



Preliminary Plan No. 120080080 - Boswell's Addition to Riding Stable Estates

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Staff Report Date: 2-28-13

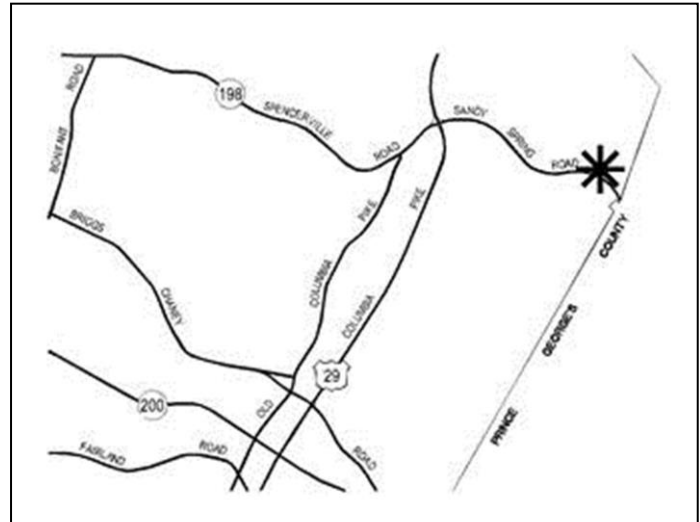
Description

A request for three lots for three, one family residential units (one existing), located at 15615 Riding Stable Road, on 5.89 acres, zoned RE-1; Fairland Master Plan

Submittal Date: 9-17-07

Applicant: Robin L. and C. Boswell

Review Basis: Chapter 50, Chapter 22A



Summary

Staff Recommendation: Approval, subject to conditions

- The Applicants' Property extends into Prince George's County; only the portion of the Property in Montgomery County is subject to Chapter 50 for purposes of subdivision and platting.
- Only the portion of the Property in Montgomery County is subject to the Montgomery County Forest Conservation Law. The portion of the Property in Prince George's County is not included in the forest conservation worksheet, however, protection of the forested portion of the Property in Prince George's County satisfies some of the afforestation requirements as off-site forest save.
- The three proposed lots are located entirely within Montgomery County and meet all subdivision and zoning requirements. No land in Prince George's County was used for density calculation purposes.

RECOMMENDATION: Approval subject to the following conditions:

- 1) This Preliminary Plan is limited to three (3) lot(s) for three (3) detached dwelling units.
- 2) The Applicant must comply with the conditions of approval for the Preliminary Forest Conservation Plan dated January 15, 2013, approved as part of this Preliminary Plan, subject to:
 - a. Prior to Staff approval of the Certified Preliminary Plan and Final Forest Conservation Plan, the Applicant must revise the Preliminary Forest Conservation Plan to: (i) revise the forest conservation worksheet and associated table so that the total tract area equals the net tract area, and document other required changes resulting from the change in the net tract area; (ii) configure the required planting area as 0.33 acres on Lot 3; and (iii) correct the identification of Tree ST#2 as a Silver Maple.
 - b. Prior to issuance of a sediment and erosion control permit, the Applicant must secure approval of a Final Forest Conservation Plan that is consistent with the revised Preliminary Forest Conservation Plan.
 - c. To mitigate for the removal of the 66 inch silver maple, variance tree, the Final Forest Conservation Plan must include on-site planting on Lot 3 in or near the environmental buffer, with a minimum of 6 native, overstory trees of 2 inches in caliper or larger, in addition to the planting requirements shown on the forest conservation worksheet.
 - d. The Applicant must install permanent forest conservation signs along the boundary of all conservation easement areas. Specifications and locations for signs must be shown on the Final Forest Conservation Plan.
 - e. A Category I Conservation Easement must be placed over all environmental buffers, forest retention areas, forest planting areas, and mitigation plantings within the Montgomery County portion of the subdivision. Conservation easement areas must be shown on the Final Forest Conservation Plan.
 - f. The use of any land in Prince George's County must be identified on the Final Forest Conservation Plan as an offsite area for purposes of meeting the requirements for afforestation. Any existing forest located in the offsite area will be assigned an afforestation credit at the rate of one (1) acre of existing forest per ½ acre of required afforestation and must be placed in a modified Prince George's County Woodland and Wildlife Habitat Conservation Easement.
 - g. The Prince George's County Woodland and Wildlife Habitat Conservation Easement must be modified to identify the easement as a protective measure for offsite forest preservation within the same watershed, to acknowledge the Planning Board's acceptance of this easement of such a protective measure, and to state that no amendment or release of the easement can be effected without the written approval of the Montgomery County Planning Board. The modified language must be submitted to the Prince George's County Planning Department and Montgomery County Planning staff for review and approval prior to recordation of plat.
 - h. Prior to recordation of the plat the modified Woodland and Wildlife Habitat Conservation Easement must be recorded in the Prince George's County land records and the liber/folio must be referenced on the record plat.

- 3) The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated January 11, 2013, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 4) Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
- 5) The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated September 6, 2012, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 6) The Planning Board has accepted the recommendations of the Montgomery County Department of Fire and Rescue Services (“MCFRS”) letter dated August 30, 2012, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCFRS provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 7) The Applicant must dedicate and show on the record plat(s) the following dedication:

Thirty-five (35) feet from the existing pavement centerline along the Subject Property frontage for Riding Stable Road.
- 8) The record plat must reflect a recorded ingress and egress easement over the shared driveway. Liber and folio reference of said easement to be reflected on the record plat.
- 9) The Subject Property is within the Paint Branch High School cluster area. The Applicant must make a School Facilities Payment to MCDPS at the elementary school level at the one-family detached rate unit rate for all units for which a building permit is issued and a School Facilities Payment is applicable. Note that approval under this preliminary allows one additional, one-family detached unit on the Property. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code. The record plat must reflect common ingress/egress and utility easements over all shared driveways.
- 10) The Certified Preliminary Plan must contain the following note:

“Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site

circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of building permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."

- 11) The record plat must show necessary easements.
- 12) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.

SITE DESCRIPTION (see Figures A and B)

