



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

MCPB Item # 8  
December 12, 2013

December 2, 2013

**MEMORANDUM**

**VIA:** Mary Bradford, Director of Parks *M Bradford*  
Mike Riley, Deputy Director of Parks, Administrator *M Riley*  
Dr. John Hench, Chief, Park Planning and Stewardship Division *J Hench*  
Mitra Pedoeem, Chief, Park Development Division *Mitra Pedoeem*

**FROM:** William E. Gries, Park Development Division *W E Gries*  
Dom Quattrocchi, Legacy Open Space, Park Planning and Stewardship Division *D Quattrocchi*

**SUBJECT:** Land Acquisition Recommendation for additions to Muddy Branch Stream Valley Park,  
Unit 1: Potter Property, 35.23 acres; Weaver Property, 7.68 acres

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**RECOMMENDED ACTION**

The staff recommendations with respect to the subject Potter and Weaver properties are as follows:

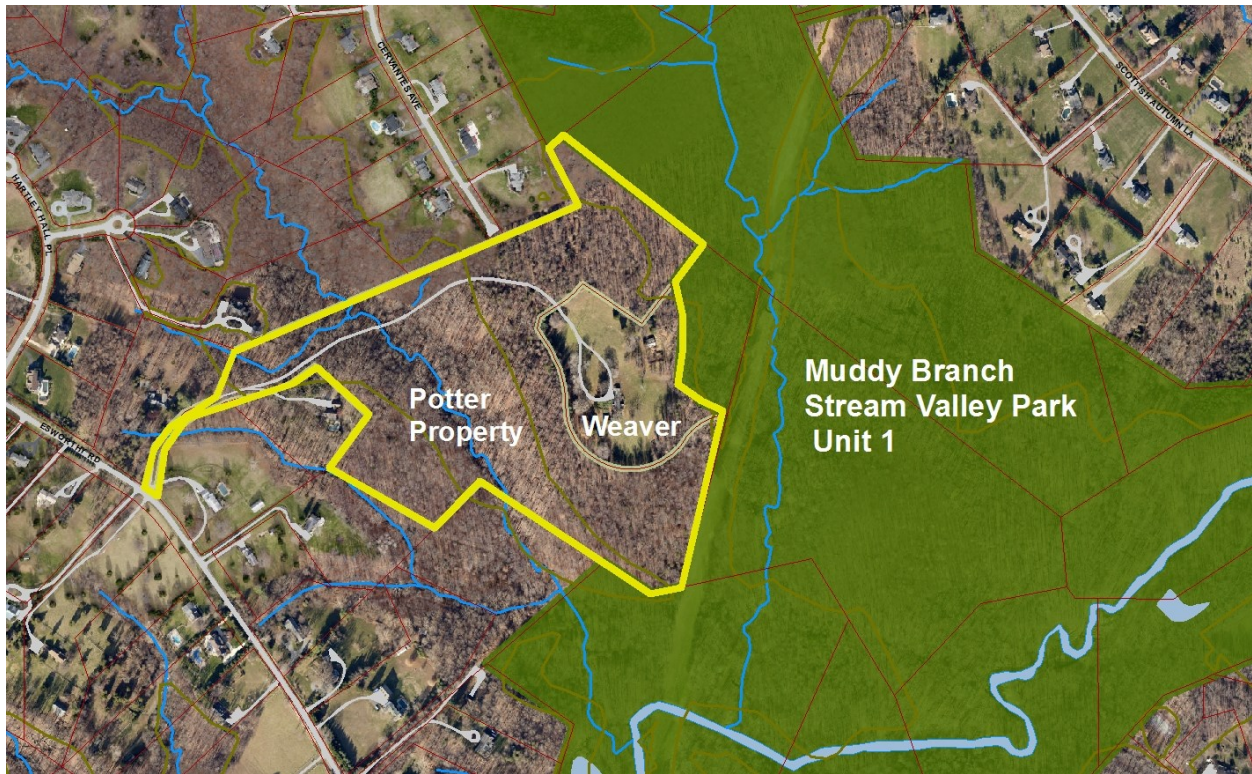
- 1) Approve the designations of the 35.23 acre, unimproved Lloyd A. Potter Revocable Trust property and the 7.68 acre, improved Christopher S. Weaver and Nanci Ross-Weaver property as designated Natural Resource Protection Areas within the Legacy Open Space Functional Master Plan (2001).
- 2) Approve the Resolution to acquire the Lloyd A. Potter Revocable Trust property as an addition to Muddy Branch Stream Valley Park, Unit 1 for the negotiated purchase price of \$850,000 to be funded through the Legacy Open Space CIP.
- 3) Approve the Resolution to acquire the Christopher S. Weaver and Nanci Ross-Weaver property as an addition to Muddy Branch Stream Valley Park, Unit 1 for the negotiated purchase price of \$761,250 to be funded through the Legacy Open Space CIP.

