



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

**Item #**  
**MCPB 10-11-07**

**MEMORANDUM**

**DATE:** September 28, 2007  
**TO:** Montgomery County Planning Board  
**VIA:** Rose Krasnow, Chief *RK*  
 Robert A. Kronenberg, *RAW*  
 Acting Supervisor  
 Development Review Division  
**FROM:** Melanie Moser  
 Moser Consulting  
 (410) 889-0599



**REVIEW TYPE:** **Site Plan Review**  
**CASE #:** **820070020**  
**PROJECT NAME:** **Poplar Run (aka Indian Spring)**  
**APPLYING FOR:** 773 dwelling units, including up to 15% MPDUs, on 310.37 acres, with supporting infrastructure, recreational amenities and open space.  
**REVIEW BASIS:** Div. 59-D-3 of Montgomery County Zoning Ordinance

**ZONE:** R-90 and R-200  
**LOCATION:** Located on the east side of Layhill Road, approximately 1,300 feet south of the intersection with Middlevale Lane  
**MASTER PLAN:** Kensington-Wheaton Master Plan

**APPLICANT:** Winchester Homes  
**ENGINEER:** Loiederman, Soltesz Associates  
**ATTORNEY:** Lerch, Early and Brewer  
**LANDSCAPE ARCHITECT:** Studio 39  
**FILING DATE:** July 13, 2006  
**HEARING DATE:** October 11, 2007

## **Summary**

### Background

The Poplar Run site, formerly known as Indian Spring, is currently a vacant golf course and clubhouse. The preliminary plan was originally submitted as a golf course community but was revised based upon possible environmental impacts to the stream valleys, floodplain and sensitive areas. The plan was resubmitted and approved for 773 dwellings on September 21, 2006. Major concerns addressed during the preliminary plan review included the primary road connection from Tivoli Lakes through the Indian Spring site, density and compatibility with surrounding subdivisions, transportation issues involving traffic calming, cut-through traffic and pedestrian safety, the reservation/dedication of a future elementary school site, pedestrian facilities and environmental impacts. A request for reconsideration of the Tivoli Lakes connection was heard by the Board but not overturned from the previous decision, which was to comply with the Master Plan for the Tivoli Lakes road connection through the site.

### Proposal

The Applicant proposes to develop the site in three phases, starting with the primary entrance into the site from Layhill Road and finishing with the phase to the north. The connection from Tivoli Lakes to the south is provided within Phase II of the development. The plan includes community wide facilities, such as a community center and pool as well as an integral bike path running north to south through the center of the community. Additional pedestrian connections are being made to the Rachel Carsen Greenway within the Northwest Branch Park.

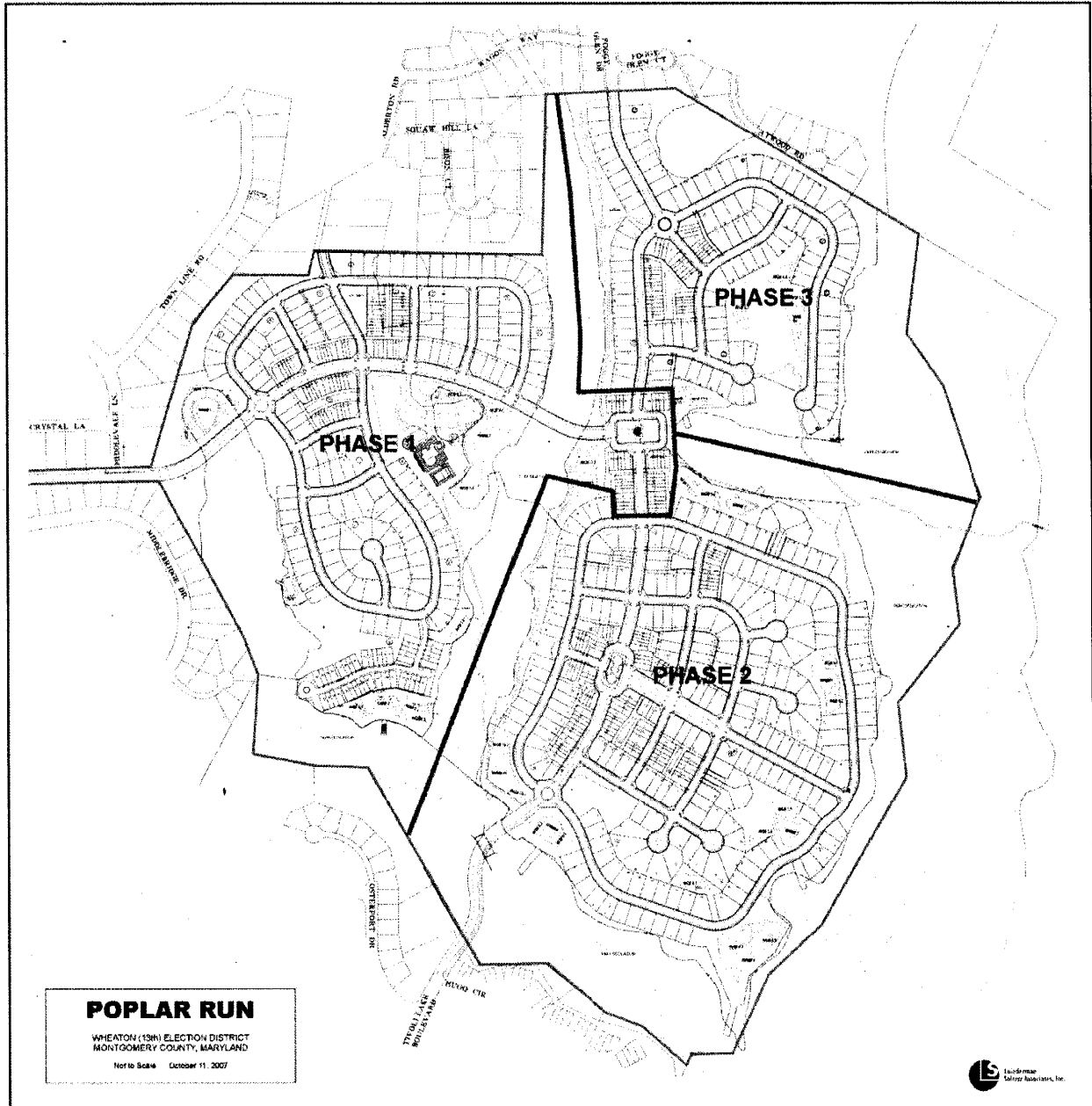
### Issues

Issues addressed during the site plan review included opening up vistas and viewsheds at key points facing the natural areas to increase visual exposure and public access, traffic calming measures, pedestrian safety, the alignment of the Tivoli Lakes road connection and the appropriateness of the Poplar Run site for a future school site. Staff worked with the Applicant to reduce the "tunnel effect" along Tivoli Lake Boulevard through modifications to the layout and placement of proposed units.

### Community Outreach

There have been several meetings with the Tivoli Lake community, which is located south of Poplar Run. Tivoli Lake Boulevard, an existing road through the community, will provide access to the new community from Randolph Road. The community's concern has been the potential for cut-through traffic between Layhill Road and Randolph Road at rush hour. The Applicant has also met with the Layhill View Homeowners Association, located to the north of the subject site.

A proposal by the community for realignment at the north end of Tivoli Lake Boulevard as it enters Poplar Run was taken by the developer's engineer to DPWT; this realignment was not acceptable to DPWT. At the last meeting, the Tivoli Lake community requested that a traffic circle be provided at Tivoli Lake Boulevard and Osterport Drive. If approved by DPWT, the developer has agreed to construct this circle. Additionally, the community, developer and staff worked to minimize impacts of the road system on Lot 64 of Tivoli Lake and to provide traffic calming measures throughout the proposed community.



**Poplar Run Site Plan indicating the three phases of the development**

**STAFF RECOMMENDATION:** Approval of 773 dwelling units (471 one-family detached and 302 townhouse units), including 15% MPDUs, a community center and modification of the MPDU lot size to 1300 square feet, on 310.37 acres. All site development elements as shown on the site and landscape plans stamped by the M-NCPPC on August 29, 2007 shall be required except as modified by the following conditions:

1. Preliminary Plan Conformance  
The proposed development shall comply with the conditions of approval for Preliminary Plan 120060510 as listed in the Planning Board opinion dated January 4, 2007 [Attachment A].
2. Landscaping
  - a. Provide typical landscape package for front yard of townhouse units.
  - b. Plant material selections may be substituted according to the alternate plant list to address issues with availability of material, replacements and site considerations during construction.
3. Lighting
  - a. Provide a lighting distribution and photometric plan with summary report and tabulations to conform to IESNA standards for residential development.
  - b. All light fixtures shall be cut-off fixtures.
  - c. Deflectors shall be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.
  - d. Illumination levels shall not exceed 0.5 footcandles (fc) at any property line abutting adjacent residential properties.
  - e. The height of the light poles within the pool area shall not exceed 18 feet including the mounting base.
  - f. Lighting associated with the community center/clubhouse shall be no greater than 18-feet tall.
  - g. Lighting associated with the private streets and common areas shall be no greater than 14-feet tall.
  - h. Label or use a symbol on all street lights which will have house-side shield to prevent light levels from spilling to adjoining residential properties. Add a confirmatory statement that there will be no light levels above 0.10 footcandles beyond the right of way line or residential property line.
4. Pedestrian Circulation  
Provide an 8' minimum width hard surface trail from the existing Foggy Glen Drive terminus on the north side of the proposed development, to the existing Tivoli Lake Boulevard terminus located south of Bel Pre Creek.
5. Recreation Facilities
  - a. The Applicant shall provide the square footage requirements for all of the applicable proposed recreational elements and demonstrate that each element is in conformance with the approved M-NCPPC Recreation Guidelines.
  - b. The Applicant shall provide the following recreation facilities: 10 picnic/sitting areas, 1 tot lot, 1 play lot, 2 open play areas (types I and II) , natural areas and trails as well as a swimming and wading pool within the clubhouse area.
  - c. Indicate the square footage of the Indoor Community Space and Exercise Room, and describe the equipment or station in the Indoor Fitness Facility. Note standards in the Recreation Guidelines.
6. M-NCPPC Park Facility  
The applicant shall comply with the following conditions of approval from M-NCPPC-Park Planning and Research Analysis in the memorandum dated September 20, 2007 [Attachment B]:
  - a. Applicant to establish and dedicate to M-NCPPC a 35' minimum width green corridor, as shown on the Plan, through the subject property from the existing Foggy Glen Drive terminus on the north side of the subject property to the existing Tivoli Lake Boulevard on the south side. The green corridor should be primarily located away from roads,

outside of the floodplain and stream buffers, and away from private residences and fences, wherever possible, and give the impression and feel to the user of a park like setting. Exact alignment and width of the dedicated green corridor to be determined by time of Certified Site Plan.

- b. Applicant to construct within the dedicated parkland an 8' minimum width hard surface trail from the existing Foggy Glen Drive terminus on the north side of the proposed development to the existing Tivoli Lake Boulevard terminus located south of Bel Pre Creek. Exact trail alignment to be determined by time of Certified Site Plan. Trail to be constructed to park standards and specifications and include necessary bridges, stream crossings and adequate signage. Trail will cross Bel Pre Creek on the same bridge as the proposed road crossing and be located such that it connects with the sidewalk system currently located along Tivoli Lake Boulevard. Trail to be adequately separated from the roadway for user safety.
  - c. Applicant to provide a natural surface trail connection from the community sidewalk and hard surface trail system to the master planned Rachel Carson Greenway Trail located on the east side of Northwest Branch. Trail to be located approximately as shown on the Plan and to include necessary boardwalks and a bridge across Northwest Branch. Exact location of trail and bridge to be acceptable to M-NCPPC staff and determined prior to Certified Site Plan. Trail and bridge to be constructed to park standards and specifications within existing and dedicated parkland to allow adequate public access to the trail.
  - d. Applicant to dedicate to M-NCPPC all land as indicated on the Site Plan along Northwest Branch and Bel Pre Creek to be added to current stream valley parkland. Land to be conveyed at time of record plat and to be free of trash and unnatural debris with boundaries staked and signed to delineate between parkland and private property. Existing ponds within the dedicated parkland to be removed by Applicant prior to conveyance, if M-NCPPC staff determines such removal to be desirable.
  - e. Wherever possible, any stormwater management ponds and structures are to be located on HOA owned land and all hard surface and natural surface trails required by these Conditions are to be located on dedicated parkland. When this is not practical due to engineering or environmental limitations, then easements, acceptable to both Applicant and M-NCPPC staff, must be established to give the HOA the right and obligation to repair and maintain any stormwater structures located on parkland, and to give M-NCPPC the right to maintain, repair and police, and the public the right to freely use, any trails or portions thereof that are located on HOA owned property.
  - f. Applicant to procure a Park Permit prior to construction of the trails or stream crossings on parkland. Minor adjustments or changes to the park amenities resulting from any adjustment of final easement and trail alignments, bridge details or locations, signage, or other such changes required during the park permitting process, shall not require an amendment to this Site Plan.
7. Moderately Priced Dwelling Units (MPDUs)

The proposed development shall provide 15 percent MPDUs on-site in accordance with the letter from the Department of Housing and Community Affairs to Chairman Hanson dated July 2, 2007. The applicant is receiving a 22 percent density bonus for providing 15 percent MPDUs on-site.

- a. The Applicant shall provide 116 Moderately Priced Dwelling Units (15% of the total number of units), consistent with Chapter 25A.
  - b. The MPDU agreement shall be executed prior to the release of the first building permit.
  - c. All of the required MPDUs shall be provided on-site.
8. School Site Dedication  
The amount of land to be dedicated to MCPS for the school site is 10 acres.
9. Transportation  
The applicant shall comply with the following conditions of approval from the Department of Permitting Services Right-of-Way Permitting and Plan Review Section in the memorandum dated July 20, 2007 [Attachment B]:
- a. Extend length of chokers by 10 feet. The choker should measure 50 feet from the extension of the intersecting curb line to the tangent of the choker.
  - b. The 12 foot wide median islands on Street A should have a mountable curb (MC101.01), a two-foot wide decorative (stamped concrete) traffic bearing collar, a tree, and a 'half bullet nose design.
  - c. Traffic circles should have a six-foot wide, decorative (stamped concrete) traffic bearing collar, one to three trees and grass or low growing plant material (see MC704.01 Allowable Greenspace Plantings).
  - d. The proposed retaining walls on Street A and Tivoli Lake Boulevard are acceptable in the right of way where the adjacent property is not or will not be controlled by the HOA. DPWT Design Section will need to sign-off on the retaining wall plans at permitting.
  - e. Street H at Street B should intersect at no less than 70 degrees.
  - f. The median island on the east leg of Street O should be widened, lengthened and tapered to provide a better transition from the west leg. It can be treated similar in design to the median islands proposed for Street A.
  - g. The Applicant will be responsible for developing a plan and installing all traffic signs (Stop, One Way, etc.) and pavement markings (centerlines, etc.) on the public roads. This includes all necessary parking restriction signs as mandated by the Fire Marshall or DPWT. The signing and marking plan should be submitted to DPWT for approval concurrent with the storm drain and paving plans for the site.
  - h. All landscaping or any non-standard feature, other than street trees, allowed within the public right of way on the circles, medians, and at the community entrances, will be the responsibility of the HOA and will require a Maintenance and Liability Agreement prior to permitting. (The interiors of the two squares will be HOA property and, thus, are not subject to this requirement.)
  - i. The Applicant shall construct a traffic circle that will function safely and efficiently within the existing public right of way at the intersection of Tivoli Lake Boulevard and Osterport Drive, if acceptable to DPS and DPWT, and the Tivoli HOA.
  - j. Two curb ramps will be provided on each corner at intersecting streets (only one corner at T intersections). The ramps will be located as close to the intersection as feasible and will be perpendicular to the radius (curb return). The exact locations of the ramps will be determined at permitting.
10. Forest Conservation  
The applicant shall comply with the following conditions of approval from M-NCPPC-Environmental Planning in the memorandum dated September 28, 2007 [Attachment B]:
- 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. These conditions include, but are not limited to, the following:

- i. Permanent markers (such as fences or signs) that clearly identify the boundaries of forest retention and forest planting areas, in addition to environmental buffer areas.
  - ii. Revise the invasive plant management plan to require removal and control of non-native, invasive plants starting in the first year of forest planting.
  - iii. Add a planting plan and schedule for forest bank areas, including access to allow for maintenance of planted areas.
  - iv. Include detailed plans for restoration work within the environmental buffers.
- b. Record plat of subdivision shall show all areas of forest retention, forest planting, and environmental buffers within Category I conservation easements or park dedication.
  - c. The M-NCPPC inspector will determine, as part of the pre-construction meeting, trees in a forest stand and located along the limits of disturbance that may be protected and those that will be removed. The inspector may also require mitigation to replace trees that help create forest canopy along the limits of disturbance that are removed as part of this inspection. Mitigation rate will be up to an inch-per-inch diameter at breast height of trees of native stock.
  - d. Applicant must submit detailed design plans for the reconstruction of the stream bank and construction of pathways for pedestrian and wildlife use through the culvert for Tivoli Lakes Boulevard for review and approval by Staff of M-NCPPC Environmental Planning and Department of Parks Natural Resources. The detailed design for the stream bank and pathways through the culvert must be consistent with the Conceptual Span profiles dated May 2006, by Loiderman Soltész Associates, Inc.

11. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated September 14, 2007 unless amended and approved by the Montgomery County Department of Permitting Services [Attachment B].

12. 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 issuance of the 541st building permit that Applicant's recorded Homeowners Association Documents incorporate by reference the Covenant.