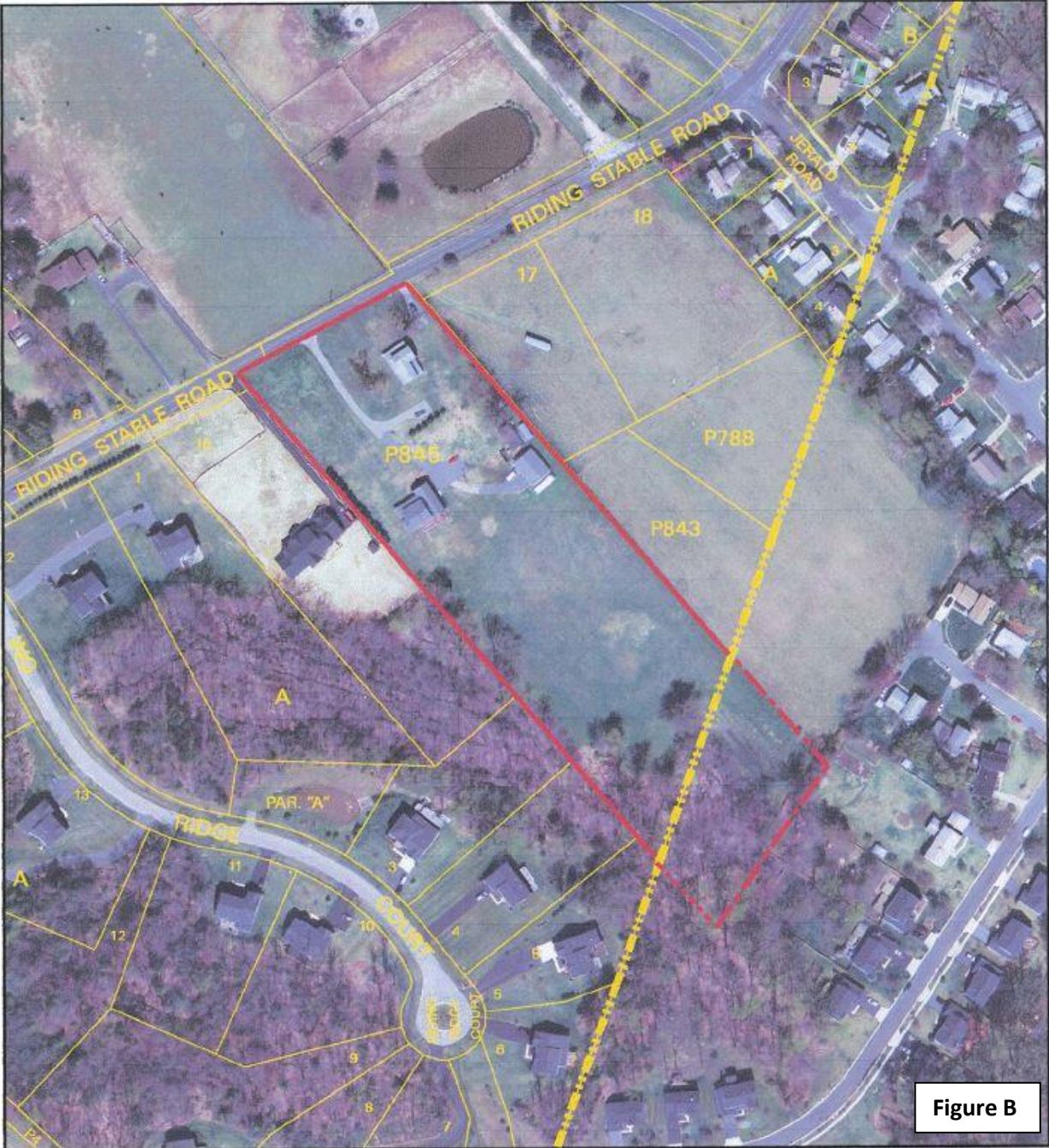
The subject property is owned by Robin and Chuck Boswell, ("Applicant") and is 5.89 acres in size as identified in the State of Maryland tax assessment maps as Parcel P845 on Tax Map LS22 ("Parent Tract"). The Parent Tract is split between county boundaries with approximately 4.87 acres in Montgomery County and approximately 1.02 acres in Prince George's County. The 4.87 acre portion within Montgomery County is zoned RE-1 and is located at 15615 Riding Stable Road in the Fairland Master Plan ("Subject Property" or "Property").¹ There are two existing residences, a garage, a shed, and associated driveways on the Property.

Topography slopes from the north along Riding Stable Road towards the southwest. A perennial stream runs off-site, along the Property's southwestern border with an environmental buffer extending on to portions of the Subject Property. The buffer is partially forested; there is no mapped 100-year floodplain or highly erodible soil. There are 0.37 acres of forest on the Subject Property and it is evident that this stand of forest continues off-site on to the portion of the Parent Tract within Prince George's County.

Surrounding land uses are consistently one-family residential on large lots that generally exceed one acre in size with the exception being a small area zoned R-90 to the north of the Property at the corner of Jerald Road and Riding Stable Road. Zoning on the south side of Riding Stable Road is RE-1 with Rural Cluster zoning on the north side of Riding Stable confronting the Property. The zoning within Prince Georges County immediately to the south of the Subject Property allows lot sizes at less than one half acre in size for the one-family residential uses located there. Public water and sewer from the Washington Suburban Sanitary Commission is available to all properties in the immediate area.

¹ To clarify, the Parent Tract includes 5.89 acres that is owned by the Applicant and extends into Prince George's County. For purposes of density and platting under the Planning Board's authority, the Subject Property or Property refers only to the land in Montgomery County.



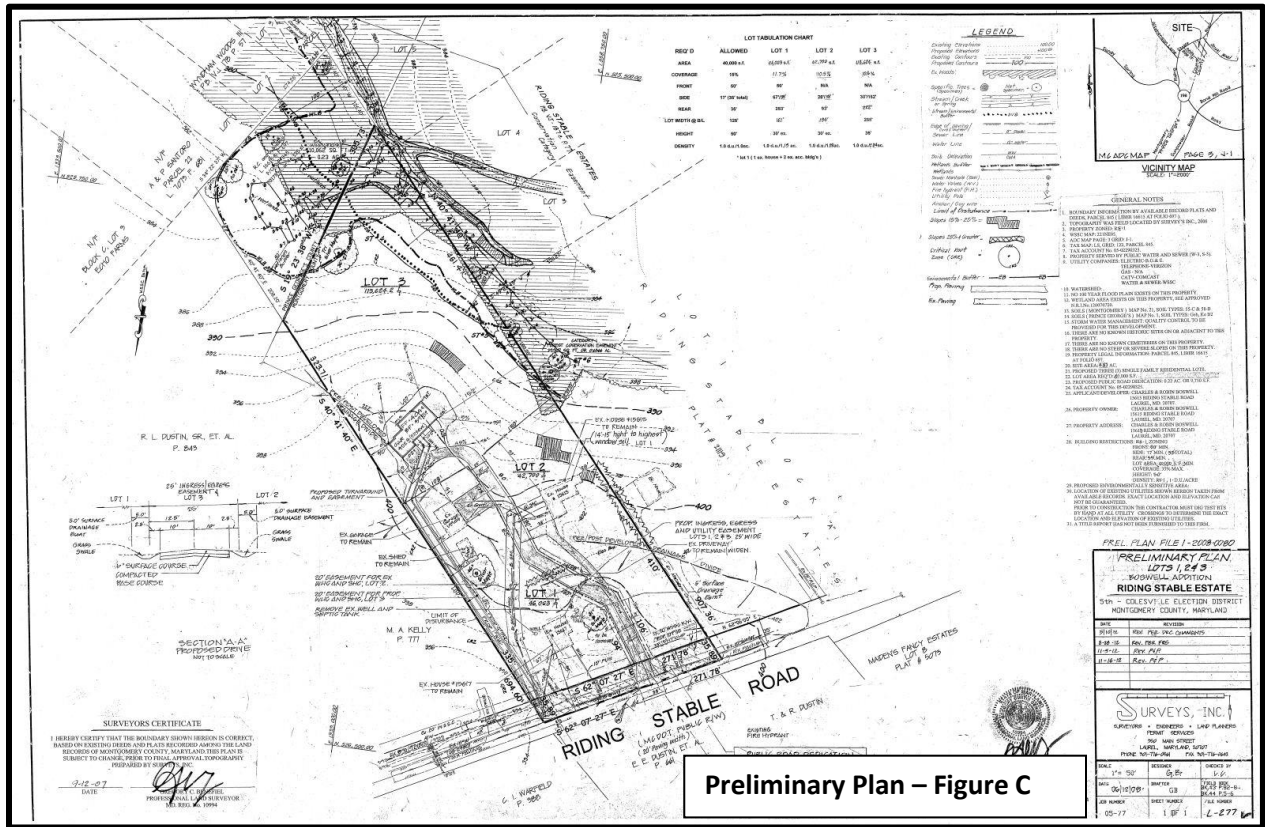


PROJECT DESCRIPTION (see Figures C and D)

