
4. Peach Orchard Road (to the east of the site), between MD 198 to the north and Briggs Chaney Road to the south, as a two-lane Primary (P-10), with a minimum right-of-way width of 70 feet.

Local Area Transportation Review

The subject Preliminary Plan, consisting of eight single-family detached units, will generate less than 50 total peak hour trips during the weekday morning (6:30 a.m. – 9:30 a.m.) and evening (4:00 p.m. – 7:00 p.m.) peak periods (8 and 9 total peak hour trips, respectively). Therefore, a traffic study (to analyze traffic impact at nearby intersections) is not required of this development to satisfy Local Area Transportation Review.

Policy Area Transportation Review/Staging Ceiling Conditions

Transportation staging ceiling capacity existed for residential development (+1,285 residential units as of June 30, 2004) within the Cloverly Policy Area under the FY 2004 AGP. Therefore, as a preliminary plan filed before July 1, 2004, Briarcliff Meadows South development satisfies the PATR test.

ENVIRONMENTAL

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

As part of the requirements of the Special Protection Area law, a preliminary and final water quality plan must be reviewed in conjunction with a preliminary subdivision plan¹. Under the provision of the law, the Montgomery County Department of Permitting Services (DPS) and the Planning Board have different responsibilities in the review of a water quality 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 approved the elements of the preliminary water quality plan under its purview (see Attachment 5).** 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

As part of the preliminary and final water quality plan, several performance goals were established for the site: minimize storm flow runoff increases, minimize increases to ambient stream water temperatures, minimize sediment loading, and minimize pollutant loadings.

Site Imperviousness

The Upper Paint Branch SPA is the only SPA that has a ten percent (10%) site imperviousness limit on new development. The imperviousness limit is set forth in the environmental overlay zone for the Upper Paint Branch SPA. The water quality plan proposes a site imperviousness of 10 percent. This consists of seven new single-family detached houses and driveways, one existing house and driveway, the extension of Rowland Lane ending in a cul-de-sac, a sidewalk on part of the new section of Rowland Lane, and a sidewalk on Thompson Road. The footprints of new houses range from 2100 to 2160 square feet. The site imperviousness also includes a widening of a part of Thompson Road to a 12-foot wide lane on the north side to meet county standards.

Staff believes the subdivision's imperviousness may be reduced slightly by eliminating part of the proposed sidewalk along the north side of Thompson Road. DPWT and Transportation Planning staff agree. A sidewalk currently exists along the south side of Thompson Road in front of the subject site, and a new sidewalk on the north side would not be necessary, especially in this SPA where limiting impervious surfaces is an important objective. Only a small segment of new sidewalk along the north side of Thompson Rd. is needed to connect the existing sidewalk to the proposed pervious surface path within the subdivision. With

¹ Section 19-62 (b) of the Montgomery County Code states that "except as otherwise expressly provided in this Chapter, the requirements for a water quality inventory and a preliminary and final water quality plan apply in any area designated as a special protection area to a person proposing a land disturbing activity on privately owned property:... who is seeking approval of an amendment to an approved development plan, diagrammatic plan, schematic development plan, project plan, special exception, preliminary plan of subdivision, or site plan.

this modification to limit new sidewalk on Thompson Rd. to a small segment, the subdivision's site imperviousness would be lowered to 9.7 percent. This would be in conformance to the environmental overlay zone. Staff recommends this revision to the preliminary plan (staff's recommended condition nos. 1 and 2).

Environmental Buffers

There are no streams, floodplains, wetlands, or environmental buffers on or adjacent to the site.

Forest Conservation

There is no existing forest. A specimen silver maple on the site is shown to be retained. To meet the forest conservation requirements, 1.76 acres of afforestation are required. The applicant proposes to afforest 3.2 acres, which is almost the entire HOA common open space. The excess forest planting is the major component of the applicant's justification for using the cluster option of the RE-1 zone on a property less than 50 acres (see discussion later in this memorandum). The configuration of the afforestation area is such that part of it abuts existing conservation easements to the west and a proposed conservation easement area to the north that is part of the proposed Briarcliff Meadows North preliminary plan (no. 1-04027).