13. Development Program

Applicant shall construct the proposed development in accordance with Development Program. A Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of the certified site plan. Development Program shall include a phasing schedule as follows:

- a. Street tree planting shall progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets.
- b. Local Recreational Facilities
  - i. All Local Recreational Facilities shall be completed prior to the issuance of the 212nd building permit for the units in Phase I. (This number represents 70 percent of 302 units located in Phase I). The recreation facilities in Phase I include the natural areas and 3 sitting areas. Landscaping and lighting associated

- with the Recreational Facilities shall be installed no later than 6 months after the completion of those facilities.
- ii. All Local Recreational Facilities shall be completed prior to the issuance of the 229<sup>nd</sup> building permit for the units in Phase II. (This number represents 70 percent of 327 units located in Phase II). The recreation facilities in Phase II include the play lot, natural areas and trails and 7 sitting areas. Landscaping and lighting associated with the Recreational Facilities shall be installed no later than 6 months after the completion of those facilities.
  - iii. All Local Recreational Facilities shall be completed prior to the issuance of the 101st building permit for the units in Phase III. (This number represents 70 percent of 144 units located in Phase III). The recreation facilities in Phase III include the natural areas and trails and remainder of the pedestrian system. Landscaping and lighting associated with the Recreational Facilities shall be installed no later than 6 months after the completion of those facilities.
- c. Community-Wide Recreational Facilities
- iv. All Community-Wide Recreational Facilities shall be completed prior to the issuance of the 436<sup>th</sup> building permit. (This number represents 70 percent of 629 units located in Phases I and II). Community-wide facilities include the pool, pool house and community center, tot lot, gazebo in the community square, open play areas and the phase I and II portion of the 8-foot-wide hard surface hiker/biker path. Landscaping and lighting associated with the community-wide facilities shall be installed no later than 6 months after the completion of those facilities.
  - v. Community-wide facilities in Phase III, including the remainder of the 8-foot-wide hard surface hiker/biker path and the natural surface connections to the Rachel Carson Greenway Trail and necessary bridges or boardwalks, shall be completed prior to the issuance of the 101 building permit (this number represents 70 percent of 144 units located in Phase III). Landscaping and lighting associated with the community-wide facilities shall be installed no later than 6 months after the completion of those facilities.
  - vi. The hard surface path connection associated with the Tivoli Lakes road connection, starting at Hugo Circle to the first intersecting street in the community (currently Street K), shall be constructed along with the road connection.
- d. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion.
  - e. On-site landscaping and lighting associated with the construction of the private roads and common areas shall be installed no later than 6 months after the completion of those roads and common areas.
  - f. Provide each section of the development with necessary roads.
  - g. Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, trip mitigation or other features.
14. Clearing and Grading  
No clearing or grading prior to M-NCPPC approval of the certified site plan.



15. Certified Site Plan

Prior to approval of the certified site plan, the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. Development program, inspection schedule, site plan index, and site plan resolution.
- b. Limits of disturbance.
- c. Methods and locations of tree protection.
- d. Forest Conservation easement areas.
- e. MPDU, TDR, and recreation facility calculations.
- f. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading.
- g. Location of outfalls away from tree preservation areas.
- h. All residential lots to meet the minimum square footage: 6,000 sf for one family detached; 1500 sf for one family attached; and 1300 sf for MPDU one family attached.
- i. Show required parking for Community Center as 97 spaces (1 space per 7 persons in pool; pool capacity of 677 persons).
- j. Show a calculation for required and provided interior green space for the parking area.
- k. Provide the building restriction lines and setbacks on each lot.
- l. Provide an alternate plant schedule for substitutions.

## SITE PLAN REVIEW ISSUES

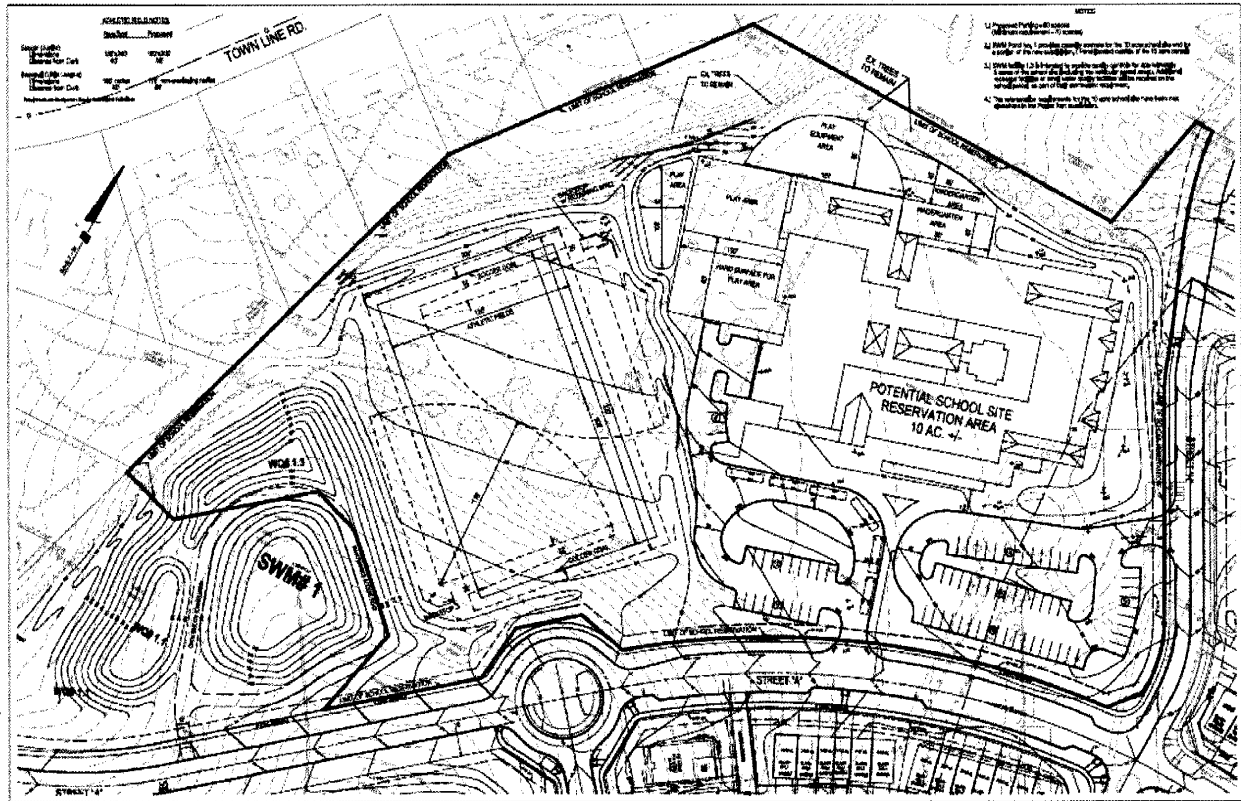
### I. School Site Reservation.

The approved Preliminary Plan for the proposed development required dedication of one-third of an elementary school site (four acres), with the remaining two-thirds placed in reservation for three years (starting from September 21, 2006). A condition of the preliminary plan anticipated that the final location of the future school site would be decided by Montgomery County Public Schools, M-NCPPC, the county and the developer before site plan approval. Condition 12 states the following language:

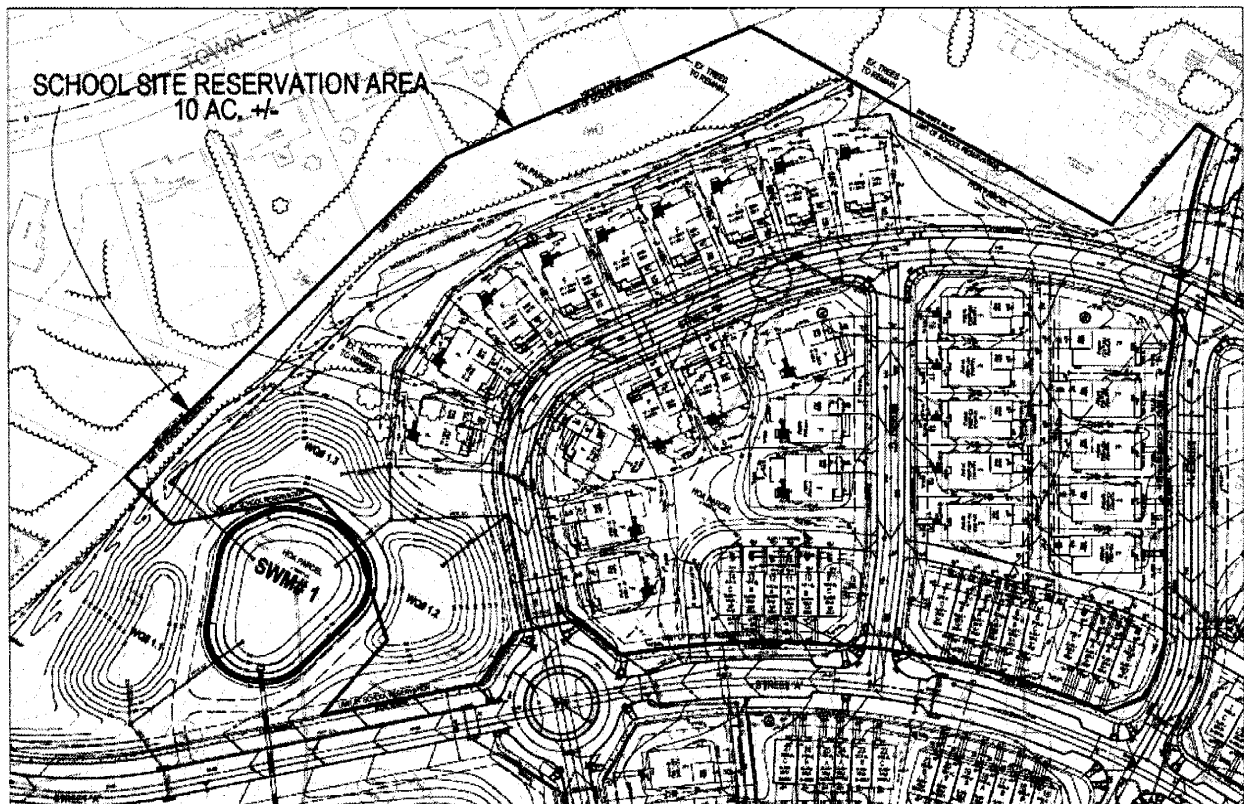
*“Based upon the final number of units approved at the time of site plan, the Applicant shall dedicate a portion of a school site proportionate to the number of elementary school age children that MCPS forecasts will be generated by the Indian Spring subdivision relative to the number 600, which would warrant the dedication of the entire school site (i.e., if the number of elementary school age children forecasted to be generated is 200, one-third of the school site shall be dedicated). The Applicant shall place, and the Record Plat shall reflect placement of all remaining lots within the identified school site in reservation for a period not to exceed 36 months from the date of the hearing approving the Preliminary Plan. The area to be dedicated shall be determined at site plan and the reservation plat shall state that ‘dedication to occur only at such time that MCPS acquires the reservation area’. The Board expects the Applicant, MCPS, Montgomery County Government and Staff, prior to review of the site plan by the Board, to work together to determine whether this site is needed or whether there are alternative school sites that are preferable and feasible.”*

#### Applicant’s Proposal (or Position)

During the Preliminary Plan review, the Planning Board directed the Applicant and Staff to work together to determine whether the Poplar Run school site is needed or whether alternate sites, including Saddlebrook, should be evaluated. The Applicant has met with Staff and MCPS to evaluate alternative school sites including the Park Police Headquarter site. The Applicant believes they have satisfied the condition to evaluate the sites and believes the Saddlebrook site is justified, given the MCPS cost comparison analysis for building a new elementary school on the Poplar Run site, removing the Park Police Headquarters and relocating Park Police. The analysis and further justification are outlined in the memo provided by the Applicant in their letter dated September 12, 2007 from Steven A. Robins to Rose Krasnow, Robert Kronenberg and Melanie Moser.



**Reservation Area with future school**



**Development without the reservation area and including 43 houses**

### Community Position

The broader community has not provided any new correspondence related to their position with respect to the location of the school site; however, testimony and correspondence was provided during the preliminary plan review in opposition to the proposed school on the subject site. The community voiced a belief that an alternate location would better serve the regional needs and would not create the increased traffic through the neighborhood that would result from locating the school on site.

### Staff Analysis/Position

At Preliminary Plan, the Board required the Applicant to dedicate a portion of a school site and place the remainder in reservation for purchase by MCPS. The precise amount of the school site to be dedicated was to be determined at Site Plan based on the MCPS projection of the number of students that the Poplar Run development would contribute to the school. Based on the formula set forth in Condition No. 12 of the Preliminary Plan approval, and based on the number of units approved as part of this Site Plan, one-third of the area needed for the school site, or 10 acres, must be dedicated.

The Board stated in Condition No. 12 of the Preliminary Plan approval that it expected “the Applicant, MCPS, Montgomery County Government and Staff to work together to determine whether this site is needed or whether there are alternative school sites that are preferable and feasible.” The Applicant argues that the Saddlebrook site, which is currently used as a Park Police facility, is feasible and preferable. Staff disagrees. Using the Poplar Run site will result in lower costs to the public, avoid the difficulty of finding another site for the Park Police facility, and ensure that the school is highly accessible to Poplar Run residents. Thus, the Board should not modify the Preliminary Plan requirement to dedicate and reserve the school site.

## **II. Road System**

Consistent with the Planning Board resolution regarding the Preliminary Plan for Poplar Run, additional traffic calming measures are provided in the subdivision, with the intent to limit non-local traffic and promote pedestrian safety.

### Applicant’s Proposal (or Position)

The Applicant has modified the road sections based upon comments by the Tivoli community, DPS, DPWT and Staff during the site plan process. The stated purpose is to deter non-local traffic while enhancing pedestrian safety and circulation is satisfied with the proposed modifications. The majority of the modifications are located within the public right-of-way for Street A, Tivoli Lane and Tivoli Lake Boulevard.

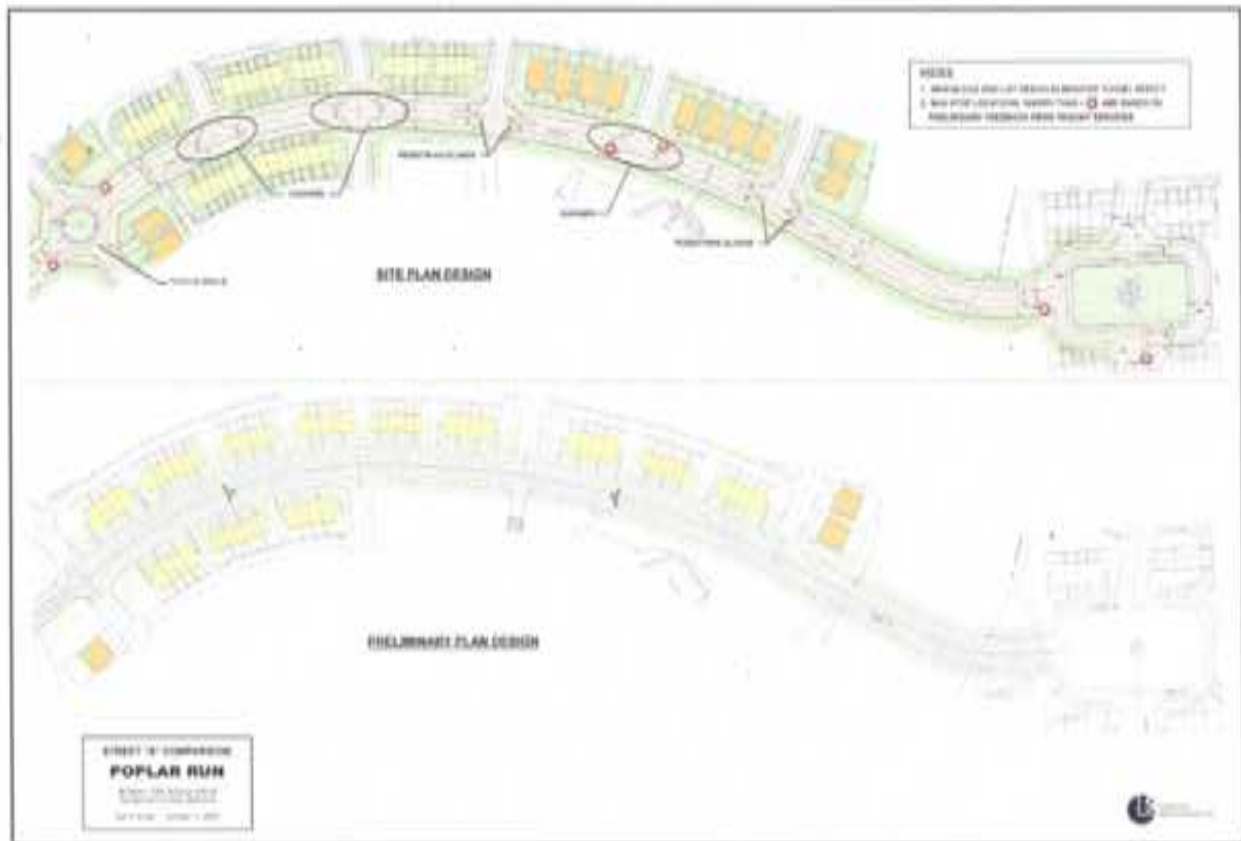
### Community Position

The Tivoli HOA has been concerned about the potential non-local (cut-through) traffic given the alignment and connection to the site from Tivoli Lakes Boulevard. The community requested modifications to the design of the road, including additional traffic circles, use of chokers and additional pedestrian refuge islands. The Applicant, through assistance from the county agencies, was able to relocate the hard surface path to mitigate impacts to the neighboring property owner at Hugo Circle. The community is supportive of the modifications presented to

date; however, still object to the connection of Tivoli Lake Boulevard through the Poplar Run site.

#### Staff Analysis/Position

Staff is confident that the conditions of the Planning Board resolution regarding the Preliminary Plan have been satisfied by providing traffic calming measures within the subject site. The overall intent to limit non-local traffic, reduce speeds and promote pedestrian safety has been achieved by the roadway design changes. If needed, further changes can be required from DPWT through their traffic-calming program.



#### **Street A and Community Square comparison**

As shown above and on the following page, modifications have been incorporated into the design of the road sections throughout the community:

- a. Addition of a traffic circle on Street A;
- b. Addition of chokers at three intersections, and paired pedestrian refuge islands at two intersections on Street A;
- c. Relocation of the northern traffic circle to the intersection of Tivoli Lane and Street N;
- d. Use of chokers at three intersections along Tivoli Lake Boulevard; and
- e. Addition of a second square with a stop conditions on Tivoli Lake Boulevard at Street O.