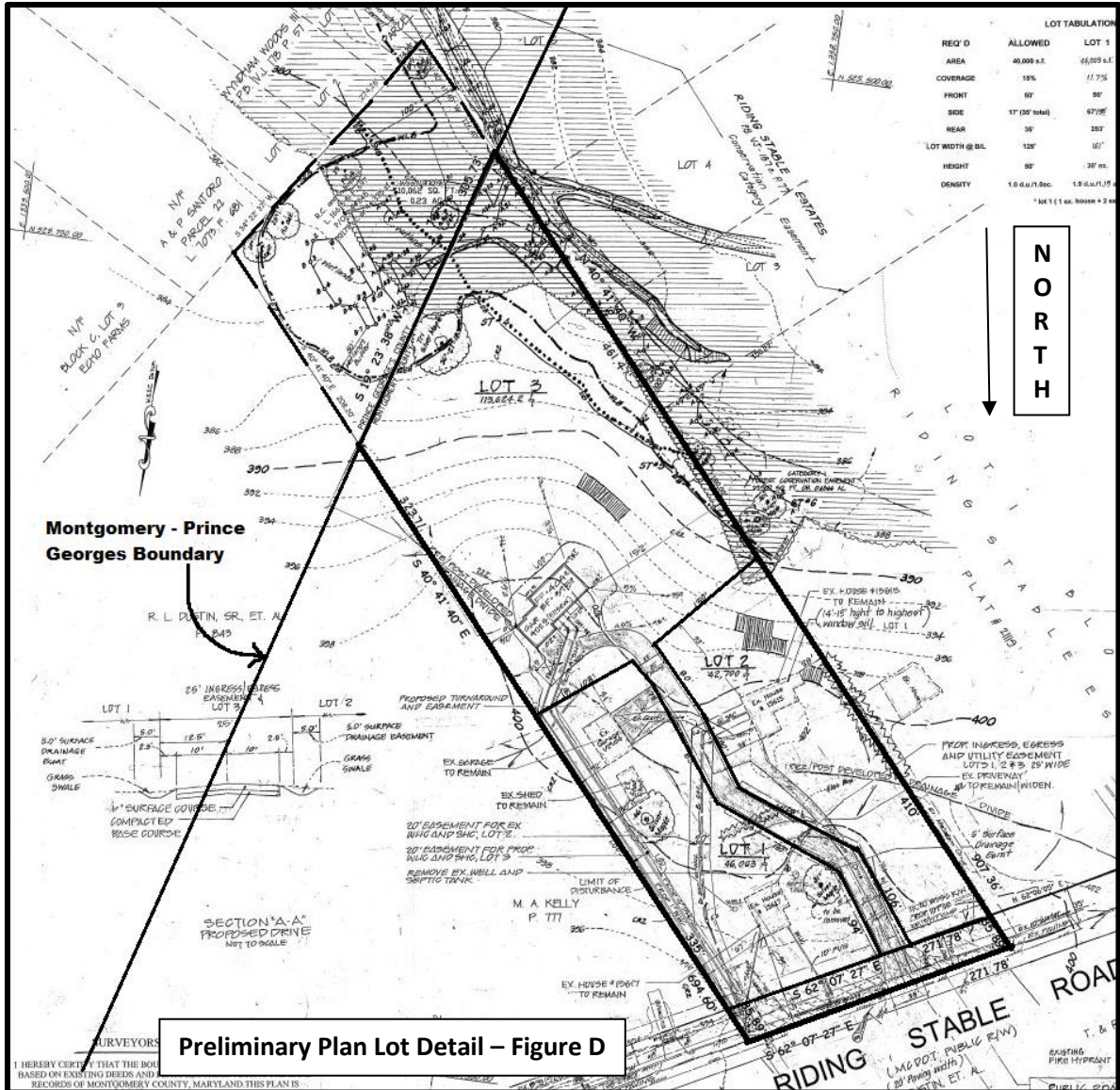
Preliminary Plan No. 120080080 (“Application” or “Preliminary Plan”) is a request to subdivide the Subject Property into three, one-family residential lots. Since there are currently two residential structures, (house and tenant/guest house) on the Subject Property, proposed Lots 1 and 2 will each accommodate an existing house and proposed Lot 3 will be available for a new residence. The

Montgomery County Planning Board has no jurisdiction in Prince George's County; hence, the area of the Parent Tract within Prince George's County is not included within the three proposed lots that constitute the Subject Property. *No land within Prince George's County is used for purposes of density calculations for this Application.*

All three lots will have frontage on Riding Stable Road; the lot to the south will have a pipe stem configuration and the three residences will all share a single driveway to Riding Stable Road. The existing garages and shed will remain as accessory structures to one of the existing homes to be located on proposed lot 1. Public water and sewer is available and will be extended to each lot.



Preliminary Plan – Figure C



ANALYSIS AND FINDINGS – Chapter 50

Conformance to the Master Plan

The Application substantially conforms to the 1997, Fairland Master Plan (“Master Plan”). The Master Plan recommends the RE-1 zone with public water and public sewer for all property between Riding Stable Road and the Montgomery/Prince George’s County line. The RE-1 zone was recommended so that it could serve as a transition between the higher density zones allowed in Prince Georges County to the lower density zones within Montgomery County and specifically, the low density zones in portions of the Patuxent River Watershed. This Application conforms to the RE-1 zone and provides a low density residential transition envisioned by the Master Plan.

Adequate Public Facilities

Roads and Access

The proposed lots do not generate 30 or more vehicle trips during the morning or evening peak-hours; therefore, the Application is not subject to Local Area Transportation Review. The Application is not subject to a Policy Area Mobility Review (PAMR) because it generates less than three new peak hour trips. The Application reflects proper dedication on Riding Stable Road that is 35 feet from the centerline of the existing pavement in accordance with the recommended 70 foot wide right-of-way in the Master Plan. As part of the platting of the proposed lots, MCDOT requires that the Applicant provide for the following frontage improvements within the right-of-way to include: driveway apron improvements, widening of the Riding Stable Lane pavement to 12 feet from centerline along the Property frontage, construction of an 8 foot wide sod shoulder, storm drainage improvements, street trees and grading to not exceed 2:1 back to natural ground. MCFRS has reviewed the plan and will require a 20 foot wide driveway with proper turning area for emergency apparatus. The Property is located in a rural RE-1 zoning, therefore sidewalks are not required according to MCDOT. Adequate access is provided to the three lots with the improvements required by MCDOT and the construction of the 20 foot wide driveway to meet MCFRS requirements.

Other Public Facilities and Services

The lots will be served by public water and sewer, electrical utilities, and telecommunications. All required utility providers have reviewed the Application and recommended approval based on a finding that the lots can be provided with service.

Other public facilities and services, including police stations, firehouses and health services are currently operating within the standards set by the Subdivision Staging Policy Resolution currently in effect. The Property is located in the Paint Branch High School cluster. The FY2013 Subdivision Staging Policy indicates that this cluster has inadequate capacity at the elementary school level; therefore, residential building permits issued as a result of this Application will be subject to a School Facility Payment. This payment must be made to MCDPS at the one family detached unit rate in accordance with the procedures specified in Chapter 52 of the County Code. The School Facility Payment requirement is reflected as a condition of approval for this Application.

Lot Configuration

The Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections including those that require analysis of appropriateness of the proposed lot size, width, shape and orientation given the location of the subdivision. The lots are appropriately located given the lot pattern that has evolved in the general area along Riding Stable Road. Two lots will be created around two of the existing homes on the Property and the third lot will be located to the south to accommodate one new residence. Based on an analysis of the area map in this report showing existing lot patterns, the proposed will be similar in size, shape and width to many other lots in the area and in conformance with the use and zoning recommended by the Fairland Master Plan.

Protection of Environmentally Sensitive Resources

Natural Resources Inventory/Forest Stand Delineation

Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) No. 420070720 was approved on August 3, 2007 and included the entire Parent Tract. While technically superfluous, the inventory of resources in Prince George's County was helpful to understand how a resource might continue off-site. The Subject Property is located in the Lower Patuxent River watershed, which is classified by the State of Maryland as Use I-P waters. Topography slopes from the north along Riding Stable Road to the southwest with a perennial stream flowing just off site along the southwestern border.

The stream's associated environmental buffer, including a small area of wetlands, extends into the southern portion of the Subject Property and covers approximately 0.64 acres. The Subject Property includes 0.37 acres of forest, the majority of which is within the environmental buffer. The forest includes the following species: northern pin oak, southern red oak, cherry species, tulip poplar, maple species (red, sugar, and silver), sassafras, dogwood, scotch pine, and American holly.