Stormwater Management Concept

To help meet the project's performance goals, the stormwater management (SWM) concept includes the following features:

- A dry facility will provide water quantity controls.
- Stormwater management quality controls will be provided by vegetated swales next to the road and downstream of the storm drain outfall for the subdivision, biofiltration structure, and dry wells for houses.

Sediment Control

DPS is requiring the use of redundant sediment control measures, such as sediment traps with forebays.

Monitoring of Best Management Practices

DPS requires monitoring of best management practices that meets the monitoring protocols established by DPS and the Department of Environmental Protection (DEP).

See Attachment 6 for Environmental Planning Staff memo.

Attachments:

Attachment 1 – ICC Reservation Area

Attachment 2 – Site Vicinity Map

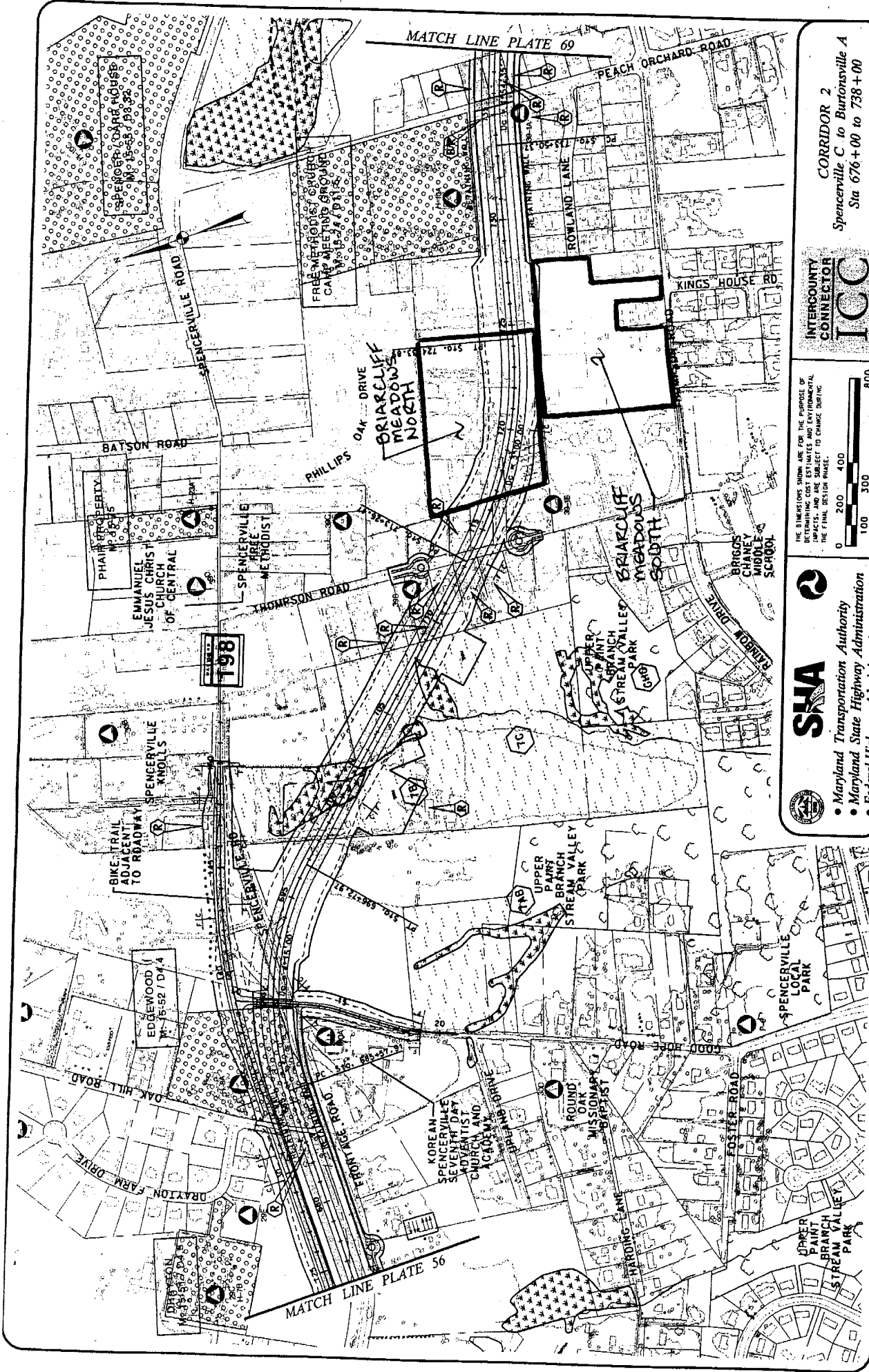
Attachment 3 – Preliminary Plan

Attachment 4 – Transportation Planning memo

Attachment 5 – Environmental Planning memo

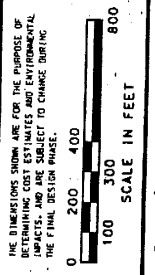
Attachment 6 – MCDPS Water Quality Plan Approval memo

Attachment 7 – MCDPWT memo



CORRIDOR 2
 Spencerville C. to Burtonsville A
 Sta 676+00 to 738+00

INTERCOUNTY CONNECTOR
ICC
 October 4, 2004



- SKA**
- Maryland Transportation Authority
 - Maryland State Highway Administration
 - Federal Highway Administration

THE DIMENSIONS SHOWN ARE FOR THE PURPOSE OF
 ESTIMATING COST ESTIMATES AND ENVIRONMENTAL
 IMPACTS AND ARE NOT TO BE USED FOR
 THE FINAL DESIGN PHASE.

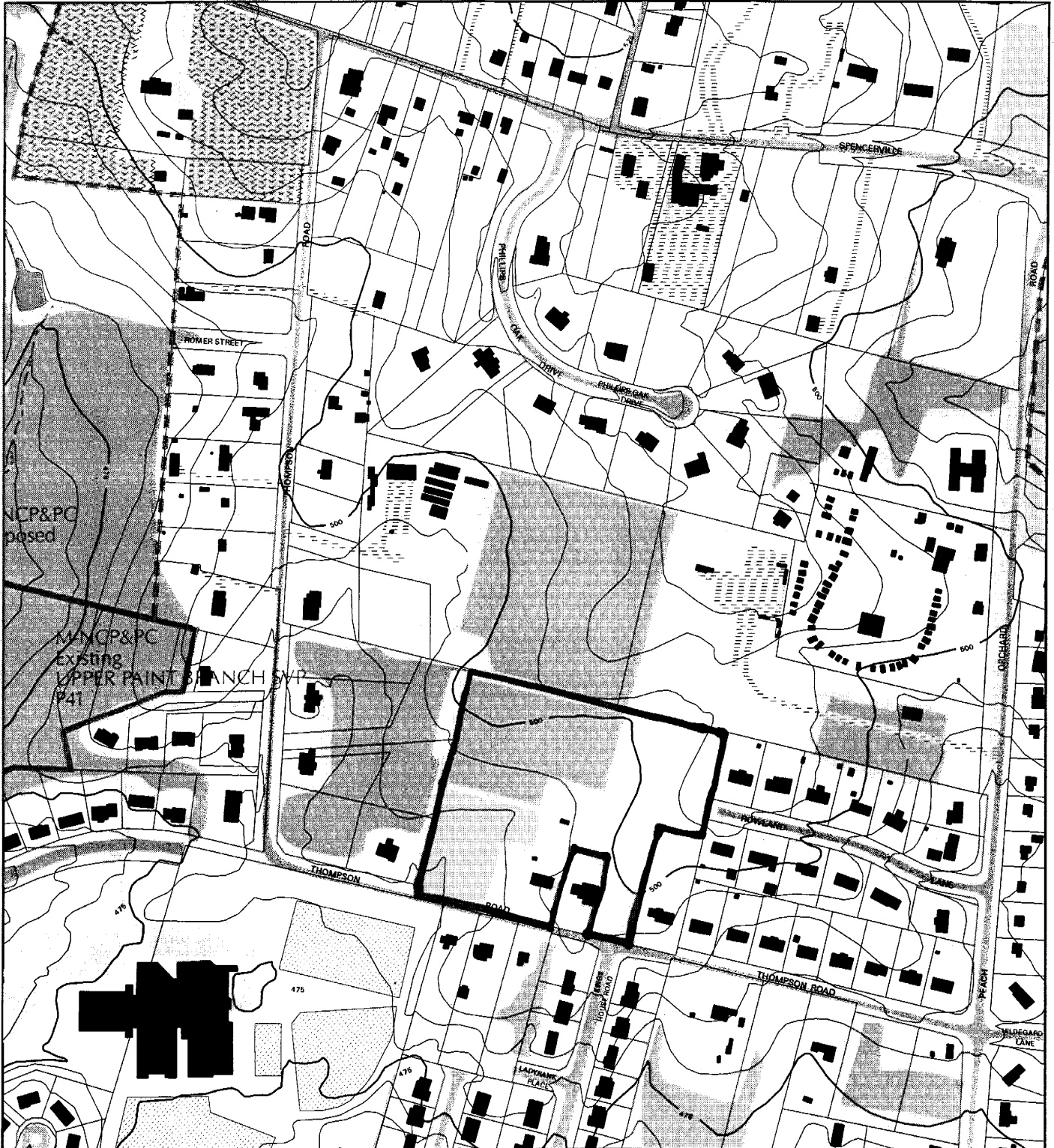
Scale: 1" = 400'