The modifications listed above will significantly slow non-local traffic, and consequently, will act to deter non-local movements, while still enabling residents to access their homes via the primary residential trunk street. The primary road alignment set by DPWT at preliminary plan is acceptable.



Tivoli Lake Boulevard comparison

**PROJECT DESCRIPTION:** Site Vicinity

The subject property is located on the east side of Layhill Road, just west of the Northwest Branch Park and north of Randolph Road. It is bounded to the north by the Layhill View community, to the west by the Middlebridge community, and to the south by the Tivoli community. A private driveway enters the site from Layhill Road; Foggy Glen Road adjoins the site to the north; and Tivoli Lake Boulevard enters the site from the south. The property is located within the Kensington-Wheaton Planning Area consisting of surrounding existing one-family detached neighborhoods developed under the R-200, R-150 and R-90 zones. One-family detached units about the majority of the property with the exception of a small pocket of townhouses to the south near the Tivoli Lakes Boulevard terminus.



## PROJECT DESCRIPTION: Site Description

The 310 acre site is currently improved as Indian Spring Golf Course, although the club is no longer functioning. The existing improvements will be removed. The course is zoned R-200 with a small portion zoned R-90. A tributary of the Northwest Branch runs in a southeasterly direction along the south side of the property, and the Branch itself runs in a southerly direction along the east side of the property. Stream buffers, floodplains and wetlands have been identified on the property, and the property is subject to Forest Conservation requirements. The subject property is entirely within the Northwest Branch watershed, with streams designated as Use IV, recreational trout waters. Most of the land cover is lawn or grass with approximately 32 acres of forest along the stream valleys. The topography of the site is rolling, with some areas of steep slopes along the stream valleys and floodplains. The floodplain covers approximately 46 acres.





**PROJECT DESCRIPTION:** Proposal

The application proposes a subdivision on 310.37 acres of R-200 and R-90 zoned land under the R-200 MPDU standards. The community will consist of 471 single family detached lots (61% of total) and 302 townhouse lots (39% of total) to be constructed in three phases. 116 moderate priced dwelling units (MPDUs) will be constructed as townhouse units; these units are scattered through the community. In accordance with Section 59-C-1.625 (a)(3), the applicant requests that the Planning Board approve a smaller lot size for the 116 MPDU's only. A reduction from 1500 square feet to 1300 square feet per townhouse lot is proposed and represents a 13.3 percent reduction in area. In return, the Applicant is providing more than sufficient green space and is incorporating the units into the market-rate units to accommodate design consistency. The neighborhood will have a Community Center with extensive recreational facilities including indoor exercise and fitness rooms, and outdoor swimming pools. The athletic, or lap pool currently measures 83' by 47' (6 lanes of 7' wide each, plus 2.5' on the outside of each side lane). This centrally located facility will be linked through the community by paved and natural path systems and a bike trail. Play areas are provided in each phase, and Poplar Run includes a 74.24 acre dedication of park land to M-NCPPC.

The proposed road system for Poplar Run consists of major north/south and east/west connector roads, with community squares, traffic circles and a boulevard providing a sense of place and traffic calming. Most of the neighborhood streets are looped, with a few cul de sacs. Views open to the parkland dedication at numerous points through the road system. Several bus stop locations have been identified on the two major through roads.

**PROJECT DESCRIPTION:** Prior Approvals

Preliminary Plan

The Preliminary Plan of Subdivision was approved by the Planning Board on September 21, 2007 (Resolution dated January 19, 2007) for 773 one-family lots on 308 acres in the R-200 and R-90 zones.

**ANALYSIS:** Conformance to Development Standards

PROJECT DATA TABLE (R-200 and R-90 Zones)

Zoning Ordinance Development Standard	Permitted/ Required	Proposed for Approval
Min. Tract Area (ac.):	Not Specified	310.37
Gross Tract Area (ac.):	Not Specified	310.37 <sup>1</sup>
Net Useable Area (ac.):	Not Specified	310.37
Dedication (ac.):		
Street		44.46
M-NCPPC Park		74.24
Net Tract Area (ac.):		191.67
Max. Density of Development (d.u./ac.)		
R-90 Zone with MPDU Option (2.44 du/ac. x 297.56)		726
R-200 Zone with MPDU Option (4.39 du/ac. x 10.80)		47
Total Density Permitted		773
Total Density Permitted with 10 ac. School Site Reservation		730
Number of Dwelling Unit		
One-family detached unit	60% min./463 du's	61%/471 du's
Townhouse	40% max./310 du's	<u>39%/302 du's</u>
Total		100%/773 du's
Phasing and MPDU Calculations:		
Without School Site Reservation		
Phase I: (302 du's total)	302 du @ 15% = 45	49 MPDUs (16%)
Phase II: (327 du's total)	327 du @ 15% = 49	47 MPDUs (14%)
Phase III: (144 du's total)	<u>144 du @ 15% = 22</u>	<u>20 MPDUs (14%)</u>
Total	773 du @ 15% = 116	116 MPDUs (Unit A)
With School Site Reservation		
Phase I: (259 du's total)	259 du @ 15% = 45	43 MPDUs (17%)
Phase II: (327 du's total)	327 du @ 15% = 49	47 MPDUs (14%)
Phase III: (144 du's total)	<u>144 du @ 15% = 22</u>	<u>20 MPDUs (14%)</u>
Total	730 du @ 15% = 110	110 MPDUs (Unit A)

<sup>1</sup> Acreage per the approved Preliminary Plan is 308.36. Acreage per the final boundary survey is 310.37 acres. Permitted and proposed density is based on the density per the approved Preliminary Plan.

Zoning Ordinance Development Standard	Permitted/ Required	Proposed for Approval
<b>Min. Building Setbacks (ft.)</b>		
<u>One-family detached</u>		
Primary setback from public street	25	25
Setback from street on corner lot when Adjoining lot does not front on that street	15	15
Rear yard (front load garage unit)	Not specified	15
Rear yard (alley loaded garage unit to lot line)	Not specified	0
Side yard	Not specified	4
Min. separation from edge of rear alley to rear Garage (5' building cantilever or 10' deck Cantilever permitted for upper level(s))	Not specified	20
Setback from adjacent lots not developed under The R-200/MPDU option	Equal to abutting lot Required setback (30' for R-200 lots)	30
Min lot width at front building line for Panhandle/flag lots 29-31(Block V) and Lots 12-14 (Block U)	Not specified	75
<u>Townhouse</u>		
Primary setback from Public Street (when front of house is oriented to public street)	Not specified	15
Primary setback from lot line adjacent to private Street (D unit connection)	Not specified	15
Secondary setback from Public Street (when side of house is oriented to public street)	Not specified	10
Side	Not specified	0
Rear (to lot line) for A, B & C units	Not specified	0
Rear (to lot line) for D units	Not specified	0
Min. separation from edge to rear alley to rear Garage (5' building cantilever or 10' deck Cantilever permitted for upper levels)	Not specified	20
Min. separation between end units	Not specified	10
<u>Accessory Buildings</u>		
Primary setback from Public Street (when front of house is oriented to public street)	Not specified	60
Secondary setback from Public Street (when side of house is oriented to public street)	Not specified	15
Side	Not specified	5
Rear (to lot line)	Not specified	5
Min. separation from edge of rear alley to Accessory building	Not specified	5
<b>Min. Green Area (ac.):</b>		
Townhouse (301 du x 2,000 sf/du)	13.82	217
<b>Max. Building Height (ft.):</b>		
Main Building	40	40
Accessory Structure	25	25
<b>Min. Lot Area (ft.):</b>		
One-family detached	6,000	6,000
Townhouse	1,500	1,500 for market-

Zoning Ordinance Development Standard	Permitted/ Required	Proposed for Approval
		Rate units and 1,300 for MPDUs
Max. Lot Coverage (sf):	Not Specified	Not Specified
Min. Lot Width at Street Line for One-family detached lots (ft.):	25	25
Parking Spaces		
<u>Garages</u>		
'A' Townhouse MPDU units with one car garage	116	116
'B', 'C' & 'D' Townhouse units with two car garages	372	372
'E', 'F' & 'G' Townhouse units with two car garages	942	942
<u>Driveways</u>		
'A' Townhouse MPDU units with one parking pad space	116	116
'B', 'C' & 'D' Townhouse units with two parking pad spaces	372	372
'E', 'F' & 'G' Townhouse units with two parking pad spaces	942	942
Community Center and Pool	Not specified	99
Private Parking	<u>Not specified</u>	<u>20</u>
Total	2,860	2,979

## RECREATION CALCULATIONS

	Tots	Children	Teens	Adults	Seniors
<b>Demand Points</b>					
SFII	40.3	74.6	77.8	329.7	34.2
SFDIII	22.4	30.4	36.8	203.2	20.8
TH	51.3	66.4	54.4	389.6	21.1
<b>Total Required Points</b>	<b>114.0</b>	<b>171.4</b>	<b>169.0</b>	<b>922.5</b>	<b>76.1</b>
<b>Supply Points</b>					
Open Play Area I (2)	12.0	18.0	24.0	60.0	4.0
Open Play Area II (3)	9.0	12.0	12.0	30.0	3.0
Pedestrian System	11.4	34.3	33.8	415.1	34.2
Picnic/sitting (10)	10.0	10.0	15.0	50.0	20.0
Natural Area	0.0	8.6	16.9	92.3	3.8
Nature Trails	5.7	17.1	25.4	138.4	11.4
Bike System	5.7	17.1	25.4	138.4	7.6
Tot Lot (1)	9.0	2.0	0.0	4.0	1.0
Play Lot (1)	0.0	9.0	3.0	4.0	1.0
Indoor Community Space (1)	11.4	25.7	50.7	276.8	30.4
Indoor Exercise Room (1)	11.4	17.1	50.7	276.8	30.4
Indoor Fitness Facility (1)	0.0	17.1	16.9	184.5	11.4
Swimming Pool (2)	6.3	35.1	34.7	230.6	11.4
Wading Pool (1)	17.1	8.6	0.0	46.1	3.8
<b>Total Supply Points</b>	<b>109.0</b>	<b>231.7</b>	<b>308.5</b>	<b>1,947</b>	<b>173.4</b>
<b>% of demand met on-site</b>	<b>96.0</b>	<b>135.0</b>	<b>183.3</b>	<b>211.1</b>	<b>227.8</b>

### **ANALYSIS:**

#### Conformance to Master Plan

The 1989 Kensington-Wheaton Master Plan is silent on the type of development that could or should occur on the existing Indian Spring site. The Plan does recommend the extension of Tivoli Lakes Boulevard into the site from the south and connecting it with the existing Indian Spring access road to ultimately create a link from Randolph Road to Layhill Road. The master plan specifically recommends that this road network be designed to prevent cut-through traffic movement between Layhill Road and Randolph Road. The proposed improvements to the road network provide for traffic calming and prevent cut-through traffic movement between Layhill Road and Randolph Road.

#### Local Area Transportation Review

At the time of preliminary plan, the traffic study prepared by the Applicant and reviewed by Staff evaluated the impact of the proposed development on eight signalized intersections, including three in the Master Plan policy area. The traffic study shows that all of the intersections will pass the policy area standards in a total traffic condition, with the exception of the Georgia Avenue and Randolph Road intersection. Staff has identified improvements to the intersection along with the addition of turn lanes to minimize the impacts. Georgia Avenue is recommended for an additional southbound through-right lane and a receiving lane on the south side of Randolph Road. In addition, a northbound right-turn lane is needed on Georgia Avenue. As recommended, these improvements would satisfy the LATR guidelines and reduce the projected CLV to acceptable standards.

**FINDINGS: For Site Plan Review**

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 an approved development plan nor a project plan is required for the subject development.

2. *The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

If amended in accordance with recommended conditions, the Site Plan meets all of the requirements of the R-200 and R-90 zones, utilizing the MPDU option, as demonstrated in the Project Data Table on page 18.

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

- a. Locations of buildings and structures

The locations of the buildings and structures are safe, adequate and efficient.

The proposed units are concentrated into four separate development pods, connected by an overall road network with intervening stream valleys. The units are a mix of one-family detached and townhouses throughout the development along with the required MPDUs integrated within the framework of the community. The development provides opportunities to reduce the visual impact and “tunnel effect” through the orientation and mix of units and unit types. The pool and clubhouse facility is centrally located to provide recreational amenities and a community gathering place for the development. The play structures are located throughout each phase of the development to provide additional recreational facilities and amenities.

Retaining walls are located throughout the site to maintain grades in the rears of the lots, along the roadways leading into the community and where the stream valleys may be impacted by the proposed home sites. The placement of the units along the edge increases the visual exposure by providing vistas and viewsheds into the natural areas.

- b. Open Spaces

The plan proposes approximately 217 acres of open/green space, representing nearly 70 percent of the gross tract area. The green space is comprised of

primarily the stream valley buffers and areas between units and along the perimeter of the property. The open space will provide for an adequate and efficient buffer to the surrounding neighborhoods, as well as protection of environmentally sensitive resources.

c. Landscaping and Lighting

The proposed landscaping on the site is comprised of shade trees in the lawn panels of the street rights-of-way and within the planting islands of the surface parking facilities. The buffers surrounding the stormwater management facilities consist of a mix of shade, evergreen and flowering trees along with shrubs. The planting around the pool/clubhouse contains a mix of accent plantings and shade and evergreen trees and shrubs along with specialty paving and lighting.

The lighting plan consists of the standard light pole and fixtures within the county right-of-way that are spaced and organized with respect to the location of the street trees and utilities. The private streets are illuminated with 14-foot-tall colonial-style light fixtures. The lighting around the community center is primarily 18-foot-tall poles. Staff has conditioned a lower pole height of 18-feet for the lighting around the community center from what was originally approved.

As conditioned, the proposed landscaping and lighting is adequate, safe and efficient.

d. Recreation Facilities

Recreation demand is satisfied as shown in the recreation calculations table on page 15 and is in conformance with the minimum requirements of the M-NCPPC Recreation Guidelines.

The recreation amenities provide for a variety of outdoor exercise and play opportunities by providing numerous open play areas within close proximity to housing. The proposed Northwest Branch Trail, to be constructed by the Applicant, provides for local and regional recreational opportunities. The recreation facilities have been sited to become part of each neighborhood by their central location and sitting areas. Their attractive designs will make the play areas a desirable part of the community and open space systems.

Recreation facilities include 10 picnic/sitting areas, 1 tot lot, 1 play lot, 2 open play areas (types I and II), natural areas and trails as well as a swimming and wading pool within the clubhouse area.

e. Pedestrian and Vehicular Circulation Systems

Vehicular and pedestrian circulation is safe, adequate and efficient.

The street connections to the site are in accordance with the approved Preliminary Plan; however, significant changes were made during site plan review with respect to the addition of a traffic circle on Street A, paired pedestrian refuge islands at two intersections on Street A, the relocation of the northern traffic circle to the intersection of Tivoli Lane and Street N, the use of chokers at three intersections along Tivoli Lake Boulevard; and the addition of a square with stop sign on Tivoli Lake Boulevard at Street O.

The Poplar Run-Tivoli Lake Boulevard connection, as designed with the public square, traffic circles and traffic calming measures, provides the benefits of a primary residential road that collects vehicular traffic from the adjoining residential communities and distributes vehicular traffic to local arterial roads. The proposed improvements to the road network provide for traffic calming to discourage non-local traffic movement between Layhill Road and Randolph Road.

The revisions to the layout provide an interconnected grid throughout the development that respects the natural environmental features and vehicular and pedestrian movement. The street network links the individual neighborhoods, along with circles and squares placed appropriately at natural breaks, requiring motorists to slow down to navigate the traffic pattern safely.

The Countywide Park Trails Master Plan that was approved by the Planning Board in 1998 provides for a hard surface trail from Alderton Drive south to Wheaton Regional Park. This trail has major regional significance by linking the Matthew Henson Trail to the Northwest Branch trail system, thereby ultimately enabling users to travel on bicycle or foot along the entire Northwest Branch Stream Valley Park hard surface trail system to the Master Planned Matthew Henson Trail and then west to connect with the Rock Creek Trail system. This trail connection is recommended in the Plan to be located outside the Northwest Branch stream valley to best protect the natural resources. Consequently, the Applicant is dedicating a green corridor through the development for the trail that is outside stream buffers and will best serve the residents of the proposed development as well as other trail users passing through. This alignment will also provide the most logical trail crossing of Bel Pre Creek. To enhance protection of the existing parkland and aquatic resources therein, the Applicant will be dedicating considerable additional parkland along both the Northwest Branch and Bel Pre Creek.

In addition, the path provides an opportunity to link the proposed community, as well as existing nearby residents, to Northwest Branch Stream Valley Park and the master planned Rachel Carson Greenway Trail that lies on the east side of Northwest Branch. This plan includes the proposed construction by Applicant of a natural surface trail from the sidewalks and trails within the development to the Rachel Carson Greenway Trail, including a pedestrian bridge over Northwest Branch.



Internal sidewalks connect the home sites to the public and private streets within the neighborhood.

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

The various structures, including the residential buildings, clubhouse and retaining walls, are compatible with existing and proposed adjacent development. The residential land uses, mix of units and density as proposed are compatible with internal land uses.

The height and massing of the buildings is consistent with the neighboring communities, which are comprised of primarily one-family detached units, for the various land uses and unit types. The establishment of the development standards, specifically height, lot size and setbacks, illustrates a compatible relationship with the standards expressed within the surrounding communities.

The activity associated with the proposed residential uses will not cause any negative effect on adjacent residential uses.

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

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

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

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

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

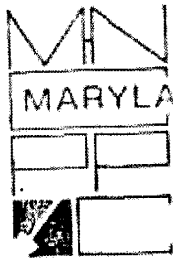
The proposed stormwater management concept consists of (1) on-site channel protection measures via dispersion in some areas and via construction of twelve detention ponds for other areas; (2) on-site water quality control via non-structural methods as well as construction of 30 Montgomery County Sand Filters (MCSF's) and three structural filtration facilities; (3) onsite recharge via flow dispersion; (4) impervious area disconnection; (5) installation of dry wells; and (6) other non-structural methods.