The 2003 update of the "Countywide Stream Protection Strategy", by the Montgomery County Department of Environmental Protection (MCDEP) does not have monitoring data to define the water quality for this part of the Lower Patuxent River watershed. However, the 2000-2008 MCDEP, Stream Conditions Map identifies the local subwatershed as having overall, good water quality conditions.

Patuxent River Watershed Primary Management Area (PMA)

The Subject Property lies entirely within the PMA of the Patuxent River watershed, identified as an area within 660 feet of the adjacent stream. For new projects within the PMA that develop in the RE-2, RE-2C, Rural, RC, or RDT zones, the Planning Board adopted, *Environmental Guidelines* recommend an imperviousness limit of 10 percent within the transition area of the PMA (i.e., the area that lies outside the environmental buffer but within 660 feet of the adjacent stream). Since the Subject Property is zoned RE-1, the 10 percent imperviousness limit does not apply, however, the *Environmental Guidelines* recommend that projects not otherwise subject to this imperviousness limit, (RE-1 and more dense) must follow "nonconformance requirements". Such requirements include stormwater management and other best management practices that will minimize the impacts of higher density zones, particularly higher levels of imperviousness, on water quality.

To meet the nonconformance requirements, the Application has an approved stormwater management concept (September 6, 2012) that includes the latest Environmental Site Design technology including the use of non-structural measures, such as grass swales for the shared driveway and rooftop disconnection onto large mowed grass areas. In addition to the stormwater management concept, Staff believes that the recommended tree plantings to mitigate the removal of a certain 66-inch maple (as discussed more fully in Tree Variance/Mitigation section of this report) will provide additional best management practices that will improve water quality. The mitigation plantings recommended by Staff will be within a currently unforested environmental buffer area and will slightly widen the forest beyond the standard

afforestation required for this Application under the Montgomery County Forest Conservation Law. Maximizing the establishment of forest within and adjacent to environmental buffers is consistent with the suggested best management practices identified in the *Environmental Guidelines* for sites that may develop under the nonconformance requirements. The Application complies with the specific recommendations for protection of sensitive environmental features within the *Environmental Guidelines* including those for protection of the Patuxent River Watershed.

Forest Conservation (See Figure E)

The Preliminary Forest Conservation Plan as conditioned meets all applicable requirements of the Montgomery County Forest Conservation Law and provides an offsite option for the Applicant to meet the requirements. As required under Section 22A of the County code, a Preliminary Forest Conservation Plan (PFCP) was submitted with the Application for the Subject Property. The PFCP, as originally submitted, treated the entire 5.89 acre Parent Tract as one and proposed to preserve all of the forest shown on the Parent Tract, including 0.53 acres in Prince George's County. The Montgomery County Forest Conservation Law does not allow land within another jurisdiction to be included within the "tract area" for purposes of the forest conservation worksheet calculations and as such, the PFCP has been revised to exclude the portion of the Parent Tract in Prince George's County. The Applicant, however, has expressed a strong desire to use the contiguous forest on the Parent Tract within Prince George's County to assist in meeting the Application's forest conservation requirements. While land in Prince George's County cannot be included in the net tract area, the protection of contiguous forest in the same watershed, regardless of County boundaries, is provided for by the Law as off-site forest.

Section 22A-12(e)(4) of the Montgomery County Forest Conservation Law allows for reforestation or afforestation to occur in the same watershed, but in a different county if the required forest planting cannot be reasonably accomplished in the same county and watershed as the project:

Section 22A-12(e)(4)

"Required reforestation or afforestation must occur in both the county and watershed in which the project is located, except that if it cannot be reasonably accomplished in the same county and watershed in which the project is located, then the reforestation or afforestation may occur anywhere in either the county or watershed in which the project is located."

Section 22A-12(e)(2)(B) of the Montgomery County Forest Conservation Law specifies that the acquisition of off-site easements to protect existing forest must be at 2 times the afforestation and reforestation requirements. Put another way, only half credit is allowed for protection of off-site forest to meet forest planting requirements.

Section 22A-12(e)(2)(B)

"Acquisition of an off-site protective easement for existing forested areas not currently protected is an acceptable mitigation technique instead of off-site afforestation or reforestation planting, but the forest protected must be 2 times the afforestation and reforestation requirements."

Staff believes the offsite easement is appropriate for the forest stand in Prince George's County for the following reasons:

- (1) The off-site forest is contiguous to the Montgomery County portion of the forest and lies within the same watershed.
- (2) The Prince George's County portion of the Parent Tract does not abut a public right-of-way and, therefore, has no direct access to a public road in Prince George's County.
- (3) The Applicant has common ownership of both parts of the Parent Tract.

The forest that is proposed to be protected in Prince George's County is contiguous to the onsite forest proposed for protection within Montgomery County. In addition, the Prince George's County forest lies within an environmental buffer, which is defined as high priority for purposes of protection. The environmental benefits of protecting the contiguous forest within Prince George's County would be superior to protecting land at a non-contiguous, offsite location.

Staff recommends that the conservation easement that is to be placed over the offsite forest should be a modified version of Prince George's County's, Woodland and Wildlife Habitat Conservation Easement. The Prince George's County conservation easement is similar to the Category I conservation easement that is used in Montgomery County to preserve and protect forest. The Prince George's County standard easement specifies forest as the primary natural resource feature that is protected by the easement. Prohibited and allowable activities within the easement are similar to those identified in the standard Category I conservation easement that is used in Montgomery County.

The Office of Legal Counsel has reviewed the standard Woodland and Wildlife Habitat Conservation Easement agreement and has suggested an addendum (attached) suggesting language that would identify the easement as a protective measure for offsite forest preservation within the same watershed. The additional language also acknowledges the Montgomery County Planning Board's acceptance of this easement and to state that no amendment or release of the easement can be effected without the written approval of the Montgomery County Planning Board. With this additional language, legal staff believes the modified Woodland and Wildlife Habitat Conservation Easement will protect the Montgomery County Planning Board's interests in the off-site forest area.