Staff requests that the Board approve the acquisitions of the subject Potter and Weaver properties as Legacy Open Space designated Natural Resource Protection Areas within Muddy Branch Stream Valley Park, Unit 1. Details on these recommended acquisition projects were presented to the Board in closed session last Thursday, December 5, 2013. Copies of two recommended resolutions, one for Potter and one for Weaver, are attached to this memorandum.

## INTRODUCTION

Muddy Branch Stream Valley Park offers an impressively large area of mature and generally undisturbed park forests in the Potomac Subregion of Montgomery County. Muddy Branch begins in Gaithersburg and connects to the Potomac River. Large areas of the Muddy Branch stream valley have been purchased as parkland over the years by the Maryland-National Capital Park and Planning Commission to protect stream valleys and valuable natural resources and provide a green corridor for a natural surface trail connection to Blockhouse Point and the Chesapeake and Ohio Canal National Historic Park. The floodplains of the middle and lower portions of Muddy Branch support good water quality and support a rich and diverse spring wildflower community. Large forested areas create good riparian buffer, except where clearing activities have impacted the adjacent stream valley.

The proposed acquisition of the Potter and Weaver Properties will implement Potomac Subregion Master Plan objectives and provide an important buffer to the mainstem of Muddy Branch and to a perennial tributary stream to Muddy Branch Stream Valley Park. The acquisitions will expand a greenway corridor, provide good road frontage from 2 county roads, and provide good trail connectivity into the Muddy Branch Stream Valley system.



Potter and Weaver Properties and Vicinity, Aerial image and properties 2013.

### **POTTER Property**

The 35 acre Potter Property is entirely forested with much of the forest occurring on steep slopes associated with a tributary stream to Muddy Branch that generally bisects the property from a northwest to southeast direction. About half of the forest predates 1950, with specimen tuliptree and oak species common. Forest is dominated by mixed oak and hickory, with tuliptree, red and white oak, and mockernut and pignut hickory representing dominant species. Other tree species noted include black gum, American beech, black cherry, and flowering dogwood. Fern species are common, including New York fern, lady fern, broad beech fern, maidenhair fern and Christmas fern. Both pileated and red-bellied woodpeckers were observed in the Potter woods.



**Potter Property: Streamside Forest, April 2010**

The Potter Property contains over 1000 linear feet of a perennial stream that flows directly into the Muddy Branch. This stream features good water quality and aquatic habitat (MCDEP). A barn stood on the Potter Property near its boundary with Cervantes Ave, but was heavily damaged and collapsed after a storm in 2010. There is one bridge crossing associated with an unpaved access road from Esworthy Road to the adjacent Weaver Property. Other than the collapsed barn and access features, there are no other improvements on the Potter Property.

### **WEAVER Property 13931 Esworthy Road**

The 7.6 acre Weaver Property features topographic prominence and an isolated arboreal setting on a plateau with stream valleys on two sides. The property is entirely bordered by either the forested Potter Property or by Muddy Branch Stream Valley Park to the east.

The Weaver Property consists of open fields and former pasture, landscape trees and edge trees to the adjacent Potter Property forest. Scattered specimen trees occur on the property.

There is an existing home, a horse stable and some accessory structures on the property. The existing home is a



**Weaver Property: Main House and specimen white pine (Apr, 2010)**

dilapidated 3210 square foot ranch style residence, believed to have been originally constructed in 1948 and significantly altered at a later date. The house was significantly vandalized circa 2010 and suffers from serious deferred maintenance problems. Unrepaired holes in the roof have remained for at least 3 years. The house and other improvements provide no contributing value to the property.