Plate 57

Attachment 1

HY2004_ICC-0616\F102-020.dwg

BRIARCLIFF MEADOWS SOUTH (1-04036)



Map compiled on November 05, 2003 at 12:10 PM | Site located on base sheet no - 221NE02

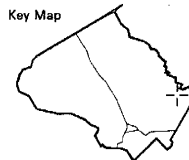
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Key Map



Research & Technology Center



1 : 4800

BRIARCLIFF MEADOWS SOUTH (1-04036)



Map compiled on November 05, 2003 at 12:13 PM | Site located on base sheet no - 221NE02

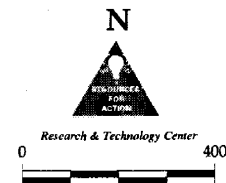
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Key Map





THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Attachment 4

October 22, 2004

MEMORANDUM

TO: Cathy Conlon, Development Review Division

FROM: Candy Bunnag, ^{CB}
Environmental Planning,
County-wide Planning Division

SUBJECT: Preliminary Plan No. 1-04036, and Special Protection Area (SPA)
Preliminary and Final Water Quality Plan for Briarcliff Meadows South

STAFF RECOMMENDATION

Staff recommends approval of the preliminary plan and Special Protection Area (SPA) preliminary and final water quality plan with the following conditions:

1. Revise preliminary plan and impervious surface plan to limit the proposed Thompson Road sidewalk to the section in front of proposed Lot 6.
2. Prior to record plat, applicant to enter into an agreement with the Planning Board to limit impervious surfaces to no more than 9.7 percent as revised in condition no. 1.
3. Prior to release of building permits, applicant to demonstrate conformance to impervious surface limits as shown on the revised preliminary plan. Any modifications to these plans which increase site imperviousness may require Planning Board action.
4. Compliance with the conditions of approval for the preliminary forest conservation plan dated 10/22/04. The applicant must meet all conditions prior to recording of plat or MCDPS issuance of sediment and erosion control permit(s), as appropriate. Conditions include, but are not limited to, the following:
 - a. Category I conservation easement to be placed over afforestation area. Easement to be shown on record plats.
 - b. Final forest conservation plan to include methods to clearly mark the Category I conservation easement boundary, such as permanent fencing and signage.