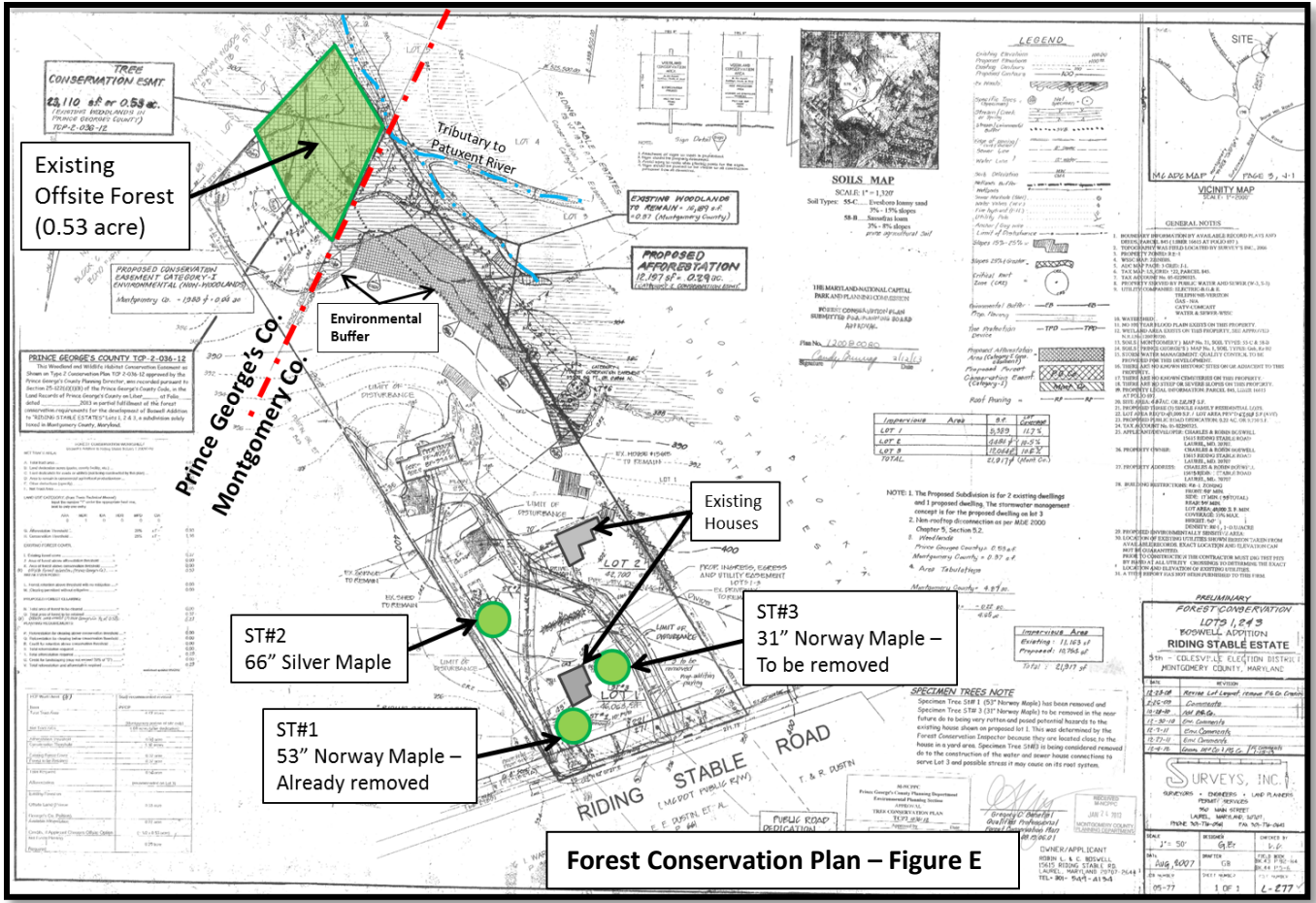
Staff has discussed the creation of the conservation easement on the Prince George's County portion of the Parent Tract with Prince George's County Planning Department staff. They conceptually agree to accept the conservation easement and agree that it is enforceable. Therefore, Staff believes that in this unique circumstance, crediting the land and forest within the Prince George's County portion of the 5.89 acre Parent Tract as part of the Application's Forest Conservation Plan is acceptable. This is an opportunity to protect contiguous forest within an environmental buffer and within a sensitive watershed that provides a water supply to the WSSC for multiple jurisdictions. The environmental benefit of protecting the contiguous forest within Prince George's County is superior to protecting land at an offsite location.

Staff recommends that any modifications of the Prince George's County Woodland and Wildlife Habitat Conservation Easement would have to be reviewed and approved by staffs of both the Montgomery and Prince George's counties planning departments. The review and approval would occur before recording of the subdivision plat. In addition, the modified easement would need to be recorded in the Prince George's County land records and referenced on the subdivision record plat that would be recorded in Montgomery County.

The Application has a total forest planting requirement of 0.60 acres (see table below). Because the easement in Prince George’s County is off-site forest, the retention of the 0.53 acre forest will only receive one-half credit under the Montgomery County Law, or 0.27 acres of credit. The 0.27 acres of off-site credit will reduce the amount of additional afforestation requirement to 0.33 acres ($0.60 - 0.27 = 0.33$). The Applicant proposes to meet this remaining afforestation requirement within and adjacent to the environmental buffer on Lot 3. Lot 3 has sufficient land area to accommodate the required forest planting without creating conflicts between the planted area and the future homeowner’s use of the lot.

A small adjustment to the Applicant’s forest conservation worksheet is required. The forest conservation worksheet on the Applicant’s Preliminary Forest Conservation Plan shows the net tract to be smaller than the total tract. The worksheet deducts 0.22 acres of the proposed road right-of-way dedication from the total tract area to establish the net tract area. However, deduction of the dedicated land area is not allowed since the dedication is part of the Subject Property covered by the Preliminary Plan, and land disturbance for frontage improvements and utilities will occur within the dedication area. Therefore, the Preliminary Forest Conservation Plan must be revised to correct the worksheet calculations and the data in the associated table. With the corrections, the total required afforestation increases from 0.55 acre to 0.60 acre and the net afforestation, assuming the use of the offsite forest credit, increases from 0.28 acres to 0.33 acres.

FCP Worksheet Item	Staff-recommended revised PFCP
Total Tract Area	4.87 acres (Montgomery portion of site only)
Net Tract Area	4.87 acres (includes dedication to ROW)
Afforestation Threshold	0.97 acre
Conservation Threshold	1.22 acres
Existing Forest Cover	0.37 acre
Forest to be Retained	0.37 acre
Total Required Afforestation	0.60 acre (recommended on Lot 3)
Existing Forest on Offsite Land (Prince George’s Co. Portion)	0.53 acre
Available Afforestation Credits, if Applicant Chooses Offsite Option	0.27 acre (= $1/2 \times 0.53$ acre)
Net Forest Planting Required	0.33 acre



Prior Removal of Two Specimen Trees

Two specimen-size Norway maples (53-inch diameter at breast height (DBH) and 31-inch DBH, labeled on FCP as ST#1 and ST#3, respectively) were located near the existing house that is closest to Riding Stable Road. Under the County Forest Conservation Law, trees of this size would normally be subject to a variance request prior to their removal since the Subject Property is subject to a Forest Conservation Plan. However, in 2011, these Norway maples were determined by one of the M-NCPPC forest conservation inspectors to be very rotten and to pose a potential hazard given their proximity to the house. The Inspector approved the Applicant’s request to remove both trees because of their potential to damage life and/or property. The applicant has removed Tree ST#1 and is proposing to remove ST#3. The removal work for ST#1 and the proposed removal of Tree ST#3 is not subject to the requirements of the Forest Conservation Law because of sediment control plan is not required.

Forest Conservation Variance

Section 22A-12(b)(3) of the Montgomery County Forest Conservation Law provides criteria that identify individual trees at or greater than 30 inch DBH as high priority for retention and protection (“Protected Tree”). Before any impact can occur to a Protected Tree, including removal or disturbance within the tree’s critical root zone (CRZ), the Applicant must obtain a variance in accordance with Chapter 22A-21 of the County Code. An Applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. More specifically, vegetation that must remain undisturbed absent an approval of a variance includes:

- A. *Trees, shrubs, or plants determined to be rare, threatened, or endangered under:*
 - (1) *The Federal Endangered Species Act of 1973,*
 - (2) *The Maryland Nongame and Endangered Species Conservation Act, Natural Resources Article, §§ 10-2A-01 – 10-2A-09, Annotated Code of Maryland, and*
 - (3) *COMAR 08.03.08;*
- B. *Trees that:*
 - (1) *Are part of an historic site,*
 - (2) *Are associated with an historic structure, or*
 - (3) *Have been designated by the State or the Department as a national, State, or county champion tree; and*
- C. *Any tree having a diameter measured at 4.5 feet above the ground of:*
 - (1) *30 inches or more, or*
 - (2) *75 percent or more of the diameter, measured at 4.5 feet above the ground, of the current State champion tree of that species as designated by the Department of Natural Resources.*

Under Chapter 22A-21 of the County Code, a person may request in writing a variance from this Chapter if the person demonstrates that enforcement would result in unwarranted hardship to the person. The applicant for a variance must:

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
- (3) Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of granting of the variance;
- (4) Provide any other information appropriate to support the request.

In addition to the two specimen Norway Maples (ST#1 and ST#3) approved for removal, there is a silver maple (Tree ST#2) that is 30 inches DBH or greater that is located on the Subject Property and also a Protected Tree. The tree is in poor condition and will be adversely affected by land disturbance activities proposed with the subdivision and, therefore, subject to a variance. Originally, the Applicant submitted a variance request that proposed to only impact, but not remove, Tree ST#2, which even in its declining health is a high priority tree to save. Because of the tree’s poor condition combined with the proposed utility line disturbance very close to the tree trunk, the Applicant has revised the variance at the recommendation of staff to show the tree as “removed”. The revised variance request is detailed in a letter dated January 8, 2013. A discussion of the unwarranted hardship and tree impact follows.