## ATTACHMENTS

- A. Planning Board Resolution for Preliminary Plan 120060510
- B. Memoranda from Staff/Agencies
- C. Letter from Applicant

# **ATTACHMENT A**

PLANNING BOARD RESOLUTION FOR PRELIMINARY PLAN 120060510



THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
8767 Georgia Avenue • Silver Spring, Maryland 20910-3760

JAN 19 2007

MCPB No. 06-89

Preliminary Plan No. 120060510

Indian Spring

Hearing Dates: September 7, 2006  
September 14, 2006  
September 21, 2006

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION<sup>1</sup>

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

WHEREAS, on October 24, 2005, Winchester Homes ("the Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 773 lots on 308 acres of land located on the east side of Layhill Road approximately 1300 feet south of Middlevale Lane ("Property" or "Subject Property"), in the Kensington-Wheaton Master Plan (Master Plan) area; and

WHEREAS, the Applicant's preliminary plan application was designated Preliminary Plan No. 120060510, Indian Spring ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staffs of other governmental agencies, the Board held a public hearing to review the Application on September 7, 2006, which, due to the volume of testimony presented and due to the Board's interest in receiving clarification on certain issues from Staff, was continued for deliberations to September 14, 2006 and then to September 21, 2006 (the September 7, September 14, and September 21 meetings are referred to collectively herein as the "Hearing"); and

<sup>1</sup> 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.

Approved as to  
Legal Sufficiency:

M-NCPPC Legal Department

WHEREAS, on July 7, 2006, Staff provided the Board with a memorandum setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions, and on September 11, 2006 Staff provided the Board with a written response to several questions that were raised by the Board and members of the public at the Board's September 7 hearing (collectively, the "Staff Report"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence concerning the Application; and

WHEREAS, on September 21, 2006, at the conclusion of the Hearing, the Board approved the Application subject to certain conditions, on motion of Commissioner Bryant, duly seconded by Commissioner Perdue, with a vote of 5-0, Commissioners Hanson, Bryant, Perdue, Wellington, and Robinson voting in favor; and

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to Chapter 50 of the Montgomery County Code, the Planning Board approves Preliminary Plan No. 120060510 to create 773 lots on 308 acres of land located on the east side of Layhill Road approximately 1300 feet south of Middlevale Lane. ("Property" or "Subject Property"), in the Kensington-Wheaton Master Plan area, subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to a maximum of 773 one-family residential units (a maximum of 463 one-family detached and 310 one-family attached, including 15% Moderately Priced Dwelling Units ("MPDUs")).
- 2) In accordance with the Transportation Planning memorandum dated July 7, 2006 the Applicant shall:
  - a. Obtain and dedicate sufficient right-of-way from Parcel E, for 35 feet from the centerline of the Indian Spring access road (shown on Entrance Road Concept Plan, dated November 2004) at Layhill Road, and construct an eastbound lane and two westbound approach lanes at the intersection with Layhill Road, as required by the Maryland State Highway Administration ("SHA").
  - b. Construct external Indian Spring Access Road to environmental primary residential street standards with 26-foot-wide paving, a sidewalk on the north side, and minor storm water management structures within the available right-of-way, as required by Montgomery County Department of Public Works and Transportation ("DPWT"), from Layhill Road to station

20+00 (approximately) east of Layhill Road. The road shall be open to traffic prior to the issuance of the 150<sup>th</sup> building permit.

- c. Construct internal Indian Spring Access Road (Street "A", within the subject site) as a primary residential roadway with a 70-foot-wide right-of-way, 36-foot-wide paving, and sidewalks on both sides, as required by DPWT, from station 26+50 to the end of Indian Spring Access Road at the community square. The paving shall transition from a 26-foot-wide section to a 36-foot-wide section between stations 20+00 and 26+50. The road shall be open to traffic prior to issuance of the 150<sup>th</sup> building permit.
- d. Construct Tivoli Lake Boulevard extended (south of Street "K" at its southern end to the existing road) as an alternative primary residential roadway with a 70-foot right-of-way, 26-foot-wide paving, and a shared use path on the west side (Montgomery County Department of Transportation standard number MC-212.02). The road shall be open to traffic prior to the issuance of the 580<sup>th</sup> building permit. This standard pertains to the road surface, and does not modify the requirements for construction of the bridge set forth in Condition number 13(b).
- e. Construct internal Tivoli Lake Boulevard (within the subject site), between Street "K" at its southern end and the community square, as a primary residential roadway with a 70-foot-wide right-of-way, 36-foot-wide paving, and sidewalks on both sides. The road shall be open to traffic prior to the issuance of the 580<sup>th</sup> building permit.
- f. Design and construct a traffic signal system at the intersection of Layhill Road and Indian Spring Access Road if required by State Highway Administration. The Applicant shall also conduct a traffic signal warrant analysis for this location and submit it to the State Highway Administration ("SHA") when 75% of the units have been transferred to residents. The Applicant shall submit an annual report to the Planning Director indicating the number of units that have been transferred.
- g. Provide a street connection at Foggy Glen Drive to the internal street running north of the community square. This road shall also be named Foggy Glen Drive. The road shall be open to traffic prior to issuance of the 650<sup>th</sup> building permit.
- h. Dedicate a right of way for Alderton Road to stub out at the northern edge of Subject Property. If Montgomery County Public Schools ("MCPS") acts upon a reserved school site at this location, the Applicant shall construct

Alderton Road perpendicular to the Indian Spring Access Road as a secondary residential street. The right-of-way shall be aligned such that it provides connection and frontage for proposed lots in the adjacent Layhill View preliminary plan application (Plan No. 120061080).

- 3) The Applicant shall provide connection to sidewalks adjacent and abutting the Indian Spring site, and adequate space for sidewalks as determined at site plan.
- 4) The Applicant shall provide certain right-of-way dedications, and show them on the record plat(s). Specifically, the Applicant shall:
  - a. Dedicate 60 feet of right-of-way from the centerline of Layhill Road for a total 120-foot right-of-way width.
  - b. Dedicate Indian Spring Access Road as a 70-foot right-of-way from station 20+00 to the square and dedicate the maximum width available from station 20+00 to Layhill Road.
  - c. Dedicate Tivoli Lake Boulevard extended (south of Street "K" at its southern end) as an alternative primary residential roadway with a 70-foot right-of-way.
  - d. Dedicate internal Tivoli Lake Boulevard (within the subject site), between Street "K" at its southern end and the community square, as a primary residential roadway with a 70-foot-wide right-of-way.
- 5) The Applicant shall enter into an agreement with SHA to transfer a pro-rata share of the project cost for a grade separated intersection of Georgia Avenue (MD 97) and Randolph Road (SHA contract MO8545171), to satisfy LATR and as required by SHA to mitigate the traffic impact of the proposed development. A total amount of \$2,139,000 (based on a pro-rata share of 773 units, which may be adjusted at site plan) shall be transferred in three separate payments:
  - a. \$713,000 prior to recordation of the first plat.
  - b. \$713,000 prior to release of the 150<sup>th</sup> building permit.
  - c. \$713,000 prior to release of the 350<sup>th</sup> building permit.

Should the grade separation project not be funded for construction in the Maryland Consolidated Transportation Program by the time of the issuance of the 400<sup>th</sup> building permit, as detailed in an e-mail dated September 20, 2005 from Steve Foster of SHA to Rick Hawthorne of M-NCPPC, SHA will return the funds

to the Applicant for use in construction of at-grade improvements, or SHA will make at-grade improvements that would mitigate the impact from this development. If the at-grade improvements are not under construction either by SHA or the Applicant by the time 80% of the building permits have been issued, no additional building permits shall be issued until construction of the at-grade improvements begins. In any event, all at-grade improvements shall be open to traffic by the issuance of 90% of the building permits.

- 6) The Applicant shall construct the Northwest Branch Trail through the site as an eight-foot-wide paved path within a 35-foot wide right-of-way dedicated to the Maryland-National Capital Park and Planning Commission ("M-NCPPC"), with the final alignment to be established at site plan. This improvement shall be open to foot traffic prior to issuance of the 650<sup>th</sup> building permit.
- 7) The Applicant shall provide a natural surface trail connection from the community to the master planned natural surface trail system on the east side of Northwest Branch. The trail shall include the necessary boardwalk and bridge across Northwest Branch. The location of trail and bridge must be approved by Staff. The trail and bridge shall be constructed to park standards and specifications within existing and dedicated parkland to allow adequate public access to the trail, and shall be open to foot traffic prior to issuance of 75% of the building permits.
- 8) The Applicant shall coordinate with Transportation Planning staff to determine the location and type of bike facilities at the time of site plan.
- 9) The Applicant shall satisfy all requirements of DPWT (as expressed in the DPWT memos dated June 20, 2006 and February 10, 2006) and SHA (as expressed in SHA memos dated February 28, 2006 and June 23, 2006), unless otherwise amended.
- 10) Specific locations of sewer lines and stormwater management outfalls in M-NCPPC parkland shall be field located and determined at site plan and be reviewed by Staff, including parks staff.
- 11) Record Plat shall reflect all areas under Homeowners Association ownership; stormwater management parcels shall be specifically labeled.
- 12) Based on the final number of units approved at the time of site plan, the Applicant shall dedicate a portion of a school site proportionate to the number of elementary school age children that MCPS forecasts will be generated by the Indian Spring subdivision relative to the number 600, which would warrant the dedication of the entire school site (i.e., if the number of elementary school age



children forecasted to be generated is 200, one-third of the school site shall be dedicated). The Applicant shall place, and the Record Plat shall reflect placement of, all remaining lots within the identified school site in reservation for a period not to exceed 36 months from the date of the hearing approving the Preliminary Plan. The area to be dedicated shall be determined at site plan and the reservation plat shall state that "dedication to occur only at such time that MCPS acquires the reservation area." At the time of site plan, this condition may be modified or eliminated if the Board determines that the site is no longer necessary or appropriate for reservation and/or dedication. The Board expects the Applicant, MCPS, Montgomery County Government and Staff, prior to review of the site plan by the Board, to work together to determine whether this site is needed or whether there are alternative school sites that are preferable and feasible.

- 13) As part of the site plan application and review process, the following shall occur:
- a. The Applicant shall retain the traffic circles on Tivoli Lake Boulevard at Street "K" and on Foggy Glen Drive at the northern boundary of the Indian Spring site, and provide further traffic-calming and cut-through prevention measures for Tivoli Lake Boulevard and Foggy Glen Drive.
  - b. The final design for the crossing of Tivoli Lake Boulevard through the Bel Pre Creek stream valley will be reviewed by Staff (including Parks Natural Resources Division staff) at site plan. The final design of the road crossing shall minimize environmental impacts. At site plan, the design of the stream valley crossing shall be restricted to two lanes with a shared use path on the west side, and shall minimize impacts and provide protection measures that may be identified in the final forest conservation plan for one rare and one watchlist plant species, if present in adjacent parkland. The site plan design shall provide for safe non-erosive passage of the 100-year storm event (as determined by the Montgomery County Department of Permitting Services ("MCDPS")) and for adequate passage of wildlife (as determined by Staff).
  - c. The Applicant shall modify the Storm Water Management ("SWM") concept in the vicinity of SWM facility #1 to maximize water quality control of offsite drainage. Such control will be reviewed and approved by MCDPS in consultation with the Maryland-National Capital Park and Planning Commission ("M-NCPPC" or "Commission").
  - d. The Applicant shall revise the lot layout along Street "K" to increase the visual exposure and public access to proposed Park dedication areas in the Northwest Branch and Bel Pre Creek.

- e. The Applicant shall explore layout changes that would reduce the "tunnel effect" along Tivoli Lake Boulevard created by the continuous sticks of townhomes as shown on the Preliminary Plan.
- 14) The record plat shall reflect areas to be dedicated to M-NCPPC for parkland as shown on the Preliminary Plan.
  - 15) The record plat shall reflect a Category I easement over all areas of forest retention, forest planting, and environmental buffers that are not included in the park dedication areas.
  - 16) Prior to the transfer of deed(s) to M-NCPPC for any parkland that will be used for forest mitigation banking, the Applicant must satisfy the planting and maintenance requirements for the forest bank area.
  - 17) The Applicant shall comply with the conditions of approval of the preliminary forest conservation plan prior to approval of the sediment erosion control plan or issuance of the first building permit, as appropriate. Conditions include, but are not limited to, the following:
    - a. The final forest conservation plan shall include, but not be limited to, the following items:
      - i. An inventory and protection plan prepared by a professional who is (or professionals who are) qualified to identify rare, threatened, and endangered plant species. The inventory and protection plan must locate in the field the two plant species identified in the "Inventory for Rare Plants and Significant Habitats on M-NCPPC Park Lands in Montgomery County, Maryland" (Md. Department of Natural Resources, February 1997 and February 1999) present in forested parkland in the vicinity of the proposed road crossing. The plan must also minimize impacts and provide protection measures for these plant species, if necessary.
      - ii. Permanent markers (such as fences or signs) that clearly identify the boundaries of forest retention, forest planting, and environmental buffers.
      - ii. Plan to control invasive plants to minimize their adverse impacts on forest planting areas.

- iii. Tree protection plan for individual trees 24 inches or greater in diameter at breast height that are located outside a forest stand.
  - iv. Final grading for lots that are adjacent to environmental buffer areas. Any proposed grading within environmental buffers in the rear of these lots must be reviewed and approved by M-NCPPC at site plan and must include mitigation through forest planting in and adjacent to the affected environmental buffers at a denser rate than the minimum required by the forest conservation law.
  - v. Restoration plan for environmental buffer areas that currently have golf course features and where the existing entrance road crosses the buffer.
  - vi. Plan for stream channel restoration, wetlands creation, and any other proposed grading within the environmental buffers as part of converting the golf course to a natural area. Such measures must be submitted for review and approval by M-NCPPC, MCDPS, and the Montgomery County Department of Environmental Protection as part of the site plan review process.
- b. In administering the onsite areas approved for use as a forest bank, the Applicant shall first offer to sell credits to offsite private development projects for at least one year from the date that long-term protection is provided for the forest bank area. The Applicant must provide the necessary financial security to M-NCPPC for each bank credit sold.
- 18) Record Plat shall reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). The Applicant shall provide verification to Commission Staff prior to release of final building permit that the Applicant's recorded HOA Documents incorporate by reference the Covenant.
- 19) The Applicant shall comply with the conditions of approval of the MCDPS stormwater management approval dated June 27, 2006, including review and approval of a final stormwater management concept prior to site plan approval.
- 20) There shall be no clearing, grading, or recordation of plats prior to signature set approval.
- 21) The final number of MPDUs shall be determined at the time of site plan.
- 22) The final number and location of dwelling units, on-site parking, site circulation, sidewalks, and bike paths shall be determined at site plan.

23) This Preliminary Plan will remain valid for one hundred and nine (109) months or nine (9) years from the approval date, which is the date of mailing of the Board Opinion. Record Plats for this project must be recorded according to the staging sequence as follows:

Stage I - All land within Phase I and environmental buffers for the entire site, as shown on the approved Preliminary Plan, shall be recorded within 37 months of the approval date.

Stage II - All land within Phase II, as shown on the approved Preliminary Plan, shall be recorded within 73 months of the approval date.

Stage III - All land within Phase III, as shown on the approved Preliminary Plan, shall be recorded within 109 months of the approval date.

Prior to the dates prescribed above a final record plat must be recorded for the lots and open space parcels identified in each phase of development or a request for an extension must be filed in a timely manner with the Board.

24) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for twelve years (12) or one hundred and forty-five (145) months from the date of mailing of the Board opinion.

25) Other necessary easements.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff as set forth in the Staff Report, as supplemented by the July 6, 2006 memorandum from the Transportation Planning Section of the Countywide Planning Division, which the Board adopts and incorporates by reference except as modified herein, the testimony of the Applicant and speakers in favor of and in opposition to the Application and other evidence contained in the Record the Board FINDS that:

1. *The Preliminary Plan substantially conforms to the Kensington -Wheaton Master Plan ("Master Plan").*

(a) Density and Compatibility with Surrounding Subdivisions.

The density proposed under this Preliminary Plan conforms to the R-90 and R-200 zoning recommended in the Master Plan. The Preliminary Plan, as proposed and approved, consists of a maximum of 773 one-family residential units, including 463

detached and 310 attached. The total number of approved units includes a 22% density bonus with the provision of 15% of the total units, or 116 units, as MPDUs.

The Master Plan includes the Indian Spring site among several "critical areas and parcels" where significant land use and zoning changes have been recommended ... or where changes with significant impacts can occur." Master Plan at 50, 51. The Master Plan establishes for critical parcels and areas the objective of "ensur[ing] that zoning and land use recommendation for sites which have a potential for future development are consistent with the goals of land use stabilization and compatibility with nearby existing development." Master Plan at 50. In light of the Staff Report's conclusion that the proposed infill development "is compatible with the adjoining residential areas in terms of use, density, and scale while it meets much higher environmental standards than the adjoining residential subdivision of the past," the Board finds that the land use stabilization and compatibility goals identified in the Master Plan are met.

(b) Recommendation for a "Special Study."

The Master Plan, which was adopted in 1989, notes (at 51) that "[t]here are currently no indications that this large tract is likely to redevelop," and calls for continuation of R-200/R-90 zoning for the site. The Master Plan further recommends that "[t]his tract should be the subject of a special study should this facility ever become available for redevelopment," but does not specify what the "special study" should consist of. The Board agrees with Planning Staff's conclusion that the Master Plan recommendation to perform a special study was fulfilled by "the analysis performed by the staffs from the M-NCPCC, the County, and the State in the course of review of both the pre-preliminary and preliminary plans."

Since the Indian Spring site became available for development, it has been the subject of three development applications, a pre-preliminary plan application, a previous preliminary plan application that was rejected by the Board due to its failure to protect the stream buffer, and the current Application. In the course of reviewing each of these applications, Planning Staff, consulting County and State agencies, and the Board have reviewed different options for developing the Indian Spring site. In light of the multiple reviews of development proposals for the Indian Spring site that have been performed, the Board believes that the intent of the Master Plan with respect to the conduct of a "special study" has been met.

(c) Transportation.

The Preliminary Plan satisfies the transportation policy objectives for redevelopment of the Indian Spring site set forth in the Master Plan (at 98) by providing

"Class I bicycle and pedestrian access to nearby park trails" and by providing primary road access to arterial roads.