- c. Planting plan to include a mix of 1" and 2" caliper native trees. The specific mix to be determined as part of the final forest conservation plan.
5. Conformance to the conditions as stated in DPS' water quality plan approval letter dated October 22, 2004 (Attachment A).

DISCUSSION

Site Description

The 9.41-acre site lies within the Upper Paint Branch Special Protection Area (SPA). Paint Branch and its tributaries upstream of I-495 are Use III streams (natural trout waters)¹. The site drains to the Left Fork Tributary of Paint Branch. The site is in an upland area and there are no on-site forests, streams, wetlands, or environmental buffers. There are individual trees, many of which are peach trees:

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

As part of the requirements of the Special Protection Area law, a preliminary and final water quality plan must be reviewed in conjunction with a preliminary subdivision plan². Under the provision of the law, the Montgomery County Department of Permitting Services (DPS) and the Planning Board have different responsibilities in the review of a water quality 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 approved the elements of the preliminary water quality plan under its purview (see Attachment A).** 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

As part of the preliminary and final water quality plan, several performance goals were established for the site: minimize storm flow runoff increases, minimize increases to ambient stream water temperatures, minimize sediment loading, and minimize pollutant loadings.

¹ Paint Branch supports a naturally –reproducing brown trout population. This stream system is a unique resource for Montgomery County because it is the only stream system in the county with a proven, consistent long-term self-sustaining trout population.

² Section 19-62 (b) of the Montgomery County Code states that "except as otherwise expressly provided in this Chapter, the requirements for a water quality inventory and a preliminary and final water quality plan apply in any area designated as a special protection area to a person proposing a land disturbing activity on privately owned property:... who is seeking approval of an amendment to an approved development plan, diagrammatic plan, schematic development plan, project plan, special exception, preliminary plan of subdivision, or site plan.

Site Imperviousness

The Upper Paint Branch SPA is the only SPA that has a ten percent (10%) site imperviousness limit on new development. The imperviousness limit is set forth in the environmental overlay zone for the Upper Paint Branch SPA. The water quality plan proposes a site imperviousness of 10 percent. This consists of seven new single-family detached houses and driveways, one existing house and driveway, the extension of Rowland Lane ending in a cul-de-sac, a sidewalk on part of the new section of Rowland Lane, and a sidewalk on Thompson Road. The footprints of new houses range from 2100 to 2160 square feet. The site imperviousness also includes a widening of a part of Thompson Road to a 12-foot wide lane on the north side to meet county standards.

Staff believes the subdivision's imperviousness may be reduced slightly by eliminating part of the proposed sidewalk along the north side of Thompson Road. DPWT and Transportation Planning staff agree. A sidewalk currently exists along the south side of Thompson Road in front of the subject site, and a new sidewalk on the north side would not be necessary, especially in this SPA where limiting impervious surfaces is an important objective. Only a small segment of new sidewalk along the north side of Thompson Rd. is needed to connect the existing sidewalk to the proposed pervious surface path within the subdivision. With this modification to limit new sidewalk on Thompson Rd. to a small segment, the subdivision's site imperviousness would be lowered to 9.7 percent. This would be in conformance to the environmental overlay zone. Staff recommends this revision to the preliminary plan (staff's recommended condition nos. 1 and 2).

Environmental Buffers

There are no streams, floodplains, wetlands, or environmental buffers on or adjacent to the site.

Forest Conservation

There is no existing forest. A specimen silver maple on the site is shown to be retained. To meet the forest conservation requirements, 1.76 acres of afforestation are required. The applicant proposes to afforest 3.2 acres, which is almost the entire HOA common open space. The excess forest planting is the major component of the applicant's justification for using the cluster option of the RE-1 zone on a property less than 50 acres (see discussion later in this memorandum). The configuration of the afforestation area is such that part of it abuts existing conservation easements to the west and a proposed conservation easement area to the north that is part of the proposed Briarcliff Meadows North preliminary plan (no. 1-04027).