Tree to be impacted (recommended for removal)

Tree Number	Species	DBH (inches)	Status
ST#2	Acer saccharinum (Silver Maple)	66"	Poor

Unwarranted Hardship Basis

Tree ST#2 is a Protected Tree and located near the northeastern portion of the Property boundary. An M-NCPPC forest conservation inspector examined the tree in February 2012 and found the multi-stemmed maple to have several open holes in its trunks showing exposed rot. The inspector agrees with the consultant’s designation that the tree is in poor condition. Development impacts to this tree will be for construction of the water and sewer house connections and the proposed driveway to serve the new house on Lot 3. Staff has determined that there is no opportunity to avoid or reduce impacts to the tree and agrees with the Applicant that based on the location of certain existing utilities and other conditions on the Subject Property there would be an unwarranted hardship if a variance to allow impacts (removal) to the tree were not considered.

Variance Findings

The Planning Board must make findings that the Applicant has met all requirements of Chapter 22A-21 before granting the variance. Staff supports the variance to permit the removal of the tree, and has made the following determination based on the required findings:

1. *Will not confer on the applicant a special privilege that would be denied to other applicants.*

Disturbance to the Protected Tree is due to the development of the site and influenced by the tree’s poor health. The locations of sewer and water house connections for the new house are in an area that is otherwise, typically available for land disturbance (i.e., outside of environmentally-sensitive areas). In addition, the disturbance is related to the location of the existing sewer and water lines which must be connected to the house. The location of the new house must be at the highest part of the site to allow for sewage gravity flow to the existing sewer mains. The required location of these features results in unavoidable impact to the critical root zone of the Protected Tree, but is in no way unique to this Applicant.

2. *Is not based on conditions or circumstances which are the result of the actions by the applicant.*

The impact to the Protected Tree is based on existing site conditions including the location of the existing sewer and water lines near the northeastern property line in the right-of-way of Riding Stable Road. The WSSC greatly prefers to serve a new house with sewers that work by gravity and also prefers that water and sewer house connections generally follow the same alignment. The need for the Variance is not a direct result of the Applicant, but is rather a result of the site conditions and engineering requirements.

3. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

No condition(s) on neighboring properties affect the Subject Property.

4. *Will not violate State water quality standards or cause degradation in water quality.*

Granting the variance will not result in the removal of any trees located within an environmental buffer, wetland, or special protection area. The Protected Tree is located in an upland area and with the tree mitigation planting recommended by Staff for its removal, any water quality impact resulting from the removal will be offset and likely result in slight improvements to overall water quality because of the expansion of the forested environmental buffer. Therefore, Staff believes the project will not violate State water quality standards or cause measurable degradation in water quality.

County Arborist's Recommendation on the Variance

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was forwarded to the County Arborist. On March 12, 2012, the County Arborist issued comments indicating that because of the date the Application was submitted the County Arborist did not believe the variance law applied to the Application. Therefore, there was no recommendation on the request for a variance.

Mitigation for Trees Subject to the Variance Provisions

Staff does not believe that the 66-inch DBH, silver maple Protected Tree will survive long after construction and recommends that it be removed. Because the tree is located outside of existing forest, the removal of this tree is not considered forest clearing in the Forest Conservation Plan worksheet calculations and, therefore, it is not accounted for by the planting requirements. As an individual tree, Staff recommends that the loss of this tree be mitigated at a rate that approximates the form and function of the Protected Trees removed and, therefore, recommends a lower mitigation rate than would be typical for a completely healthy tree. The typical mitigation rate for removal of a healthy tree is approximately 1-inch caliper for every 4-inch DBH removed, which would result in 8 trees of 2-inch caliper to mitigate the removal of a healthy 66-inch DBH tree. However, given the current poor condition of this tree, its form and function is already diminished. In this instance, Staff recommends that 6, native overstory trees, 2-inches in caliper would be sufficient to properly mitigate its removal.

The mitigation trees should be planted within the portion of the environmental buffer area in Montgomery County that is currently unforested. If there is no space available in the environmental buffer for all of the mitigation trees, then planting should occur immediately adjacent to the buffer area. Planting the mitigation trees in the environmental buffer will provide water quality and wildlife habitat benefits that the existing tree cannot provide in its declining health. As discussed in the PMA section of this report, the mitigation trees planting also satisfies the requirement for additional best management practices and environmental benefits specified by the *Environmental Guidelines* recommendations for development of higher density properties in the Patuxent River PMA. The Application complies with Chapter 22A, the Montgomery County Forest Conservation Law.

Compliance with Zoning Ordinance

The lots were reviewed for compliance with the dimensional requirements for the RE-1 zone as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is included in Table 1 below. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

Preliminary Plan Data – Table 1

PLAN DATA	Zoning Ordinance Development Standard	Proposed by the Preliminary Plan
Minimum Lot Area	40,000 sf	40,000 sf
Lot Width	125 ft.	125 ft
Lot Frontage	25 ft	25 ft
Setbacks		
Front	50 ft.	Must meet minimum ¹
Side	17 ft. Min./ 35 ft. total	Must meet minimum ¹
Rear	35 ft. Min.	Must meet minimum ¹
Maximum Residential Dwelling Units	4	3
MPDUs	No	
TDRs	No	
Site Plan Required	No	

¹ As determined by MCDPS at the time of building permit.

COMMUNITY OUTREACH

The Application was properly noticed and processed in accordance with adopted procedures. The Application was filed prior to the requirement for Applicants to hold a pre-submission meeting. To date, no correspondence from residents or other interested parties have been received by staff.

CONCLUSION

The Application complies with all applicable requirements of the Montgomery County Subdivision Regulations. The Application is in substantial conformance with the Fairland Master Plan as it provides residential lots that conform to the RE-1 zoning recommended by the Master Plan. The lots will be adequately served by all available public utilities, including police, fire, and other public service providers. The existing road and required frontage improvements for the driveway provide adequate transportation access to the lots. The lots are of the appropriate size, shape, width and orientation given the location of the subdivision and the lots comply with the standards established for the RE-1 zone by the Zoning Ordinance. The Application will adequately protect all sensitive environmental features and it complies with the Montgomery County Forest Conservation Law. The Application has been properly noticed and processed in accordance with adopted procedures. No opposition to the

Preliminary Plan has been received by Staff. Staff recommends that the Planning Board approve the Application subject to the conditions cited within this Staff Report.

Attachments:

- A. Agency Approvals
- B. Variance Letter
- C. Addendum to Prince George's Easement

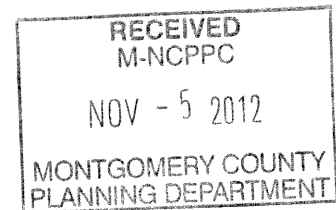


FIRE MARSHAL COMMENTS

DATE: 30-Aug-12
TO: Greg Benefiel
Survey's Inc
FROM: Marie LaBaw
RE: Boswell Addition to Riding Stable Estates
120080080

PLAN APPROVED

1. Review based only upon information contained on the plan submitted **30-Aug-12**. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.





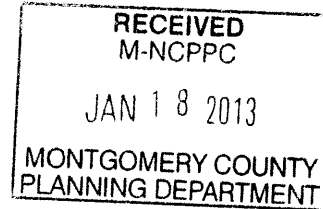
DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

January 11, 2013

Arthur Holmes, Jr.
Director

Mr. Richard A. Weaver, Supervisor
Area Three Planning Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760



RE: Preliminary Plan No. 120080080
Boswell's Addition to
Riding Stable Estates

Dear Mr. Weaver:

We have completed our review of the preliminary plan that was signed and sealed on September 9, 2007. This plan was reviewed by the Development Review Committee at its meeting on October 22, 2007. We have also reviewed the applicant's storm drain study (requested at the DRC meeting); while it doesn't address all of the information that we would like to see, we believe we can conclude our review with the information that has been provided. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Department of Permitting Services in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. Show all existing planimetric and topographic details (paving, storm drainage, driveways adjacent and opposite the site, sidewalks and/or bikeways, bus stops, utilities, etc.) as well as existing rights of way and easements on the preliminary plan.