The Master Plan provides (at 98) that if and when the Indian Spring site is developed, it

should be provided with access from Layhill Road and Randolph Road. Access from Layhill Road should be provided by reconstructing the existing access road to the typical primary residential street standard. Access from East Randolph Road should be provided by extending the primary street named Tivoli Lake Boulevard.

The Master Plan further provides that "[t]he internal street network of any such development should be continuous but designed with the idea of preventing cut-through traffic movement between Layhill Road and Randolph Road." *Id.*

Based upon this language, and for the reasons discussed below, the Board agrees with the recommendations of Transportation Planning Staff that the Indian Spring site be developed with four vehicle access points, two primary residential and two secondary residential streets, with the road modifications and further analysis of the need for an additional traffic light recommended by the Staff Report. Finally, based upon the recommendations of the Master Plan and testimony at the Hearing, the Board finds that traffic-calming and cut-through traffic prevention measures should be provided by the Applicant, and that the precise measures to be provided should be determined at the time of site plan.

i. Primary residential access from Layhill Road (MD 182).

The existing Indian Spring Access Road is a private drive that connects Layhill Road to the existing Indian Spring Country Club's parking area. Indian Spring Access Road is buffered from the residential neighborhoods to the north and south by physical barriers, different vertical grades, and existing trees and vegetation. Therefore, it was not recommended to be connected to the adjacent residential streets of Wagon Way and Middlevale Lane on the northeast, or Middlebridge Drive to the southeast. Under the Applicant's Preliminary Plan, the existing Indian Spring Access Road will be upgraded to a two lane primary residential street. The Applicant is providing additional right-of-way along Indian Spring access road at Layhill Road for an eastbound lane, for a total of three lanes at the intersection with Layhill Road: two westbound lanes and one eastbound lane. The available right-of-way varies from 60.5 feet to 70 feet. Because the existing property width cannot meet minimum right-of-way width requirements, DPWT will accept a road built to an environmental primary residential standard with a sidewalk on one side and minor storm water management structures within the

available right-of-way. In addition, a detailed storm drain and/or floodplain study for this road must be reviewed and approved by DPWT prior to recordation of the plat.

As part of the Local Area Transportation Review (LATR), the future traffic condition at the intersection of Layhill Road and the Indian Spring Access Road was analyzed. The Applicant's transportation engineer submitted a traffic signal warrant study to the SHA to determine if installation of a traffic signal is warranted for the intersection of Indian Spring Road and Layhill Road. SHA has reviewed the traffic study and recommends that an additional (second) westbound approach lane be constructed at Layhill Road. With respect to the need for a traffic signal at the Indian Spring and Layhill Roads, based upon the recommendations of SHA and Transportation Planning Staff, the Board agrees that the Applicant should be required to design and install a traffic signal at the intersection of Layhill Road and Indian Spring Access Road if SHA determines in the future, based on a warrant analysis, that a traffic signal is needed at this location. The Board accepts SHA's recommendation that a traffic signal warrant analysis for this location be prepared and submitted to SHA when the proposed development reaches 75% completion, and conditions its approval of the Preliminary Plan accordingly.

ii. Primary residential access from Randolph Road via Tivoli Lake Boulevard.

Tivoli Lake Boulevard currently provides primary access to more than 500 residential units of the Tivoli Community. At its current northern terminus, near the southern boundary of the Indian Spring site, Tivoli Lake Boulevard is built consistent with primary residential roadway standards, having a 36-foot typical paving width, sidewalks, and parking on both sides of the road.

Based on its review of the Master Plan and on the recommendations of Staff and other public agencies, the Board finds that the extension of Tivoli Lake Boulevard to provide primary road access to the Indian Spring development is both necessary to comply with the Master Plan and important to ensure that the proposed development promotes public safety and connectivity. The extension of Tivoli Lake Boulevard into the Indian Spring site, in the event the Indian Spring site was redeveloped from its existing use, has long been planned for and anticipated. The Master Plan, which was adopted in 1989,<sup>2</sup> specifically calls for the construction of Tivoli Lake Boulevard into the Indian Spring site. The Master Plan (at 88) provides that, if and when the Indian Spring site is developed with another use, access to the site "from East Randolph Road should be provided by extending the primary street named Tivoli Lake Boulevard."

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<sup>2</sup> Thus, the plan to extend Tivoli Lake Boulevard into the Indian Spring site was in place prior to the construction of the Tivoli Community, some of whose residents testified in opposition to the road's extension based upon the impact that the road would have on their properties.

The Master Plan (*id.*) further provides that "the internal street network of any such development should be continuous but designed with the idea of preventing cut-through traffic movement between Layhill Road and Randolph Road." Citing this provision of the Master Plan, a number of parties testified that Tivoli Lake Boulevard should not be extended because it will create cut-through traffic. The Board disagrees.

Whether read alone, or in combination with the express requirement to construct Tivoli Lake Boulevard, the Master Plan's admonition to design the road network "*with the idea of preventing cut-through traffic*" (*id.* (emphasis added)) cannot be read to prohibit Tivoli Lake Boulevard's construction unless cut-through traffic will be prevented entirely. These provisions require that Tivoli Lake Boulevard be constructed, but that the Indian Spring road network, of which Tivoli Lake Boulevard would be a part, be designed in a manner that would limit cut-through traffic. The Board's decision to require the construction of Tivoli Lake Boulevard, but to ensure at site plan that the Indian Spring road network is designed with traffic-calming measures intended, *inter alia*, to prevent cut-through traffic<sup>3</sup> gives meaning to, and harmonizes, the Master Plan's guidance to construct Tivoli Lake Boulevard with the idea of preventing cut-through traffic.

The Board finds that the Indian Spring Access Road-Tivoli Lake Boulevard connection, as designed with the public square and traffic circles, provides the benefits of a primary residential road that collects vehicular traffic from residential subdivisions and distributes traffic to arterials while discouraging non-local traffic. In evaluating the site plan for the proposed Indian Spring development, the Board will look for further traffic-calming measures to be provided. Such measures will be important both to limit cut-through traffic and to promote pedestrian safety.

The Board further supports the extension of Tivoli Lake Boulevard for the purpose of promoting connectivity generally, and for the specific reasons asserted by Staff and DPWT. The Board finds compelling the evidence presented by Staff and DPWT that the extension of Tivoli Lake Boulevard is needed to facilitate both emergency and non-emergency access to the site and to support public transit. If Tivoli Lake Boulevard is not connected, there will be only one primary access route to the Indian Spring Site.<sup>4</sup> In light of evidence that the proposed 773 single-family detached and attached units will generate approximately 585 peak-hour trips (more if the potential elementary school site is ultimately developed), one point of primary road access to the Indian Spring site would be inadequate. The second point of connection may reduce

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<sup>3</sup> The requirement to provide traffic calming measures will also increase pedestrian safety within the Indian Spring site.

<sup>4</sup> Although there will be other road access to the Indian Spring site, including Foggy Glen Drive and possibly Alderton Road, these roads will not provide the necessary access for emergency vehicles or public transportation because neither of them is a primary road at the site.



emergency response times, and would provide an alternative access point in the event that the other is blocked.<sup>5</sup> Moreover, the Indian Spring site can be more efficiently served by public transit if it is part of the larger network of streets; without Tivoli Lake Boulevard, the Indian Spring development would be akin to one large cul de sac through which a bus would have to enter and exit at the same point. The expressed interest of Ride-On Transit Services in extending existing bus route 31 through the Indian Spring site, conditional upon the extension of Tivoli Lake Boulevard, heightens the importance of the road's construction. The Board also agrees with DPWT's assertions about the importance of requiring the construction of Tivoli Lake Boulevard in connection with this proposed development so that the cost of the road construction is borne by the development that created the need for it, rather than spread throughout the entire County.

As noted in the Staff Report, the extension of Tivoli Lake Boulevard will result in an unavoidable environmental impact to the Bel Pre Creek stream valley. In order to limit the environmental impact, the Applicant proposes a design with retaining walls on the southern end of the crossing to minimize clearing and disturbance of forested slopes; creation of fill slopes that are no steeper than 3:1 to allow for planting of trees and shrubs on the slopes up to the road right-of-way; a 54-foot arch culvert over the stream that minimizes disruption to the stream channel and allows for a flat path next to the stream for pedestrian and wildlife movement under the road; and a road cross-section with two lanes, no median, and a sidewalk on only one side to keep the road features as narrow as possible through the stream valley.

The Board finds that the road should be tapered from the existing road section to a section design that is recommended for an environmental primary residential roadway, also known as an alternative primary residential roadway. Staff recommends, and the Board approves, a somewhat narrower cross section, consisting of 26 feet of pavement and a shared use path on the west side, which is intended to reduce the extent of disturbance, and environmental impacts, as the road crosses Bel Pre Creek. The Board finds that this design strikes an appropriate balance between the need to provide an additional primary road access point to the Indian Spring site and environmental protection. In response to Staff concerns, and concerns raised in testimony at the Hearing about whether the culverts under the bridge will be sufficient to permit passage of wildlife and flow of water in the event of significant storms, the Board finds that it will be important to examine the design of the stream valley crossing, including the possible need for additional culverts, as part of the site plan review process, and shall do so.

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<sup>5</sup> The Board also finds that this second entrance will reduce the traffic impact of the proposed development on Layhill Road and on Georgia Avenue north of Randolph Road. The second entrance may also reduce the likelihood of cars cutting through the neighborhoods between Layhill Road and Connecticut Avenue.

iii. Pedestrian Facilities.

The Applicant proposes a network of new sidewalks and pathways throughout the development. Secondary and tertiary residential streets are proposed to have sidewalks on both sides, with ADA ramps at intersections and marked crosswalks. The Indian Spring access road is to have a continuous sidewalk, separated from traffic, on the north side. Tivoli Lake Boulevard is to have a shared-use-path on the west side of the road. In order to limit environmental disturbance and in response to the narrow available right-of-way, both of these entrance roads are proposed with reduced cross sections. Part of the waiver package submitted to DPWT for the reduced cross section includes a proposed sidewalk or shared use path along only one side of each of these two roads. The Board finds that while providing pedestrian facilities on one side of the entrance roads is not ideal for pedestrian access, on balance, it will provide sufficient pedestrian access, while at the same time accomplishing the environmental objectives of reduced grading, impervious surface, and tree loss. Existing sidewalks that intersect the property will be continued onto the site, connecting the pedestrian network where practical. The proposed Preliminary Plan will not adversely affect the existing pedestrian access.

- 2. The public facilities will be adequate to support and service the area of the proposed subdivision. The Planning Board finds that the Local Area Transportation Review adequately addresses the traffic impacts of the proposed development on the local road network. Access to the site and site circulation is adequate for police and fire equipment, school and transit busses, and pedestrians. Water and sewer service and all other utility service to the site have been deemed adequate.*

i. LATR.

Based upon the traffic study submitted with the Application, the Board finds that, subject to the conditions of this resolution, the *Local Area Transportation Review (LATR) Guidelines*, adopted and approved July 1, 2004, are met. The traffic study evaluated the impact of the proposed development on eight intersections, three in the Kensington/Wheaton Policy Area, one in the Aspen Hill Policy Area, and four in the Glenmont Metro Policy Area. The traffic study projects that all of the intersections will pass the policy area standards in a total traffic condition, except one. The Georgia Avenue (MD 97) and Randolph Road intersection is not projected to pass the Glenmont policy area standard.

The traffic study identifies potential improvements to the intersection of Georgia Avenue and Randolph Road that would be needed to pass the LATR test. Specifically, according to the traffic study LATR requirements could be satisfied by the addition of

turn lanes to the intersection. Georgia Avenue would need an additional southbound through-right turn lane and a receiving lane on the south side of Randolph Road. A northbound right-turn lane would also be needed on Georgia Avenue. Combined, these improvements would reduce the CLV to below the background traffic condition and could satisfy LATR. The County could require these improvements to satisfy the APF test.

In lieu of the intersection improvements identified in the Applicant's traffic study, Staff recommends that the Applicant be required to help fund, on a pro-rata basis, an SHA-planned and designed grade-separated interchange at the intersection of Georgia Avenue and Randolph Road. This alternative is consistent with the Board's finding at Pre-Preliminary Plan<sup>6</sup> that, if improvement of the intersection capacity at Georgia Avenue and Randolph Road were necessary, the Applicant should be required as part of the Preliminary Plan approval to pay a pro-rata share of the project cost. When it is complete, Randolph Road will have two travel lanes in each direction under Georgia Avenue.<sup>7</sup> Staff calculates that an Indian Spring development of 773 single-family units will contribute approximately 3.45% of the future traffic volume of the interchange, and recommends that a pro-rata contribution of the estimated \$62,000,000 project cost would be an appropriate alternative to at-grade improvements to satisfy LATR. The Applicant's contribution to this total cost would be \$2,139,000. Staff recommends, and SHA supports, a payment schedule of three payments of \$713,000, the timing of which would be benchmarked to the development phasing. The first payment would be made prior to recordation of the first plat; the second would be made prior to release of the 150<sup>th</sup> building permit; and the third would be made prior to release of the 350<sup>th</sup> building permit.

The Board adopts Staff's recommendation to condition approval of the Preliminary Plan upon the Applicant's funding of a pro-rata share of a grade-separated interchange at the intersection of Georgia Avenue and Randolph Road, and conditions its approval of the Application accordingly. The Board finds that once the identified improvements are made, the Applicant's site-generated traffic will not exceed the congestion policy standard.

In order to ensure that the grade-separated interchange is constructed in time to serve the traffic generated by the Indian Spring development, the Board requires the Applicant to contribute to the funding of the road improvement in three installments that coincide with benchmarks in the Indian Spring site development. In the event other funding for the grade-separated interchange does not materialize in a timely manner, the Board finds that it would be appropriate for the SHA to return to the Applicant the

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<sup>6</sup> Preliminary Plan No. 7-03058; hearing date April 11, 2004.

<sup>7</sup> The Planning Board commented on the 35% completion design as a Mandatory Referral (MR 04815-SHA-1) in December 9, 2004.

funding committed for its construction to be used by the Applicant in making necessary at-grade improvements necessary to mitigate traffic created by the proposed development, or for SHA to make the necessary at-grade improvements itself, consistent with the conditioning paragraphs of this order.

ii. Other Roads.

The importance of Tivoli Lake Boulevard in providing a second point of access to the Indian Spring site from a primary road is discussed above in relation to the Master Plan, and will not be repeated here. The Indian Spring site will also be connected to the surrounding community via Foggy Glen Drive and possibly Alderton Road.

Foggy Glen Drive currently terminates at the northern property line of the subject property. It is classified as a secondary residential roadway with a 60-foot-wide right-of-way, and provides a circuitous connection to Layhill Road via Wagon Way, Huxley Cove Court/Sullivan Lane, or Middlevale Lane. In the Application, Foggy Glen Drive is shown to continue onto the proposed site as a secondary residential roadway with a 60-foot-wide right-of-way, a 26-foot-wide paving section and sidewalks on both sides. The Board agrees with Staff that in order to be consistent with the existing network the roadway on the site should also be called Foggy Glen Drive.

Alderton Road is a secondary residential roadway that terminates at a private drive for four privately owned lots approximately 300 feet north of the subject site. This portion of Alderton lies within the Kensington/Wheaton Master Plan. To the north, Alderton falls within the Aspen Hill Master Plan, which categorizes Alderton as a primary residential street. The road is interrupted at Mathew Henson State Park before continuing north to Bonifant Road. Each built segment has approximately 15 residential driveways. The Board accepts Transportation Staff's recommendation that a secondary roadway be dedicated on the site to stub out at the northern property limit where the roadway will continue upon redevelopment of the properties north of this site. Further, the Board finds that if MCPS acts upon its reservation to construct a school site the Applicant should be required to dedicate and construct Alderton Road perpendicular to the Indian Spring Access Road as a secondary residential street.

iii. School Site.

Based upon the testimony of representatives of MCPS, the Board finds that it is appropriate to require the Applicant to dedicate a school site in proportion to the projected number of students that will result from the proposed development, and place the remainder of the site in reservation for up to three years. The Board may modify this condition at the time of site plan if it determines that the site is no longer necessary or appropriate for reservation and/or dedication. Prior to site plan, the Board expects the Applicant, MCPS, Montgomery County Government, and Commission Staff to work

to determine whether this site is needed or whether there are alternative school sites that are preferable and feasible.

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

- i. General

Although the Board generally finds the size, width, shape, and orientation of the proposed lots to be appropriate for the location of the subdivision, in its review of the Application it has identified at least four site design issues that should be addressed at site plan.

First, the design should ensure greater accessibility to community open spaces. There are a number of isolated open spaces within the proposed development that the Board is concerned will be used exclusively by those who live on the lots that abut them.

Second, visibility of the Northwest Branch stream valley park should be increased by revising lot layout to load all units on the side of the road opposite the park, or, at a minimum, by creating wider breaks between units. This plan makes great strides towards preserving the Northwest Branch stream valley and its associated buffer, but obstructs views of this resource by backing homes directly onto the park.

Third, the "tunnel effect" created by the townhomes along Tivoli Lake Boulevard should be reduced by breaking up the townhome sticks, and perhaps by curving the road. The placement of one-family detached units along this stretch of road may also help to alleviate this concern.

Fourth, for Lots 9-17, Block "J," the Applicant should investigate connecting the private driveways serving those townhouses to the local roads so that the driveways function more as public streets for circulation and access.

- ii. Request for Waiver of Certain Frontage Requirements

The Applicant seeks waiver under Section 50-38(a)(2) for Lots 9-23, Block "J" of the requirement under Section 50-29 that lots must abut "on a road which has been dedicated to public use or which has acquired the status of a public road," because the lots will abut on a private driveway rather than a public road. The Board rejects the requested waiver as unnecessary and unjustified.