Stormwater Management Concept

To help meet the project's performance goals, the stormwater management (SWM) concept includes the following features:

- A dry facility will provide water quantity controls.
- Stormwater management quality controls will be provided by vegetated swales next to the road and downstream of the storm drain outfall for the subdivision, biofiltration structure, and dry wells for houses.

Sediment Control

DPS is requiring the use of redundant sediment control measures, such as sediment traps with forebays.

Monitoring of Best Management Practices

DPS requires monitoring of best management practices that meets the monitoring protocols established by DPS and the Department of Environmental Protection (DEP).

Cluster Development on Sites Less than 50 Acres

Section 59-C-1.532 of the zoning ordinance establishes 50 acres as the minimum size of a site for a cluster development in the RE-1 zone. However, footnote 6 of this section of the zoning ordinance states: "This minimum area requirement may be waived by the planning board upon a finding that the cluster development is more desirable for environmental reasons."

The applicant has submitted a request to waive the minimum area requirement for cluster (Attachment B). In addition, a concept of a non-cluster subdivision was also submitted to compare to the proposed cluster subdivision. Since there are no environmentally-sensitive features (e.g., streams, wetlands, floodplains, forest, or environmental buffers) on the subject site, the primary environmental benefit of the proposed cluster plan is afforestation on common open space that exceeds the required forest conservation law requirements. The applicant proposes to plant 3.21 acres of forest, but is required to plant only 1.76 acres under the law.

Compared to the cluster subdivision, the non-cluster subdivision layout would have less land available for forest planting because land is needed not only for roads, homes, driveways, and usable yards, but suitable land must also be set aside for septic systems. Unlike the cluster proposal, a non-cluster plan would not be able to create a sizable afforestation area that is connected to existing and proposed conservation easements on adjacent properties. In addition, afforestation areas would be located on private lots (as opposed to common open space in the cluster subdivision). It is staff's experience that when afforestation areas are on private lots, there is more likelihood that encroachments into the afforestation areas will occur (e.g., mowing of planted trees and shrubs, construction of structures, etc.) even with Category I conservation easements recorded on the afforestation areas. Staff, therefore, believes the proposed cluster subdivision is better for environmental reasons than a non-cluster one for this site.

Ownership of Stormwater Management Facility (SWM)

The proposed SWM facility will be owned and maintained by the subdivision's HOA. Staff supports this and does not recommend that this facility be owned and maintained by M-NCPPC because it is not adjacent to existing or proposed parkland.

In some of the other new subdivisions³ in the Upper Paint Branch SPA, the SWM facilities are adjacent to existing or dedicated parkland, and the Planning Board has required M-NCPPC ownership of these SWM facilities supplemented by a developer-created maintenance fund. The intent is to ensure that these facilities have a relatively high chance of being adequately maintained in the long-term. A public agency with a major commitment to protect a valuable natural resource is better able to properly monitor and maintain a SWM facility than a private entity, such as a HOA. Proper maintenance of SWM facilities is critical if the high water quality conditions of this SPA stream system are to be preserved.

Staff believes that ideally, the SWM facility within this subdivision should be owned and maintained by M-NCPPC. However, the proposed facility will be surrounded by residential lots private open space; it is isolated from parkland. Such a configuration of the SWM facility will make it difficult for Parks staff to access the facility for inspection and maintenance activities. Therefore, staff believes the facility should be privately owned and maintained. It should be noted the current county stormwater management law provides for some degree of county maintenance of residentially-owned SWM facilities.

³ These subdivisions include: Allnut Property, preliminary plan 1-94096; Peach Orchard Property, 1-95050; Baldi Property, 1-98065; Hunt Lion's Den Property, 1-98095, Hunt-Miles Property, 8-02024.