### **LEGACY OPEN SPACE (LOS) RESOURCE ANALYSIS**

The Potter and Weaver Properties meet criteria for Legacy Open Space designation as a Natural Resource Protection Areas due to their good to high quality oak dominated forest that will significantly augment existing stream valley parkland. Acquisition will also implement the stated LOS Master Plan goal of water quality enhancement through riparian land protection within the Potomac watershed. The most significant factor in designating the Potter and Weaver Properties as Legacy Open Space sites is that the properties contain mature forest directly adjacent to existing parkland. The adjacent parkland, Muddy Branch Stream Valley Park, is a County recognized Biodiversity Area. Biodiversity Areas contain known rare, threatened, and endangered or watchlist plant or animal species. Opportunities to add meaningful acreage to existing high quality park areas are becoming increasingly rare.

The Legacy Open Space criteria from the LOS functional master plan met by these properties include:

- The resource has countywide significance because it is a large forested area directly adjacent to existing parkland.
- The resource is part of a “critical mass” of forest.
- The resource provides human and ecological connectivity.
- The resource helps to buffer and thereby protect other significant forest and hydrologic resources.
- The resource represents an opportunity for broadening interpretation and public understanding of natural and heritage resources through providing additional land.

More specifically, acquisition of these Properties provides:

- An ecologically more fully functioning Biodiversity Area
- A large portion of the acreage being acquired is high quality forest directly adjacent to a Biodiversity Area within existing parkland
- Frontage to Esworthy Road and Cervantes Avenue creating the potential for additional public access

LOS staff strongly recommends the acquisition of these properties. This recommendation for LOS designation and acquisition is supported by the Legacy Open Space Citizen’s Advisory Group and the Legacy Open Space Implementation Team.

### **CONSISTENCY AND SUPPORT FOR THIS ACQUISITION**

The Potomac Subregion Master Plan, approved and adopted in April 2002, specifically recommends the acquisition of the Potter Property in its entirety. Reasons for its acquisition include the high quality forest on the property, adjacency to existing parkland, pronounced topography, and an existing stream valley that generally bisects the Potter Property.

The Weaver Property, though not master planned for acquisition (due at the time to the improvement on the property) is a logical and important addition to the park system. As the Weaver Property is

situated on a plateau area overlooking Potter and the existing Muddy Branch Stream Valley Park, it is important for long term stewardship and park setting objectives to acquire what would effectively otherwise be a substantial inholding. If not acquired, market forces in this area would likely result in a future residential compound that could be in striking contrast to a stream valley park setting. The Weaver Property also relies on an access easement through the Potter Property. Acquisition of the Weaver Property would eliminate private use of that easement and allow for long term forest and stream restoration benefits via removal of a road, a stream crossing and subsequent reforestation.

**PROPOSED USE OF THE PROPERTY**

In that this is an acquisition of land intended to serve a conservation purpose and is to be added to an existing stream valley park, there are no proposed uses for these property other than wildlife habitat, meadow restoration, forest conservation, nature interpretation and potential natural surface trail use, where appropriate.

**OPERATING BUDGET IMPACT (OBI) ESTIMATE**

The Potter and Weaver property recommended for acquisition will involve only a minimal amount of operating budget impact (OBI). Maintenance burden for Park Managers would be limited because the area will remain undeveloped, with natural surface trails being the only likely anticipated future improvement.

Initial cleanup cost will involve razing the existing structures (house, stable, collapsed barn, in-ground pool). A future determination will be made as to whether or not to remove an existing bridge crossing.



**Potter Property: bridge crossing, April 2010**

- cc:     John Nissel                     Brenda Sandberg  
          Mike Horrigan                Kennedi Anderson  
          Mike Jones                   Antonio DeVaul  
          Jim Poore                     Callum Murray  
          Megan Chung                 Kate Stookey  
          Sean Dixon



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

MCPB  
13-177

**RESOLUTION**

WHEREAS, The Maryland-National Capital Park and Planning Commission ("Commission") is authorized by Maryland Code Annotated, Land Use Article §17-101 (formerly Article 28, Section 5-101 of the Annotated Code of Maryland) to acquire, develop, maintain and operate a public park system within the Maryland-Washington Metropolitan District; and

WHEREAS, the Montgomery County Planning Board received and considered a recommendation from staff of the Commission, in closed session on December 5, 2013, that it approve the acquisition of 35.23 acres, more or less, of unimproved land (the "Property") from the Lloyd A. Potter Revocable Trust ("Potter Trust"), located at the end of Cervantes Avenue, east of Esworthy Road, Germantown, Maryland 20874, as an addition to Muddy Branch Stream Valley Park, Unit 1; and