Although Section 50-29 of the Subdivision Code provides that "every lot shall abut on a public street or road which has been dedicated to public use," waiver of this

provision is unnecessary because this provision applies only "[e]xcept as otherwise provided in the Zoning Ordinance." Section 59-C-1.628 (b) of the Zoning Ordinance permits townhouses to front on public streets, private streets, or a common open space, when MPDU optional method standards are used. The units that are the subject of the waiver request abut on a common open space. In addition, the affected townhouses are accessed by private driveways that could be modified to allow them to "attain the status of a public street," which is an alternative to public road frontage requirements of Section 50-29. For these reasons, Staff asserted, and the Board agrees, that a waiver of frontage is not needed. Rather, access and lot orientation in this area should be analyzed as part of the site plan review process.

Even if a waiver were necessary it would not be justified in this case. In arguing for a waiver, the Applicant cites the environmental grounds for obtaining a waiver that are set forth in Section 50-38(a)(2)(b). Further, the Applicant argues that the preservation of open space is paramount to this development as witnessed in the first application that was denied by the Planning Board. However, the Board shares Staff's reluctance to accept the Applicant's use of the Section 50-38 language to justify waiver of the frontage requirements for the subject lots. The Board agrees with Staff that this provision applies to subdivisions that are creating open space, and environmental benefits over and above minimum requirements, which is not the case with the proposed development.

4. *The Application satisfies all applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A. This finding is subject to the applicable condition(s) of approval.*

The preliminary forest conservation plan shows 2.50 acres of forest clearing (including 0.40 acres of offsite forest removal for Tivoli Lake Boulevard extended and a connection of a new sewer line to an existing line) and 29.55 acres of forest retention. The Preliminary Plan proposes 66.81 acres of forest planting, of which 19.19 acres are required for the project to meet Forest Conservation Law requirements. Another 7.23 acres is proposed to mitigate unavoidable encroachments into the environmental buffer, and 40.39 acres are for a forest mitigation bank. The Board accepts Staff's recommendation for approval of the preliminary forest conservation plan subject to certain conditions.

For this subdivision, the existing forest cover, which is 32.05 acres, is less than the afforestation threshold (46.24 acres). In such a situation, the Forest Conservation Law states that all existing forest must be retained and forest planting must occur on-site so the total on-site forest retention and planting meets or exceeds the afforestation threshold. The Planning Board may waive the forest retention requirement if it finds that retaining all of the forest is "not possible," and the Applicant must provide the "maximum possible" on-site retention and on-site forest planting.

The Applicant proposes 2.50 acres of forest clearing. In Staff's opinion, this clearing is unavoidable because of the need to connect to existing sewer lines, construct the entrance road from Layhill Road, and construct Tivoli Lake Boulevard extended. Other forest clearing is due to grading associated with some proposed lots and internal subdivision roads. Most of the individual forest clearing areas are either small or on the edges of forest stands. Proposed forest planting, in combination with the proposed 29.55 acres of on-site forest retention, will result in a total of 48.74 acres of forest, greater than the minimum on-site forest requirement of 46.24 acres. Staff has stated its belief that, as part of site plan review, additional changes to proposed grading and layout will occur and may affect the final proposed amount of forest clearing. Staff has stated that it will continue to evaluate changes to the project and will determine the final amount of recommended forest clearing at the site plan stage.

According to Staff, the Applicant is required to plant 19.19 acres of forest to meet the Forest Conservation Law requirements. This planting will be located within the environmental buffers. Some environmental buffers will also be planted in forest as mitigation for proposed environmental buffer encroachments. There remain about 40.39 acres of environmental buffers that could be planted in forest. The Applicant proposes to use these remaining buffers to create a forest mitigation bank. The Board concurs with Staff's support of this concept because it creates a relatively large forest bank in a down county area. In addition, it is located in the Northwest Branch watershed, which currently has no forest banks. To date, the majority of forest banks have been created on upcountry sites in a limited number of watersheds, and many of these banks are on agricultural land.

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

- 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's standards.*

This finding is based upon the Applicant's compliance with each of the conditions set forth in the MCDPS's stormwater management approval dated June 27, 2006,

including review and approval of a final stormwater management concept prior to site plan approval.

The Board agrees with Staff that stormwater management ponds visible from primary residential access roads should be graded so that they may be landscaped in a manner that would be more aesthetically pleasing. The Board will review the detailed site grading and landscaping at the time of site plan.

- 6. Pursuant to Section 50-26(d) the Planning Board made a finding as to the need to allow an overlength cul-de-sac on the Property. The Board found that due to topography on the Property, an overlength cul-de-sac was required to provide street access to a particular portion of the site.*

Under Section 50-26(d) of the Subdivision Code, if an Application proposes an overlength cul-de-sac (i.e. a cul-de-sac longer than 500 feet), the Board must make a finding that for reasons of property shape, size, topography, large lot size, or improved street alignments, an overlength cul-de-sac is justified. There is one cul-de-sac in the proposed subdivision (Street "G," Phase III) that exceeds 500 feet in length. The Board agrees with Staff's position that Street "G," the overlength cul-de-sac, is justified because it accesses a buildable portion of the property that extends onto a peninsula surrounded on three sides by stream valley buffers. In order to eliminate the cul-de-sac, it would be necessary either to loop Street "G," which would require encroachment into the stream buffer, or to do away with the lots along Street "G." The Board finds the creation of an overlength cul-de-sac to be preferable to either of these alternatives.

- 7. The Applicant's Proposals to Record Lots in Three Phases over a 9-Year Period and for a 12-Year Adequate Public Facilities Validity Period Are Appropriate*

The Applicant has requested permission to record the proposed lots in 3 phases over a 9-year period, which corresponds to the 12-year Adequate Public Facilities validity period requested by the Applicant. Given the large size of the proposed subdivision, the Board finds that approval of the Applicant's proposed phasing schedule, as specified in Condition No. 23 of this Resolution, is appropriate.

Under Section 50-20(c)(3) of the Subdivision Regulations, a determination about the adequacy of public facilities made under this section of the regulations may remain valid for no less than 5 and no more than 12 years, as determined by the Planning Board at the time of subdivision. In light of the scope and complexity of the proposed development, the Board finds that it is appropriate for the Adequate Public Facilities determination to remain valid for 12 years. The Applicant must obtain all building permits for the proposed development within this 12-year period.



written opinion, 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, January 4, 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 Wellington, and with Commissioners Hanson, Bryant, and Wellington voting in favor, and Commissioners Perdue and Robinson absent, ADOPTED Resolution MCPB No. 06-89, Indian Spring; and, subsequently, on motion of Commissioner Bryant, seconded by Commissioner Robinson, and with Commissioners Hanson, Bryant, and Robinson voting in favor, and with Commissioners Perdue and Wellington absent, ADOPTED certain corrections to footnote 4 of this Resolution.<sup>8</sup> Further, at its regular meeting held on Thursday, January 11, 2007, in Silver Spring Maryland, the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission, on motion of Commissioner Robinson, seconded by Commissioner Wellington, and with Commissioners Hanson, Perdue, Robinson, and Wellington voting in favor, and with Commissioner Bryant absent, ADOPTED this Resolution with additional corrections.<sup>9</sup> As Corrected, this Resolution constitutes the

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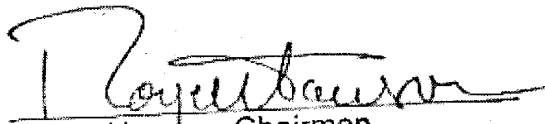
<sup>8</sup> The originally adopted version of footnote 4 stated: "Although there will be other road access to the Indian Spring site, including Forest Glen Drive and possibly Alderton Road, these roads will not provide the necessary access for emergency vehicles or public transportation because neither of them connects to a primary road." The corrected version of footnote 4 states: "Although there will be other road access to the Indian Spring site, including ~~Foggy~~ Glen Drive and possibly Alderton Road, these roads will not provide the necessary access for emergency vehicles or public transportation because neither of them is a primary road at the site."

<sup>9</sup> At pages 1 and 2, the corrected Resolution adds references to the September 21, 2006, hearing at which the Board finalized conditions and approved the Indian Spring application, which were omitted from the originally adopted Resolution.

Other changes were made in order to more accurately reflect the Board's decision at its September 21, 2006 hearing:

- Under Condition 2(d), (i) "environmental primary residential roadway" was changed to "alternative primary residential roadway"; (ii) a reference to the section of the Montgomery County road code where "alternative primary residential roadway" is defined was added; and (iii) a statement was added to clarify that use of the alternative primary residential roadway "standard pertains to the road surface, and does not modify the requirements for construction of the bridge set forth in Condition number 13(b)."

final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for Preliminary Plan No. 1-20060510, Indian Spring.

  
Royce Hanson, Chairman  
Montgomery County Planning Board

- 
- Under condition 2(f), the requirement to perform a traffic signal warrant analysis was tied to the transfer of 75% of the units (rather than to the number of units occupied), and a requirement for the Applicant to file an annual report stating the percent of units transferred was added.
  - Under condition 4(c), "environmental primary residential roadway" was changed to "alternative primary residential roadway."
  - Under condition 7, the requirement to provide a trail and bridge by issuance was tied to issuance of 75% of the building permits, rather than to the issuance of the 650<sup>th</sup> building permit.
  - At page 17, the words "and built" were struck from the sentence that read "The Board accepts Transportation Staff's recommendation that a secondary roadway be dedicated and built on the site to stub out at the northern property limit where the roadway will continue upon redevelopment of the properties north of this site."
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# **ATTACHMENT B**

MEMORANDA FROM STAFF/AGENCIES



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

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

**MEMORANDUM**

TO: Melanie Moser, Development Review Division

FROM: Candy Bunnag<sup>CB</sup>, Planner Coordinator, Environmental Planning Section,  
Countywide Planning Division

DATE: September 28, 2007

SUBJECT: Site Plan 820070020, Poplar Run (Indian Spring Property)

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**STAFF RECOMMENDATION**

The Environmental Planning staff has reviewed the site plan and final forest conservation plan. Staff recommends approval of the site plan and final forest conservation plan with the following conditions:

1. The applicant shall comply with the conditions of approval of the final forest conservation plan. These conditions include, but are not limited to, the following:
  - a. The final forest conservation plan will include the following items:
    - i. Permanent markers (such as fences or signs) must be used to clearly identify the boundaries of forest retention and forest planting areas, in addition to environmental buffer areas.
    - ii. Revise the invasive plant management plan to require removal and control of non-native, invasive plants starting in the first year of forest planting.
    - iii. Add a planting plan and schedule for forest bank areas, including access to allow for maintenance of planted areas.
    - iv. Include detailed plans for restoration work within the environmental buffers.
  - b. The M-NCPPC inspector will determine, as part of the pre-construction meeting, trees in a forest stand and located along the limits of disturbance that may be protected and those that will be removed. The inspector may also require mitigation to replace trees that help create forest canopy along the limits of disturbance that are removed as part of this inspection. Mitigation rate will be up to inch-per-inch diameter at breast height of trees of native stock.
2. Applicant must submit detailed design plans for the reconstruction of the stream bank and construction of pathways for pedestrian and wildlife use through the culvert for Tivoli Lakes Boulevard for review and approval by staffs of M-NCPPC Environmental

Planning and Department of Parks Natural Resources. The detailed design for the stream bank and pathways through the culvert must be consistent with the Conceptual Span Bridge Profiles, dated May 2006, by Loiderman Soltesz Associates, Inc.

## **DISCUSSION**

### **Site Description**

The 308.4-acre site lies within the Northwest Branch watershed (Use IV, or recreational trout waters<sup>1</sup>). The mainstem of Northwest Branch lies to the east in M-NCPPC parkland and Bel Pre Creek, a major tributary of Northwest Branch, lies within the site adjacent to the southern property boundary. Five smaller streams also flow within the site. Northwest Branch Stream Valley Park surrounds the property to the south and east.

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

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

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

### **Forest Conservation**

#### *Overview*

The Final Forest Conservation Plan shows 2.31 acres of forest clearing and 29.79 acres of forest retention. The plan proposes 68.73 acres of forest planting, of which 19.12 acres are required for the project to meet Forest Conservation Law requirements. Another 7.23 acres are proposed to mitigate avoidable encroachments into the environmental buffer and 42.38 acres are for a forest mitigation bank. Forest retention and forest planting areas will be

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

protected through either a Category I conservation easement over common open space or park dedication. In addition, to ensure that there is clear demarcation of protected areas, staff recommends that permanent signs are placed along the edges of environmental buffers, forest planting, and forest protection areas.

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

Section 22A-12(f) of the County Forest Conservation Law includes special provisions for minimum retention, reforestation and afforestation. The special provisions apply to specific types of proposed development, including cluster or other optional methods of development in a one-family residential zone. Since this subdivision proposes to use the MPDU option in the R-200 and R-90 zones, this section of the law applies. Section 22A-12(f) is as follows:

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

For this subdivision, the existing forest cover is less than the afforestation threshold. In such

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

At the preliminary subdivision stage, the applicant submitted a request to waive the requirement of the Forest Conservation Law to save all of the onsite forest. The applicant believes that the proposed forest clearing areas are small and widely scattered. They occur because of tie-out of grading, utility extensions, and roads. The applicant also believes the proposed forest planting more than adequately offsets the forest clearing.

At the preliminary subdivision stage, staff and the Planning Board found that retention of all of the existing forest is not possible and that the applicant should be permitted to clear up to the proposed amount of 2.50 acres.

The site plan proposes clearing of 2.31 acres of forest. Consistent with the preliminary plan, the site plan shows some unavoidable forest clearing due to the need to connect to existing sewer lines, construct the entrance road from Layhill Road, and construct Tivoli Lakes Boulevard extended. Other forest clearing is due to grading associated with some proposed lots and internal subdivision roads. Most, but not all, of the individual forest clearing areas are either small or on the edges of forest stands. Of the 32.1 acres of existing forest, 2.31 acres are proposed to be cleared. In addition, 19.12 acres of on-site forest planting are proposed to meet the forest conservation plan requirements. This planting, in combination with the proposed 29.79 acres of on-site forest retention, will result in a total of 48.91 acres of required forest retention and planting. This exceeds the minimum on-site forest requirement of 46.60 acres (i.e., the afforestation threshold, as stated in Section 22A-12(f)(2)(C) of the Forest Conservation Law).

*Staff finds the final forest conservation plan, with staff's recommended conditions, meets the requirements of the County Forest Conservation Law.*

#### Forest Mitigation Bank

The applicant is required to plant 19.12 acres of forest to meet the Forest Conservation Law requirements. This planting will be located within the environmental buffers. Some environmental buffers will also be planted in forest as mitigation for proposed environmental buffer encroachments (see discussion in next section). There remain over 40 acres of environmental buffers that could be planted in forest. As part of the preliminary plan, the applicant proposed to plant remaining buffer areas to create a forest mitigation bank. The site plan proposes to plant 42.38-acre forest bank. Staff continues to support this concept because it creates a relatively large forest bank in a downcounty area. In addition, it is located in the Northwest Branch watershed, which currently has no forest banks. To date, the majority of forest banks have been created on upcounty sites in a limited number of watersheds, and many

of these banks are on agricultural land.

Consistent with the preliminary plan, much of the proposed forest bank area is located within the park dedication area, which is currently covered with golf course features such as fairways, paths, and sand traps. Through this banking, the applicant will restore the existing golf course areas within floodplains and other environmentally-sensitive areas, which are the highest priority for reforestation, to natural, forested conditions. The applicant will also receive monetary benefits of selling bank credits. By taking ownership of this land after the applicant meets the forest planting and maintenance requirements, M-NCPPC does not have to incur the cost of restoring the dedicated parkland into a forested, natural environmental buffer.

### **Environmental Buffers**

As previously noted, there are 99.5 acres of environmental buffers on the subject site. Most of these buffer areas will be used for forest retention or forest planting. The preliminary plan proposed some environmental buffer areas encroachments. These proposed encroachments are also shown on the site plan.

#### *Permanent, Unavoidable Buffer Encroachments*

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

These encroachments include: the crossing of the proposed primary road from Layhill Road into the site, the crossing of proposed Tivoli Lakes Boulevard extended, and installation of new sewer lines from the subdivision that must connect to existing sewer lines located in the environmental buffers of Northwest Branch and Bel Pre Creek. Staff finds that the site plan and final forest conservation plan minimize encroachments into environmental buffers due to proposed road crossings, sewer lines, and stormwater management outfalls.

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

The preliminary plan proposed a limited amount of permanent encroachments into environmental buffers, which could technically be avoided. The site plan proposes these same encroachments, which are located in three areas.

The three areas make up a total of about 4.25 acres of environmental buffers. The permanent, avoidable buffer encroachments make up a relatively small portion (about 4.3 percent) of the 99.5 acres of environmental buffers on the site, are located in highly disturbed parts of the buffer, are at or near the beginning of a buffer, and lie in those parts of the buffer that are fragmented and isolated from the rest of the buffer network. The applicant proposes to plant 7.23 acres of forest in excess of the forest planting required by the Forest Conservation Law to mitigate the buffer encroachments. Of this mitigation planting, 2.10 acres will be created wetland forest. As part of the preliminary plan review, staff found each of the proposed permanent encroachments to be acceptable if the proposed mitigation measures are included.



### Temporary Encroachments into the Environmental Buffers

Since much of the environmental buffers have golf course features, staff supports the concept of restoring these areas into forested natural areas. Such restoration work will involve some grading. In addition, the applicant proposes to grade some edges of non-forested environmental buffers to avoid abrupt slope changes between the rear of lots and the edge of buffers. In concept, staff found this to be acceptable if the applicant provides forest planting in and around the affected buffers at a denser rate than the minimum required in the Forest Conservation Law.

The site plan proposes to grade between the rear of lots and the edge of buffers in six areas along the unforested edges of the eastern and northern environmental buffers. The proposed grading varies from approximately 20 to 40 feet wide within the environmental buffer. Five of the six areas are along the wide buffer and floodplain of Northwest Branch. The Final Forest Conservation Plan proposes to plant trees within these six areas at a density that is about 1.5 times the required rate. Staff finds the proposed grading in these six areas and the planting to be acceptable.

### Restoration of the Environmental Buffer

The site plan proposes to remove golf course features, such as paved cart paths, golf course holes, and sand traps that lie within environmental buffers. Other restoration efforts include converting piped streams to open, natural channels and reconstructing irrigation ponds to wetlands. The majority (except for the areas of permanent encroachments identified above) of the environmental buffers will be restored to forest cover. Some of this forest cover will also be created wetlands.