In particular, we recommend the applicant's consultant confirm the property information on each side of the property before this plan is reviewed by the Planning Board. From our review of property records, it appears this site is located between two existing recorded lots of the Riding Stable Estates subdivision – Lot 16, Block A (record plat no. 23145) on the south side and Lot 17, Block A (record plat no. 23421) on the north side.

We also note that north arrow is facing the bottom of the page.

Division of Traffic Engineering and Operations

100 Edison Park Drive, 4th Floor • Gaithersburg, Maryland 20878
Main Office 240-777-2190 • TTY 240-777-6013 • FAX 240-777-2080
trafficops@montgomerycountymd.gov



Mr. Richard A. Weaver
Preliminary Plan No. 120080080
January 11, 2013
Page 2

2. Necessary dedication for widening of Riding Stable Road in accordance with the master plan.
3. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
4. The sight distances study has been accepted. A copy of the accepted Sight Distances Evaluation certification form is enclosed for your information and reference.
5. Record plat to reflect a reciprocal ingress, egress, and public utilities easement to serve the lots accessed by each common driveway.

The plan contains a note for the existing driveway leading across proposed Lot 2 to the existing garage on proposed Lot 3: "Ex Drive to Remain" and "Ex Garage to Remain." The plan also appears to show that garage being accessed by the proposed northern private common driveway. Please confirm whether the number of reciprocal access easement(s) needed for that garage.

6. Private common driveways shall be determined through the subdivision process as part of the Planning Board's approval of a preliminary plan. The composition, typical section, horizontal alignment, profile, and drainage characteristics of private common driveways, beyond the public right-of-way, shall be approved by the Planning Board during their review of the preliminary plan.

The plan proposes a twelve (12) foot pavement width on the proposed driveway. The pavement width for the driveways being used by multiple properties is dictated by emergency vehicle access requirements; typically a minimum of twenty (20) feet wide with radius-type flares where the driveway ties into the public roadway.

It appears that such a driveway design will extend beyond the northern property line extended into the right-of-way. If that is true, the applicant will need to obtain acknowledgement from the adjacent property owner or relocate the driveway apron to be located entirely within this property's site frontage.

7. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
8. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operations Section at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.

Mr. Richard A. Weaver
Preliminary Plan No. 120080080
January 11, 2013
Page 3

9. Trees in the County rights of way – spacing and species to be in accordance with the applicable MCDOT standards. Tree planning within the public right of way must be coordinated with Brett Linkletter, Chief of the Division of Highway Services, Tree Maintenance Section at (240) 777-7651.
10. Permit and bond will be required as a prerequisite to DPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
 - A. Across the Riding Stable Road site frontage, widen the existing pavement to twelve (12) feet from centerline, construct sod shoulder eight (8) wide, construct parallel and adjacent side drainage ditch, plant street trees, and grade back to natural ground at a 2:1 slope* in accordance with MCDOT Design Standard MC-212.03. Sod or seed as directed all other areas from the edge of the shoulder to the property line.

* **NOTE: the Public Utilities Easement is to be graded on a side slope not to exceed 4:1.**
 - B. Enclosed storm drainage and/or engineered channel (in accordance with the MCDOT Storm Drain Design Criteria) within the County rights-of-way and all drainage easements.
 - C. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.
 - D. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.
 - E. Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the MCDOT Division of Traffic Engineering and Operations.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Mr. Andrew Bossi, our Development Review Area Engineer for this project at andrew.bossi@montgomerycountymd.gov or (240) 777-2197.

Sincerely,



Gregory M. Leck, Manager
Development Review Team

Mr. Richard A. Weaver
Preliminary Plan No. 120080080
January 11, 2013
Page 4

m:/FY13/Traffic/Active/120020080, Boswell's Addition to Riding Stable Estates.doc

Enclosure

cc: Robin L. and Chuck Boswell
Greg Benefiel; Survey's Inc.
Ki Kim; M-NCPPC Area 3
Catherine Conlon; M-NCPPC DARC
Preliminary Plan folder
Preliminary Plan letters notebook

cc-e: Marie LaBaw; MCFRS
Atiq Panjshiri; MCDPS RWPR
Henry Emery; MCDPS RWPR
Andrew Bossi; MCDPS RWPR



MONTGOMERY COUNTY, MARYLAND
DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION
DEPARTMENT OF PERMITTING SERVICES

SIGHT DISTANCE EVALUATION

Facility/Subdivision Name: BOSWELL ADDITION
RIDING STABLE EST'S Preliminary Plan Number: 1-2008-0080

Street Name: RIDING STABLE ROAD

Master Plan Road Classification: PRIMARY RESIDENTIAL

Posted Speed Limit: 30 mph

Prop Street/Driveway #1 (DRIVEWAY)

EXIST. Street/Driveway #2 (DRIVEWAY)

Sight Distance (feet)	OK?
Right <u>300'</u>	<input checked="" type="checkbox"/>
Left <u>400'</u>	<input checked="" type="checkbox"/>

Sight Distance (feet)	OK?
Right <u>400'</u>	<input checked="" type="checkbox"/>
Left <u>415</u>	<input checked="" type="checkbox"/>

Comments: Fine

Comments:

GUIDELINES

Classification or Posted Speed (use higher value)	Required Sight Distance in Each Direction*
Tertiary - 25 mph	150'
Secondary - 30	200'
Business - 30	200'
Primary - 35	250'
Arterial - 40	325'
(45)	400'
Major - 50	475'
(55)	550'

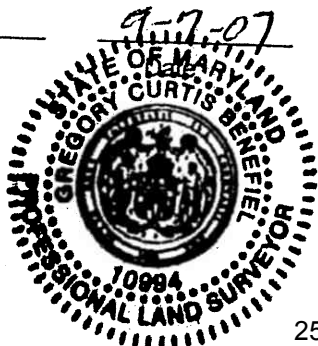
Sight distance is measured from an eye height of 3.5' at a point on the centerline of the driveway (or side street) 6' back from the face of curb or edge of traveled way of the intersecting roadway where a point 2.75' above the road surface is visible. (See attached drawing)

*Source: AASHTO

ENGINEER/ SURVEYOR CERTIFICATE

I hereby certify that this information is accurate and was collected in accordance with these guidelines.

Signature: [Signature]
10894
PLS/P.E. MD Reg. No.



Montgomery County Review:

Approved

Disapproved:

By: [Signature]

Date: 1/11/2013

Form Reformatted:
March, 2000



DEPARTMENT OF PERMITTING SERVICES

September 6, 2012

Diane R. Schwartz Jones
Director

Isiah Leggett
County Executive

Mr. Greg Benifel
Surveys Inc.
350 Main Street
Laurel, MD 20707

Re: Stormwater Management **CONCEPT** Request
for Boswells Addition to Riding Stable
Preliminary Plan #: 120080080
SM File #: 231477
Tract Size/Zone: 5.9/RE-1
Total Concept Area: 3.5ac
Lots/Block: 3 Proposed
Parcel(s): 845
Watershed: Lower Patuxent

Dear Mr. Benifel:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept proposes to meet required stormwater management goals via the use of non structural measures.

The following **item(s)/condition(s)** will need to be addressed **during/prior to** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review. Computations must verify that full ESD is provided for lot # 3.
3. An engineered sediment control plan must be submitted for this development.
4. A grading and drainage easement may be required to ensure proper installation of the swales needed to construct the common driveway.
5. Stormwater management will be required for the future development or redevelopment of proposed lots # 1 and # 2. The requirements will be in accordance with the provisions of the law at the time of development.

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

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

unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Thomas Weadon at 240-777-63090.