WHEREAS, the Property meets parkland acquisition criteria for Legacy Open Space designation as a Natural Resource Protection Area under the Legacy Open Space (LOS) Functional Master Plan of 2001 and staff of the Commission further recommended that the Property be designated as a Natural Resource Protection Area under said Master Plan; and

WHEREAS, there are sufficient Commission General Obligation Bond monies available in the Commission's Legacy Open Space (LOS) Capital Improvement Program (CIP) to pay the \$850,000.00 negotiated purchase price for the Property;

NOW THEREFORE BE IT RESOLVED, that the Montgomery County Planning Board hereby designates the Property consisting of 35.23 acres, more or less, of unimproved land as a Natural Resource Protection Area under the Legacy Open Space Master Plan of 2001; and

BE IT FURTHER RESOLVED, that the Property be acquired as a stream valley park addition to Muddy Branch Stream Valley Park, Unit 1; and

BE IT FURTHER RESOLVED, that the acquisition of the Property from the Potter Trust as described above, for a purchase price of \$850,000.00, in accordance with a proposed Land Purchase Agreement between the Commission and the Potter Trust, is hereby approved by the Montgomery County Planning Board on this 12th day of December, 2013 and the Executive Director is authorized to execute said Agreement on behalf of The Maryland-National Capital Park and Planning Commission.

\* \* \* \* \*

This is to certify the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, with Commissioners \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ voting in favor of the motion, at its regular meeting held on Thursday, December 12, 2013 in Silver Spring, Maryland.

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Françoise M. Carrier, Chair  
Montgomery County Planning Board

MCPB  
13-178



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

**RESOLUTION**

WHEREAS, The Maryland-National Capital Park and Planning Commission ("Commission") is authorized by Maryland Code Annotated, Land Use Article §17-101 (formerly Article 28, Section 5-101 of the Annotated Code of Maryland) to acquire, develop, maintain and operate a public park system within the Maryland-Washington Metropolitan District; and

WHEREAS, Montgomery County, Maryland (the "County"), has appropriated certain funds from the County's General Obligation Bond proceeds to fund the Commission's Legacy Open Space Acquisition Program; and

WHEREAS, the Commission identifies properties that are eligible for acquisition with funds from the Legacy Open Space Acquisition Program and recommends that the County acquire such properties with such funds; and

WHEREAS, Christopher S. Weaver and Nanci Ross-Weaver (the "Weavers"), own certain property, identified as Tax Account #06-001-00404475, located in Germantown, Maryland 20874, containing a total of 7.68 acres, more or less, improved (the "Property"), which is suitable for acquisition as an addition to Muddy Branch Stream Valley Park, Unit 1; and

WHEREAS, the Property meets parkland acquisition criteria for Legacy Open Space designation as a Natural Resource Protection Area under the Legacy Open Space (LOS) Functional Master Plan of 2001 and staff of the Commission further recommended that the Property be designated as a Natural Resource Protection Area under said Master Plan; and

WHEREAS, the Montgomery County Planning Board, on behalf of the Commission, recommends that the County acquire the Property from the Weavers; and

WHEREAS, there are sufficient monies available in the Commission's Legacy Open Space Acquisition Program CIP, funded with County General Obligation Bonds, to pay for the acquisition of the Weaver Property.

NOW THEREFORE BE IT RESOLVED that the Montgomery County Planning Board hereby designates the Property as a Natural Resource Protection Area within the Legacy Open Space Functional Master Plan of 2001; and

BE IT FURTHER RESOLVED that the Montgomery County Planning Board recommends that the County execute a Land Purchase Agreement, on such terms acceptable to Commission, to acquire the Property from the Weavers using Legacy Open Space CIP monies funded with County General Obligation Bonds, for a total purchase price of Seven Hundred Sixty-One Thousand Two Hundred Fifty Dollars (\$761,250.00) and other valuable consideration.

\* \* \* \* \*

This is to certify the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, with Commissioners \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ voting in favor of the motion, at its regular meeting held on Thursday, December 12, 2013 in Silver Spring, Maryland.

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Françoise M. Carrier, Chair  
Montgomery County Planning Board

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