The preliminary plan requires that M-NCPPC, MCDPS, and MCDEP review and approve plans for the restoration work within the environmental buffers as part of the site plan review process. Environmental Planning staff finds that the proposed conceptual restoration plan is acceptable. More detailed plans will be developed as the project goes through the state and federal permitting processes for proposed disturbances in the floodplain, waters of the U.S., and wetlands. DPS, in its conditional approval of the stormwater management concept (letter dated September 14, 2007), is requiring that “the existing retention pond located below the proposed road culvert must be removed and the stream channel must be reestablished”.

MCDEP has indicated to staff that it will be submitting comments prior to the Planning Board hearing.

The proposed restoration work will require permits from the Maryland Department of the Environment (MDE) since much of the work will be in the 100-year floodplain and some of the work will impact wetlands and waters of the U.S. The applicant has not submitted permit applications to MDE for this work. The applicant proposes to present its restoration plans to the Interagency Wetlands Committee, which includes members from M-NCPPC, U.S. Army Corps of Engineers, Maryland Department of the Environment, MCDEP, MCDPS, and Md.

Department of Natural Resources, for review and comments prior to formal submissions to the state and federal regulatory agencies.

Staff recommends that detailed plans for the restoration work in the environmental buffers are incorporated into the Final Forest Conservation Plan.

**Recent Inventory of Two Plant Species Identified in the “Inventory for Rare Plants and Significant Habitats on M-NCPPC Park Lands in Montgomery County, Maryland” (Md. Dept. of Natural Resources, February 1997 and February 1999)**

The 1997 and 1999 Maryland Department of Natural Resources (DNR) inventory for rare plants on M-NCPPC parkland identified two plant species within the general area of the Tivoli Lakes Boulevard extended: the Butternut (*Juglans cinerea*) and Showy Skullcap (*Scutellaria serrata*). The Butternut (a tree) and the Showy Skullcap (a small, nonwoody, perennial plant) are ranked by DNR as rare to uncommon in the State of Maryland.

The applicant’s consultant surveyed the Bel Pre Creek stream valley in and around the proposed location of Tivoli Lakes Boulevard extended. The field surveys were conducted on April 3 and June 22, 2007. The consultant found two Showy Skullcap plants in the forested portion of the stream valley, but they are not located within the vicinity of the proposed road extension or its disturbance area. These plants are located within a forest stand that will be retained and protected. In addition, the plants will not be affected by proposed clearing or grading that will occur as part of the development of the subdivision. The consultant did not find any Butternut within the surveyed area. Staff finds that a protection plan for the Butternut and Showy Skullcap is not necessary for this subdivision project.

**Tivoli Lakes Boulevard Extended**

At the preliminary plan stage, the Planning Board determined that the extension of Tivoli Lakes Boulevard is necessary. As part of the site plan review, staff reviewed the road crossing to determine if environmental impacts are reduced as much as possible.

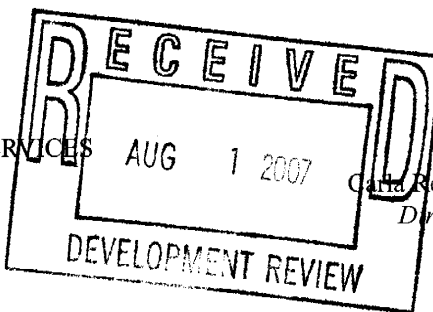
In Environmental Planning staff’s opinion, a road crossing that would minimize environmental impacts would be a bridge structure that spans the stream valley to connect as close to the high points on either side of the valley as possible. The applicant has indicated that this kind of crossing would be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

In staff’s opinion, the applicant’s proposed concept design, short of a bridge structure spanning the stream valley, minimizes environmental impacts. The general features of the

road crossing have not changed since the preliminary plan. However, the elevation of the proposed paths and ground elevations adjacent to the stream channel under the road crossing have been modified to address staff's concerns related to wildlife passage. The wildlife ecologist in the Natural Resources Division of the Department of Parks has reviewed the proposed concept plan for the road crossing design and has concluded that the design is acceptable for allowing wildlife passage under the road. Staff recommends that the detailed design for the reconstruction of the streambank and the construction of the proposed paths be submitted for M-NCPPC staff review and approval.



DEPARTMENT OF PERMITTING SERVICES



Isiah Leggett  
County Executive

Carla Reid Joyner  
Director

**MEMORANDUM**

July 20, 2007

TO: Melanie Moser, Robert Kronenberg  
Development Review Division - MNCPPC

FROM: Sarah R. Navid *S. Navid*  
Right-of-Way Permitting and Plan Review Section

SUBJECT: Site Plan Review #820070020 Poplar Run

We have reviewed the site plan and recommend approval, with the following comments/conditions:

Traffic Calming

We are very pleased with the comprehensive traffic calming provided on the through streets in this plan (Street A, Tivoli Lake Boulevard and Tivoli Lane). The following modifications are recommended:

- Extend length of chokers (curb extensions) by 10 feet. The choker should measure 50 feet from the extension of the intersecting curb line to the PC of the choker. (We reviewed existing commercial locations that were constructed using our current guidelines and find that an additional 10 feet is desirable in residential areas for increased intersection sight distance).
- The 12- foot wide median islands on Street A should have mountable curb (MC101.01), a two-foot wide decorative (stamped concrete) traffic bearing collar, a tree, and a "half"bullet nose design.
- The traffic circles should have a six-foot wide, decorative (stamped concrete) traffic bearing collar, one to three trees and grass or low growing foliage (see MC704.01 Allowable Greenspace Plantings).

Retaining Walls

The proposed retaining walls on Street A and Tivoli Lake Boulevard are acceptable in the right-of-way where the adjacent property is not or will not be controlled by the HOA. DPWT Design Section will need to sign-off on the retaining wall plans at permitting.

### Geometric Modifications

- Street H at Street B should intersect at no less than 70 degrees.
- The median island on the east leg of Street O at Street should be widened, lengthened and tapered to provide a better transition from the west leg. It can be treated similar in design to the median islands proposed for Street A.

### Traffic Control Devices

The applicant will be responsible for developing a plan and installing all traffic signs (Stop, One Way etc.) and pavement markings (centerlines, etc) on the public roads. This includes all necessary parking restriction signs as mandated by the Fire Marshall or DPWT. The signing and marking plan should be submitted to DPWT for approval concurrent with the storm drain and paving plans for the site.

### Maintenance and Liability Agreement

All landscaping or any non-standard feature allowed within the public right of way on the circles, medians, and at the community entrances other than street trees, will be the responsibility of the HOA and will require a Maintenance and Liability Agreement prior to permitting. (The interiors of the two squares will be HOA property and thus, are not subject to this requirement).

### Retrofit Traffic Circle

The applicant has proffered to construct a traffic circle at Tivoli Lake Boulevard and Hugo Circle/Osterport Drive. We are amenable to this idea as a part of the overall traffic calming concept for the community. DPS is willing to coordinate with DPWT, Tivoli HOA, and adjacent residents, to obtain the necessary concept approvals. We will also work with the applicant to design a circle that will function safely and efficiently **within** the existing public right-of-way. However, since there are so many unknowns in this process, this circle must be considered separate and supplementary to the site plan. If DPS receives all the necessary approvals and the design and construction can be accomplished satisfactorily to all parties, we will permit the circle.

### Curb Ramps

In general two ramps will be provided on each corner (only one corner at T intersections). The ramps will be located as close to the intersection as feasible and will be perpendicular to the radius (curb return). The exact locations of the ramps will be determined at permitting.

Page 3—Moser/Kronenberg—Poplar Run Site Plan—July 20, 2007

cc: Mike Lemon, Winchester Homes  
Ed Wallington, Loiederman Soltesz Associates  
Steve Robins, Lerch, Early & Brewer  
Greg Leck, DPWT



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

Carla Reid Joyns  
Director

September 14, 2007

Mr. Edward Wallington  
Loiederman Soltész Associates, Inc.  
1390 Piccard Drive, Suite 100  
Rockville, MD 20850

Re: **Final Stormwater Management CONCEPT**  
Request for Poplar Run (Indian Spring)  
Preliminary Plan #: 1-06051  
SM File #: 221606  
Tract Size/Zone: 308.36 acres / R-200 Cluster  
Total Concept Area: 308.36 acres  
Lots/Block: N/A  
Parcel(s): 180, 722, 815, 893  
Watershed: Northwest Branch

Dear Mr. Wallington:

Based on a review by the Department of Permitting Services Review Staff, the final stormwater management concept for the above mentioned site is acceptable. The stormwater management concept consists of on-site channel protection measures via dispersion in some areas and via construction of twelve detention ponds for other areas; on-site water quality control via nonstructural methods as well as construction of 30 Montgomery County Sand Filters (MCSF's) and three structural filtration facilities; and onsite recharge via flow dispersion, impervious area disconnection, installation of dry wells, and other nonstructural methods.

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. The topsoil requirement will be strictly enforced.
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. In addition, the use of administrative Owner/Developer Transfer Agreements is prohibited for this development. All development must be done pursuant to Engineered Sediment Control Plans.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. The existing retention pond located below the proposed road culvert must be removed and the stream channel must be reestablished.
6. The proposed culvert under "Street A" must be designed as an environmentally sensitive crossing.

7. Geotechnical reports for proposed stormwater facilities must be submitted with initial detailed sediment control/stormwater management plans. All facilities must be constructed with adequate groundwater clearance, per Montgomery County design guidelines.
8. Stormwater management facilities must be located on separate "stormwater parcels".
9. As an offset for allowing closed section roadways, the groundwater recharge requirement for this project will be increased to 125% of the normal groundwater recharge requirement. Recharge must be spread across the project area as much as practical. Impervious area disconnection will be incorporated into the site design wherever practical.
10. This stormwater concept approval supercedes the preliminary approval dated June 27, 2006.

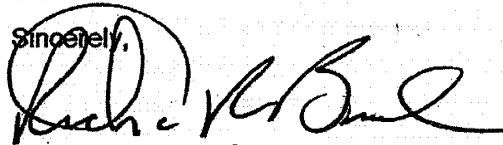
This list may not be all-inclusive and may change based on available information at the time.

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 Mark Etheridge at 240-777-6338.

Sincerely,



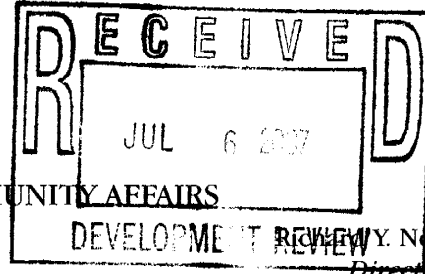
Richard R. Brush, Manager  
Water Resources Section  
Division of Land Development Services

RRB:dm mce

cc: C. Conlon  
S. Federline  
SM File # 221606

QN -ON; Acres: 308  
QL - ON; Acres: 308  
Recharge is provided





DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett  
County Executive

July 2, 2007

Richard Y. Nelson, Jr.  
Director

Mr. Robert Kronenberg  
Development Review Division  
M-NCPPC  
8787 Georgia Avenue  
Silver Spring, MD 20910

RE: Poplar Run (aka Indian Spring) Site Plan Application #820070020

Dear Mr. Kronenberg:

I understand that the above-referenced site plan is set to go before the Planning Board sometime in the next several weeks. The purpose of this letter is to let you know that staff at DHCA have reviewed the site plan with the applicant, and we are satisfied that the MPDUs are dispersed through the development, and that the proposed staging of the MPDUs is in compliance with the requirements of Chapter 25A of the Montgomery County Code. The applicant has confirmed that the town homes will contain 3 bedrooms (as is required by Chapter 25A), and that he will make every effort to avoid placing temporary structures (such as sediment traps and soil stockpiles) on MPDU sites during construction, so as not to interfere with the construction schedule for the MPDUs.

Please contact Lisa Schwartz in this office at 240-777-3786 if you need any further information.

Sincerely,

Christopher J. Anderson, Manager  
Single Family Programs

Cc: Michael Lemon, Winchester Homes  
Joseph T. Giloley, Division Chief  
Lisa Schwartz, Senior Planning Specialist

File: C:\A 2007 Housing MPDU\Lisa Schwartz\Lisa\_Schwartz\_email\_correspondence\PoplarRun\letter-2-07.doc

Division of Housing and Code Enforcement

Code Enforcement  
FAX 240-777-3701

Moderately Priced  
Dwelling Unit  
FAX 240-777-3709

Housing Development  
and Loan Programs  
FAX 240-777-3691

Landlord-Tenant Affairs  
FAX 240-777-3691


ATTORNEYS

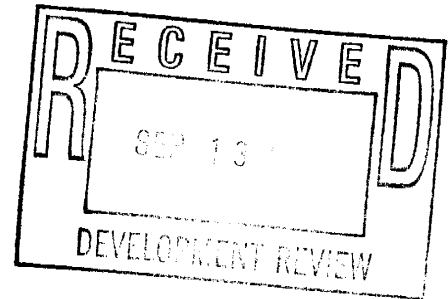
**STEVEN A. ROBINS**  
DIRECT 301.657.0747  
SAROBINS@LERCHEARLY.COM

---

## MEMORANDUM

---

TO: Robert Kronenberg  
FROM: Steven A. Robins   
SUBJECT: Letter to Staff Regarding Indian Spring  
DATE: September 12, 2007



Dear Robert:

Attached is the original of the letter that I email you, Rose Krasnow and Melanie Moser regarding the Indian Spring Site Plan – more particularly the condition regarding a partial dedication of the school site. As I mentioned in the email, I would appreciate it if you would place the letter into the record for the Site Plan and also attach a copy of the letter to the Staff Report.

Thank you for your consideration regarding this matter. We appreciate it.

Steve Robins

ATTORNEYS

STEVEN A. ROBINS  
DIRECT 301.657.0747  
SAROBINS@LERCHEARLY.COM

September 12, 2007

Ms. Rose Krasnow  
Mr. Robert Kronenberg  
Ms. Melanie Moser  
Maryland-National Capital Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

**Re:   Redevelopment of Indian Spring County Club/Site  
      Plan No. 820070020**

Dear Ms. Krasnow, Mr. Kronenberg and Ms. Moser:

Our firm represents Winchester Homes, the Applicant for Site Plan No. 820070020 (the "Site Plan") for the Poplar Run development (previously known as Indian Spring). We received a copy of Dr. Hanson's letter dated August 31, 2007 to Joseph Lavorgna of the Montgomery County Public Schools ("MCPS") regarding a future elementary school site, possibly at Poplar Run. The purpose of this letter is to formally comment on that letter. We would appreciate it if you would place this letter into the public record for the Site Plan and include a copy in the Staff Report.

On September 21, 2006, the Planning Board approved the Preliminary Plan of Subdivision No. 120060510 for Poplar Run (the "Preliminary Plan") by Resolution dated January 19, 2007 (MCPB No. 06-89). At the Preliminary Plan hearing, Montgomery County Public Schools ("MCPS") requested that as a condition of approval, a 10 acre elementary school site be located within the development, that the Applicant place the school site in reservation for a three year period (running from September 21, 2006) and that approximately 1/3 of the site be dedicated for the school. While the Board concurred with this recommendation, the Board's conditions of approval (Condition No. 12) reflected that the Board's final decision regarding whether Winchester would be required to place in reservation and/or dedicate a portion of the property would be made at the time of Site Plan review. The Board's condition also included a statement that the Board expected Winchester, MCPS, Montgomery County Government and Commission Staff, prior to review of

Ms. Rose Krasnow  
Mr. Robert Kronenberg  
Ms. Melanie Moser  
September 12, 2007  
Page 2

the Site Plan by the Board, to work together to determine whether the Poplar Run school site is needed or whether there are alternative school sites in the area that are preferable. The Planning Board specifically directed the parties to evaluate the Saddlebrook site as a possible alternative.

As a preliminary matter, the school site that MCPS and Winchester have been discussing on the Poplar Run site is a 10 acre site and not 12 acres as referenced in the August 31<sup>st</sup> letter. Winchester pointed this out at the Preliminary Plan hearing and MCPS confirmed, on the record at the hearing, that the site is a 10 acre site.

Since the approval of the Preliminary Plan, Winchester has been meeting with Technical Staff regarding the Site Plan. As we stated at our most recent meeting with Technical Staff, Winchester continues to object to any requirement that would require Winchester to dedicate 1/3 of a school site. To our knowledge, this request is unprecedented. Despite Winchester's disagreement with the reservation/dedication condition, Winchester has fully complied with the Board's directive as part of the Preliminary Plan approval and has accommodated MCPS and the Parks Department (as well as the Park Police) in an effort to accommodate both agencies' needs.

As Staff from M-NCPPC, the Parks Department and MCPS can confirm, Winchester spent many hours working with the various governmental staffs to discuss and evaluate alternative school and Park Police Headquarter sites. This evaluation process included, but was not limited to, the Saddlebrook site that presently houses the Park Police Headquarters (and was once an elementary school site). After much discussion, the scenario that seemed to appeal to the entire group was for MCPS to return to Saddlebrook and for the Park Police to relocate its Headquarters at a new location. Winchester's land planners and civil engineers worked closely with MCPS, the Parks Department and the Park Police on other site considerations, particularly for the relocation of the Park Police Headquarters since MCPS expressed that there were no other alternatives for a school site except for Saddlebrook. These sites for the Park Police included Harmony Hills Neighborhood Park, Harmony Hills #2 (near

Ms. Rose Krasnow  
Mr. Robert Kronenberg  
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Page 3

the intersection of Hewitt and Georgia Avenues), Llewellyn Fields and Woodlawn Cultural Park. It was Winchester that expended substantial resources to ensure that MCPS and Park Police requirements could be achieved on the properties. MCPS seemed to be satisfied with the reuse of the Saddlebrook site. Winchester provided the Park Police and the Parks Department (Bill Gries) with the requested materials and studies for the Park Police relocation.

Our last meeting with MCPS and the Park Police was held on March 6, 2007. While there have been ongoing discussions between Winchester and MCPS, it was not until we received the June 12, 2007 letter from MCPS to Chairman Hanson and thereafter Chairman Hanson's response letter dated August 31, 2007, that Winchester learned of the apparent decision against the Saddlebrook option. This decision appears to have been made without the benefit of Winchester's or the public's comment on this topic at the Site Plan hearing scheduled for October 11, 2007. Thus, Winchester feels that if a decision has been made, it is premature and not within the spirit and intent of Condition No. 12 of the Preliminary Plan.

As previously stated, on June 12, 2007, MCPS sent Chairman Hanson a letter setting forth similar information regarding the elementary school site/Park Police relocation matter. The letter articulated certain cost scenarios and requested Planning Board guidance on the matter. MCPS correctly indicated that there is strong community support for locating the new elementary school on the Saddlebrook site and relocating the Park Police Headquarters. However, MCPS provided a comparative cost analysis between (i) building a new elementary school at Poplar Run (\$30,700,000 not factoring a partial dedication) and (2) razing the Park Police Headquarters building, constructing a new elementary school on the Saddlebrook property and relocating the Park Police (\$36,500,000). MCPS concluded that it would cost approximately \$5,800,000 (\$36.5 M – \$30.7 M) more to implement the Saddlebrook scenario when compared to constructing a new school at Poplar Run. Yet, the comparative analysis failed to consider that even if the school is constructed at Poplar Run, the Park Police would likely need a new Headquarters facility in the near future. This would add another

Ms. Rose Krasnow  
 Mr. Robert Kronenberg  
 Ms. Melanie Moser  
 September 12, 2007  
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\$16,500,000 into the equation (the figure contained in the MCPS June 12<sup>th</sup> letter), thus making the Poplar Run scenario actually \$10,700,000 more costly than the Saddlebrook option [ $\$47.2 \text{ M} (\$30.7 \text{ M} + \$16.5 \text{ M}) - \$36.5 \text{ M}$ ] [and still more costly even if a partial dedication is factored into the equation]. In its analysis of the situation, Winchester was given direction to assume that (i) the police function would be relocated to land under public ownership (*i.e.*, the sites studied already are in public ownership), and (ii) the present facility at Saddlebrook already is obsolete. There is one other point that must be considered in the economic analysis. The dollar figure used for the Poplar Run property was based on an approximate estimate of the land value. It is likely that an appraisal could show an even greater land value for the property to be purchased by MCPS for the school.

As far as the reservation/dedication issue is concerned, Winchester's position remains the same as articulated at the Planning Board hearing on the Preliminary Plan – Winchester objects to being required to partially dedicate a school site on the property at no cost to the Board of Education. This position was noted at the hearing and, as a result, Condition No. 12 was crafted to defer a final decision on the dedication issue until Site Plan review. As Winchester articulated at the Preliminary Plan hearing, on April 12, 2005, the Board of Education, by Resolution No. 175-05, stated that dedication on the Poplar Run site for an elementary school was not justified and that MCPS should instead explore purchasing the Queensguard site for the school (the site that was identified in the Master Plan). It was not until MCPS decided that the Queensguard site was not feasible for environmental reasons that MCPS thereafter focused on Poplar Run (and MCPS's desire to have Winchester dedicate a portion of the school site). The fact that the Queensguard site no longer is an option as declared by MCPS does not justify a partial dedication on the Poplar Run site. The fact remains that the development does not remotely generate the need on its own for a new elementary school. Furthermore, the Poplar Run site is not identified in the Kensington/Wheaton Master Plan for a school. Thus, when Winchester negotiated its purchase contract with the seller of the property, it did not (and could not) anticipate that a school would be located on the property or

Ms. Rose Krasnow  
Mr. Robert Kronenberg  
Ms. Melanie Moser  
September 12, 2007  
Page 5

that a condition of approval would be included requiring Winchester to place in reservation and/or dedicate approximately 3 acres to the County. Even so, in an effort to reach compromise, Winchester effectively dropped its objection to the three year reservation period despite relevant and persuasive legal arguments against the requirement, accepting the fact that a school may be located on the Poplar Run site. If MCPS desires a school site at Poplar Run, it should be required to purchase the school site.

When the Board considered the Preliminary Plan, MCPS reiterated its position that projections for a 773 unit subdivision would yield approximately 196 children. When questioned about the number of students required to legally support a request for dedication, MCPS responded as follows:

- 196 students projected for the property is about 1/3 of the population for an elementary school. MCPS Staff acknowledged that the proposed development on the property does not generate the need for its own elementary school. Student enrollment projections would even be lower if there are fewer lots on the property as a result of the inclusion of the school site.
- The Kensington/Wheaton Master Plan does not identify the property as a location for a school.
- There is no precedent that MCPS Staff could identify that would require the developer of a property to partially dedicate a school site when that development did not come close to generating the need for an additional school.
- MCPS did confirm that the property under discussion for the school was a 10 acre site, not 12 acres.

While Winchester generally accepts the reservation as a means of accommodating MCPS' needs, Winchester would respectfully request that Technical Staff and ultimately the Board reject the requirement for partial

Ms. Rose Krasnow  
Mr. Robert Kronenberg  
Ms. Melanie Moser  
September 12, 2007  
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dedication. Throughout the process, Winchester, MCPS, the Park Police and the Parks Department all agreed that Saddlebrook was a viable alternative. The alternative sites suggested by the Park Police for consideration met the criteria as articulated by the Park Police and the Parks Department. Furthermore, if the Park Police need a new Headquarters in the foreseeable future, that cost figure needs to be a factor in the decision-making process as both options discussed above are evaluated.

Winchester is prepared to continue working on this issue with the various agency Staffs and certainly will be available to present its position to the Board as part of the Site Plan hearing. We trust the Board will be open to this discussion as envisioned by Condition No. 12 of the Preliminary Plan approval.

Sincerely,



Steven A. Robins

cc: Mike Lemon  
Michael Conley  
Joseph Lavorgna  
Janice Turpin  
Mary Pat Wilson  
Mary Bradford  
Gwen Wright  
Mike Riley  
William Gries  
Debra Daniel, Esq.  
David Lieb, Esq.  
Jody Kline, Esq.





# MONTGOMERY COUNTY PLANNING BOARD

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

## OFFICE OF THE CHAIRMAN

August 31, 2007

Joseph Lavorgna, Acting Director  
Department of Facilities Management  
Montgomery County Public Schools  
2096 Gaither Road, Suite 200  
Rockville, Maryland 20850

**SUBJECT: Future Elementary School Site at Poplar Run Development  
(Site Plan No. 820070020)**

Dear Mr. Lavorgna:

This is in response to the June 12, 2007 letter from Richard Hawes of MCPS regarding the feasibility of locating a future elementary school at either the current Saddlebrook Park Police Headquarter site, or the proposed Poplar Run development site at Layhill Road (the Old Indian Spring Country Club site).

The approved Preliminary Plan (No. 120060510) for the proposed Poplar Run development required dedication of one-third of a school site (four acres), and it placed the remaining two-thirds in a reservation for three years with the stipulation that at the time of site plan approval the Planning Board expected the M-NCPPC, the MCPS, the County, and the applicant to determine the final location of a future elementary school site in the area and finalize the full extent of the dedication of the school site in the site plan approval. The MCPS letter asks for the Commission's comments on the two locations that the MCPS staff will use in making a recommendation to the Board of Education regarding the school site selection.

After discussing the site and Mr. Hawes's letter with the staff from both the Parks and the Planning departments, our position is that the MCPS should acquire the remaining two-thirds of the school site in the Poplar Run development and plan on building the school within the new community instead of utilizing the Saddlebrook site for the following reasons:

1. The public cost of finding, acquiring, and constructing an alternate site for Park Police will be higher than purchasing the remaining eight acres at the Poplar Run development and building a new school. According to the estimates indicated in Mr. Hawes's letter, the ultimate full cost of building a school on the Saddlebrook site is higher (\$36.5 Million) than building the school at the Poplar Run development site (\$30.7 million). We understand the public cost calculated for the Saddlebrook site only includes replacement of the park police functions currently housed there; and does not include costs to replace the archives, exhibit shop, and large auditorium. It also presumes that the police function is relocated to land currently under public ownership. If the costs of relocating the non-police functions were considered, the Saddlebrook option becomes much less desirable from a cost perspective alone.

8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320

[www.MCParkandPlanning.org](http://www.MCParkandPlanning.org) E-Mail: [mcp-chairman@mncppc.org](mailto:mcp-chairman@mncppc.org)

2. The Saddlebrook site is centrally located for the Park Police function and services. The building is in relatively good condition and serves its current functions adequately. It will probably be difficult to find an alternate site for Park Police that meets all the necessary criteria, while the school site within the Poplar Run development can be designed to meet all the needs of a public elementary school use.
3. From a planning perspective, the Poplar Run site would be a better location for an elementary school since one-third of its enrollment would be from that development and a large majority of these children would be able to walk to the school, reducing potential traffic impacts. An elementary school within that development would be well integrated and more accessible to the community for recreation and other purposes than the Saddlebrook site.

The Planning Board is scheduled to review the site plan for the Poplar Run development on Thursday, October 11, 2007. The staff report to the Planning Board will recommend locating the new school on the Poplar Run development site with continuation of the reservation period to allow the MCPS to purchase the remaining eight acres. If you have any comments that MCPS would want included in the staff report to the Planning Board, please send them to Robert Kronenberg, Development Review Division, no later than Friday, September 14.

Thank you for seeking input from the Commission on this project.

Sincerely,



Royce Harrison  
Chairman

KA:ha: 2007-0724

Copy to:

Gwen Wright, Acting Director, Department of Planning

Mary Bradford, Director, Department of Parks

Mike Riley, Park Development Division

Robert Kronenberg, Development Review Division

✓ Steve Robbins, Esq.



DEPARTMENT OF FACILITIES MANAGEMENT  
**Montgomery County Public Schools**

2096 Gaither Road, Suite 200, Rockville, MD 20850 · 240-314-1000 · (FAX) 240-314-1073

June 12, 2007

Dr. Royce Hanson, Chairman  
Montgomery County Planning Board  
Maryland-National Capital Park  
and Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Dear Dr. Hanson:

Re: Poplar Run Development (Site Plan # 820070020)  
Elementary School Site

On June 20, 2006, the Montgomery County Public Schools (MCPS) requested that, as a condition of preliminary plan approval, an acceptable elementary school site be identified in the proposed Poplar Run Development (Indian Spring) and that the applicant dedicate one-third of a school site, or four acres, at no cost to the Board of Education. The Montgomery County Planning Board subsequently approved the former Indian Spring Preliminary Plan (No. 120060510) on January 4, 2007, with the condition that the school site be placed in reservation for three years and the dedicated area determined at site plan approval. It was further decided that this condition could be modified or eliminated during site plan review. The conditions also included a statement that the Board expected the Applicant, MCPS, Montgomery County Government and Commission Staff, prior to review of the site plan by the Board, to work together to determine whether this site is needed or whether there are alternative school sites that are preferable and feasible.

Staffs with the above-referenced agencies have been discussing possible alternative elementary school sites. A strong candidate for an alternative school site to the Poplar Grove location is the former Saddlebrook Elementary School, which now houses the Park Police. However, this would require a replacement site for relocation of the park functions at Saddlebrook. Several other suitable candidate sites were identified—Harmony Hills Neighborhood Park, Harmony Hills #2 (near the intersection of Hewitt and Georgia avenues), Llewellyn Fields, and Woodlawn Cultural Park.

The following are estimated comparative costs to (1) build a new elementary school at Poplar Grove or (2) raze the existing Saddlebrook building, construct a new school site, and relocate the Park Police.

**Construction of School on Poplar Grove Site**

\$11,700,000	Land Cost (without dedication)
<u>\$19,000,000</u>	School Construction
\$30,700,000	Total

**Construction of School at Saddlebrook Site**

\$0	Land Cost
\$1,000,000	Raze Existing Building
\$16,500,000	Headquarters Construction
<u>\$19,000,000</u>	School Construction
\$36,500,000	Total

The need for this school site is not anticipated before 2013, so the funding for the relocation of Park Police Headquarters would not be necessary before that time.

Given the strong community support for locating the new elementary school on the Saddlebrook site and the cost involved in relocation of the Park Police facility, we are asking the Planning Commission for guidance on which site is the most desirable from a comprehensive community planning standpoint. Your guidance will be used to make a recommendation to the Board of Education on the preferred location and a subsequent request for funding.

Sincerely,



Richard G. Hawes, Director  
Department of Facilities Management

RGH:jlc

Copy to:

Mr. Bowers  
Mr. Lavorgna  
Mr. Song  
✓ Ms. Turpin  
Mr. Mooney  
Mr. Robbins

**MONTGOMERY COUNTY BOARD OF EDUCATION  
SUMMARY SHEET**

April 12, 2005

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**SCHOOL MODERNIZATION**

On recommendation of the Superintendent and on motion of Mrs. Navarro seconded by Mr. Abrams, the following resolution was adopted unanimously by members present:#

WHEREAS, The Glen Haven Elementary School modernization project was inspected on April 6, 2005; now therefore be it

Resolved, That the Board of Education accept the Glen Haven Elementary School modernization project and that the official date of completion is that date when formal notice is received from the architect that this project has been completed

RESOLUTION NO. 174-05            Re:    **ENGINEERING SERVICES — ENERGY  
MANAGEMENT AUTOMATION SYSTEMS**

On recommendation of the Superintendent and on motion of Mrs. Navarro seconded by Mr. Abrams, the following resolution was adopted unanimously by members present:#

WHEREAS, Engineering services are required to perform energy audits and lighting surveys, and to assist in the design of various energy conservation measures; and

WHEREAS, Engineering services for the development, review, and administration of construction contracts are necessary for the installation of energy management automation systems and lighting conservation measures; and

WHEREAS, BRINJAC Engineering was the most qualified company identified through the Architect/Engineer Selection Procedures approved by the Board of Education, and the firm has consistently provided similar engineering services satisfactorily for Montgomery County Public Schools; now therefore be it

Resolved, That the Board of Education approve a contractual agreement for an amount not to exceed \$250,000 annually with the firm of BRINJAC Engineering, for the performance of energy audits and the design of recommended conservation measures and for the design and administration of construction contracts for Energy Management Automation Systems in Montgomery County Public Schools.

RESOLUTION NO. 175-05            Re:    **SPECIAL APPROPRIATION FOR ADVANCE OF  
LAND ACQUISITION REVOLVING FUND (ALARF)**

On recommendation of the Superintendent and on motion of Mrs. Navarro seconded by Mr. Abrams, the following resolution was adopted unanimously by members present:#



WHEREAS, The Board of Education requested an amendment to the FY2005-2010 Capital Improvements Program for FY 2006 facility planning funds for a new Downcounty Consortium Elementary School #29 and for site costs in the Advanced Land Acquisition Revolving Fund (ALARF) project; and

WHEREAS, The Downcounty Consortium Elementary School #29 will relieve overutilization at Bel Pre, Strathmore, Georgian Forest, and Glenallan elementary schools and will provide capacity to accommodate the redevelopment of the Indian Spring Country Club property; and



WHEREAS, The redevelopment of the Indian Spring Country Club property will not generate sufficient density to require a site dedication from the property owner; and

WHEREAS, There is no suitable property in the Board of Education's inventory nor in other public ownership to site the proposed facility; and

WHEREAS, A privately owned, three-acre parcel on the southeast corner of Queensguard and Layhill roads is available to expand existing county landholdings for co-location of a school adjacent to a future recreation center and an existing Maryland-National Capital Park and Planning Commission local park; and

WHEREAS, The county executive has recommended that the Board of Education request an FY 2005 special appropriation for site acquisition in lieu of its FY 2006 request; now therefore be it

Resolved, That the Board of Education rescind its request for funds in FY 2006 to purchase property for the Downcounty Consortium Elementary School #29 and request an FY 2005 special appropriation to fund this acquisition and related expenses in the amount of \$1,500,000; and be it further

Resolved, That a copy of this resolution be transmitted to the Montgomery County Council and county executive.

RESOLUTION NO. 176-05      Re:    **CAPITAL PROJECTS TO BE CLOSED  
EFFECTIVE JUNE 30, 2005**

On recommendation of the Superintendent and on motion of Mrs. Navarro seconded by Mr. Abrams, the following resolution was adopted unanimously by members present:#

WHEREAS, The Board of Education annually closes capital projects and transfers any unencumbered balances to the unliquidated surplus account; and

WHEREAS, The Department of Facilities Management has reviewed capital projects that



ACTION  
4.23Office of the Superintendent of Schools  
MONTGOMERY COUNTY PUBLIC SCHOOLS  
Rockville, Maryland

April 12, 2005

**MEMORANDUM**

To: Members of the Board of Education

From: Jerry D. West, Superintendent of Schools

Subject: FY 2005 Special Appropriation for Advanced Land Acquisition Revolving Fund  
(ALARF)

WHEREAS, The Board of Education requested an amendment to the FY 2005-2010 Capital Improvements Program for FY 2006 facility planning funds for a new Downcounty Consortium Elementary School #29 and for site costs in the Advanced Land Acquisition Revolving Fund (ALARF) project; and

WHEREAS, The Downcounty Consortium Elementary School #29 will relieve overutilization at Bel Pre, Strafford, Georgian Forest, and Glenallen elementary schools and will provide capacity to accommodate the redevelopment of the Indian Spring Country Club property; and

WHEREAS, The redevelopment of the Indian Spring Country Club property will not generate sufficient density to require a site dedication from the property owner; and

WHEREAS, There is no suitable property in the Board of Education's inventory nor in other public ownership to site the proposed facility; and

WHEREAS, A privately-owned, three-acre parcel on the southeast corner of Quennegard and Layhill Roads is available to expand existing county landholdings for co-location of a school adjacent to a future recreation center and an existing Maryland-National Capital Park and Planning Commission local park; and

WHEREAS, The county executive has recommended that the Board of Education request an FY 2005 special appropriation for site acquisition in lieu of its FY 2006 request; now therefore be it

Resolved, That the Board of Education rescinds its request for funds in FY 2006 to purchase property for the Downcounty Consortium Elementary School #29 and requests an FY 2005 special appropriation to fund this acquisition and related expenses in the amount of \$1,500,000; and be it further

Members of the Board of Education

-2-

April 12, 2005

**Resolved,** That a copy of this resolution be transmitted to the Montgomery County Council and county executive.

JDW:LAB:RCF:jl