Sincerely,



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

RRB: tla CN 231477

cc: C. Conlon
SM File # 231477

ESD Acres:	On Site
STRUCTURAL Acres:	N/A
WAIVED Acres:	N/A

SURVEYS, INC.

Surveying * Engineering * Land Planning * Permits

350 Main Street

Laurel, Maryland 20707

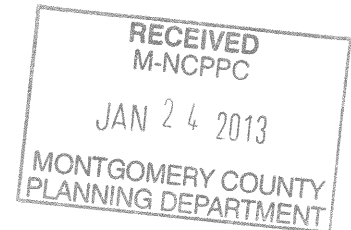
Phone: 301-776-0561 * Fax: 301-776-0642 * Email: surveysinc@verizon.net



To: M.N.C.P&P.C.
Environmental Section
Georgia Avenue
Attn: Candy Bunagg

Date: January 8, 2013

Ref: "Riding Stable Estates"
Boswell's addition
Riding Stable Road
Preliminary Forest Conservation Plan
#120080080



VARIANCE REQUEST LETTER

Dear Ms. Bunagg,

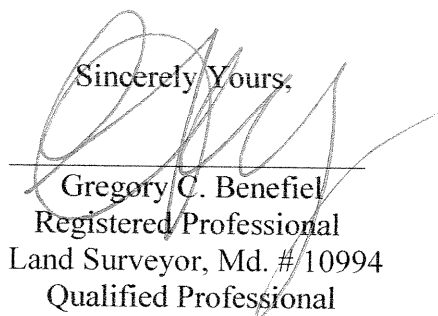
We, Surveys, Inc. engineers and Mr. Boswell, owner, are requesting a variance on the above referenced property. The variance we are requesting is to construct a water and sewer house Connection through a critical root zone on a 66" silver maple. Our intentions are not to harm or remove the existing 66" maple but to run water/sewer house connections by the existing tree. We are considering this tree to be removed do to the stress that may occur from the construction.

1. *Describe the special conditions peculiar to the property which would cause the unwarranted hardship.* The public sewer ends at the beginning of above referenced property. This terminates with a shallow manhole (5.5'± in depth). The proposed house is located approximately 450 feet from the sewer manhole. The proposed house is sited at the highest point on the property to insure gravity for sewer flow. A water/sewer House connection easement is required along Lot 1 for these connections due the shortest point between Point "A" and Point "B" is a straight line. In addition to the shallow sewer is the property is located in the Washington Suburban Sanitary Commission (W.S.S.C.) watershed and they would prefer the sewer to be hooked up to public system instead of septic system.
2. *Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed By others in similar areas.* The adjacent properties are on public systems and/or existing septic systems. Current zoning on the properties on southern side of Riding stable Road (in the

immediate vicinity) leaves no room for future expansion/subdivision.

3. *Verify that State quality standards will not be avoided or that measurable degradation in water quality will not occur as a result of the granting of the variance; and* as stated in item 1 above, W.S.S.C. prefers to use their public utilities, especially when the property is within their watershed. W.S.S.C. serves Montgomery and Prince George's County, which this property lies in both and water quality does meet State quality standards.
4. *Provide any other information appropriate to support the request.* This variance requested is in conjunction with the Preliminary Forest Conservation Plan as mentioned above and purpose as described in the opening paragraph.

Sincerely Yours,



Gregory C. Benefiel
Registered Professional
Land Surveyor, Md. #10994
Qualified Professional
COMAR Section 08.19.06.01

SURVEYS, INC.

Surveying * Engineering * Land Planning * Permits

350 Main Street

Laurel, Maryland 20707

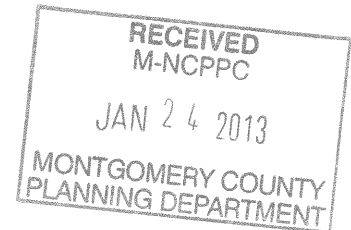
Phone: 301-776-0561 * Fax: 301-776-0642 * Email: surveysinc@verizon.net



To: M.N.C.P&P.C.
Environmental Section
Georgia Avenue
Attn: Candy Bunagg

Date: January 8, 2013

Ref: "Riding Stable Estates"
Boswell's addition
Riding Stable Road
Preliminary Forest Conservation Plan
#120080080



VARIANCE REQUEST LETTER

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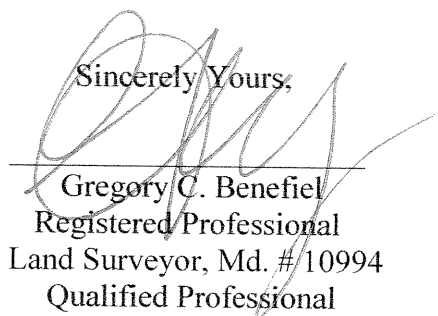
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4. *Provide any other information appropriate to support the request.* This variance requested is in conjunction with the Preliminary Forest Conservation Plan as mentioned above and purpose as described in the opening paragraph.

Sincerely Yours,



Gregory C. Benefiel
Registered Professional
Land Surveyor, Md. #10994
Qualified Professional
COMAR Section 08.19.06.01

Woodland and Wildlife Habitat Conservation Easement
Addendum

A portion of the Property is located in Montgomery County, and a portion is located in Prince George's County. Under Section 22A-12(h)(2) of the Montgomery County Code, as a condition of approval of the forest conservation plan approved with the creation of a three-lot subdivision ("Preliminary Plan No. 120080080") over the that portion of the Property in Montgomery County, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission ("Planning Board") has accepted this Easement as a long-term protective measure for the protection of conservation areas on the Property; provided however, any amendment to this Easement, including a full or partial release of any of the Property covered hereunder shall require the written consent of the Planning Board, and any amendment or release without such consent shall be ineffective.

The Grantor and Grantee do hereby acknowledge and agree that any amendment to this Easement, including a full or partial release of any of the Property covered hereunder shall require the written consent of the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, and any amendment or release without such consent shall be ineffective.

WITNESS:

GRANTOR

Robin L. Boswell, Owner

Charles Boswell, Owner

ATTEST:

GRANTEE

Prince George's County, Maryland

By: _____
Name:
Title:

STATE OF MARYLAND
COUNTY OF _____

I hereby certify that on this _____ day of _____, 2013, before the subscriber, a Notary Public in and for the State of Maryland, and the County of _____, personally appeared Robin L. Boswell who acknowledge that he/she is authorized to execute, and did execute the foregoing instrument, voluntarily and for the purposes therein contained.

IN WITNESS WHEREOF, I have set my hand and notarial seal.

Notary Public

My Commission Expires:

STATE OF MARYLAND
COUNTY OF _____

I hereby certify that on this _____ day of _____, 2013, before the subscriber, a Notary Public in and for the State of Maryland, and the County of _____, personally appeared Charles Boswell who acknowledge that he/she is authorized to execute, and did execute the foregoing instrument, voluntarily and for the purposes therein contained.

IN WITNESS WHEREOF, I have set my hand and notarial seal.

Notary Public

My Commission Expires:

STATE OF MARYLAND
COUNTY OF _____

I hereby certify that on this _____ day of _____, 2013, before the subscriber, a Notary Public in and for the State of Maryland, and the County of _____, personally appeared _____, _____ of Prince George's County, Maryland, who acknowledge that he/she, having been properly authorized, executed the foregoing instrument, voluntarily and for the purposes therein contained.

IN WITNESS WHEREOF, I have set my hand and notarial seal.

Notary Public

My Commission Expires:

**STATE OF MARYLAND
COUNTY OF MONTGOMERY**

I hereby certify that on this _____ day of _____, 2011, before the subscriber, a Notary Public in and for the State of Maryland, and the County of Montgomery , personally appeared _____, _____ of _____, who acknowledge that he, having been properly authorized, executed the foregoing instrument, voluntarily and for the purposes therein contained.

In testimony, I have set my hand and notarial seal.

Notary Public

My Commission Expires: