

Eric K. Federing
6520 77th Street
Cabin John, Maryland 20818

4 August 2005

Ms. Cathy Conlon
Subdivision Supervisor
Development Review Division
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910

Dear Ms. Conlon:

I am in receipt of a letter dated July 22, 2005 from Landmark Engineering, Inc. to you on behalf of the Applicant, Potomac Land Associates, Inc. in re Preliminary Plan No. 1-05103, a proposed resubdivision of Lot 56A, Cabin John Park, Section 1.

You have previously received a combined letter of comment from 4 neighboring property owners, including myself. As we are now fully in the summer vacation months, I have attempted but have been unable to discuss the July 22nd response with my neighbors; I myself will be unavailable shortly for a time. To assist your consideration of this Plan following the July 22nd letter, I ask that you consider the following commentary from me.

First, after careful review of the July 22nd letter and its enclosures, I reiterate my opposition to this proposed resubdivision. I will address myself here largely to the comments made on pages 4 through 6, inclusive, of the July 22nd letter in the section entitled "Response to Certain Neighbors."

Second, while I appreciate the enthusiasm of the Applicant and Landmark Engineering to expedite this process, I strongly encourage that the Commission take its time to consider the issues and to, in fact, canvass the properties on-site as part of your review.

Regarding 1. in the July 22nd letter:

- Landmark Engineering, representing the Applicant, claims that by not changing the grade at the rear (east) of Lot 56A within 25 feet of this property line that the plan "would not interfere with existing drainage patterns for surrounding properties." This is inaccurate. Landmark addresses the effects of construction on trees at or near the property line to the south (earlier, in Page 2 of the letter). Apart from indicating construction barriers, Landmark does not further address risk to the mature-age Mulberry tree on Lot 59A just across the property line from Lot 56A.

- I have witnessed similar construction barrier plans ignored or the barriers misplaced. Without strict and constant regulatory enforcement by the County, these can represent only best intentions and cannot represent full assurance and risk mitigation.
- Even with strict enforcement of the barrier, by disturbing this zone (above and below grade) and erecting a home so close to the property line, a new home will disrupt Lot 56A's drainage pattern for the worse and directly affect this tree. The construction plan, therefore, presents risk to adjacent and valuable property not belonging to the owner of Lot 56A or any proposed resubdivision thereof. Further, as Bartlett Guardian (who I also use as a service provider) or any other certified arborist will advise, such fatal tree injuries may not manifest themselves obviously for years after the injury.

Regarding 2. in the July 22nd letter:

- Landmark Engineering claims that its plan would "sensitively shed both existing and planned stormwater runoff from the rear of the property towards 78th Street." I appreciate the sensitivity, but would dispute the claim that "a maximum change of less than 3 feet" is as inconsequential as Landmark suggests. The signatories to our original letter of comment are directly conjoined in their respective properties. We know from experience and an intimate understanding of our properties that even the most modest regrading of the sort Landmark proposes can have serious consequences for each other and for other neighbors.
- A further information sheet received from Landmark contends that the land draining to the rear would be reduced from 86 % to 27 %. This is a preposterous comparative. Open grassy space undisturbed for generations on a gentle slope is a mature and non-controversial drainage system that will operate far differently than will a concentrated, mechanically-enhanced space that has been further effected by regrading and the addition of structures and new water flow from those structures that cannot be completely controlled. For the record, our property has no current water drainage issues with Lot 56A – nor have we experienced any since purchasing our property in December 2000.
- Landmark can provide **no** guarantee whatsoever that any and every future owner of a resubdivided Lot 56A will maintain the stormwater capture system proposed for Lot 56A. This is a system essential to Landmark's water management assertions. It is a system that will over time require cleaning and other maintenance, as would any manufactured system. Further, neither Landmark nor the Applicant can guarantee that owners of the homes proposed will not regrade their properties in any way once the Applicant has completed development. These are important considerations given the fine tolerances Landmark asserts.
- Very simply, the proposed pipestem resubdivision of Lot 56A places neighboring property owners at risk currently and will in perpetuity.

Regarding 3. in the July 22nd letter:

- While I recognize that the 30 percent limitation only refers to building coverage, I believe the massive, impenetrable driveways – with the pipestemmed driveway alone

covering 2,000 square feet, by my estimate – are essential considerations (as Commission staff may have expressed) when water drainage is involved. This one driveway, when combined with the footprints of the homes as proposed, exceeds the 30 percent limitation. It is essential, in my view, that this driveway be considered as salient since the proposed resubdivision relies upon a stormwater management system to be erected on private property and entirely at the discretion of the property owner(s) to maintain.

Regarding 4. and 5. in the July 22nd letter:

- Landmark’s assertions re water flow from the Church assume that the addition of a foundation so close to the Church property line and its effects on the water within the relatively little remaining exposed soil of current Lot 56A will not have drainage consequences. It also assumes that the Church property will remain static at its present configuration. In other words, there is both flaw in Landmark’s assertion and a further flaw in the presumption of no alterations of adjacent property in the future.
- Given the proposed ground to be covered and the continuation of water flow at the rear of the Church property, I maintain that Landmark’s assertion is incorrect and presumptive.

Regarding 6. in the July 22nd letter:

- Landmark’s selective assertions regarding cause and effect are coupled with the presumption of what could have occurred in the past. At the same time, Landmark chooses to ignore the reports from property owners as to what has occurred in the past.

Regarding 7. in the July 22nd letter:

- I would submit that Landmark’s proposal on behalf of the Applicant is incomplete in this regard and does not take into account any property other, perhaps, that the lot directly south of Lot 56A.

Regarding 8. in the July 22nd letter:

- I strongly recommend and request that the Commission fully investigate the 1980 resubdivision. I believe the Commission will find that it is a precedent from which a single imperative should be learned: do not repeat the same mistake – a mistake which, to my knowledge, has not been repeated since in Cabin John despite proposals as recently as 6 years ago to do so on a far larger Lot.
- With regard to the assertion by Landmark on behalf of the Applicant ...

“[T]he Applicant had approached the neighbor to the rear, and several others, in an attempt to understand specific concerns and describe our program and its impacts. Mr. Federer declined to discuss it.”

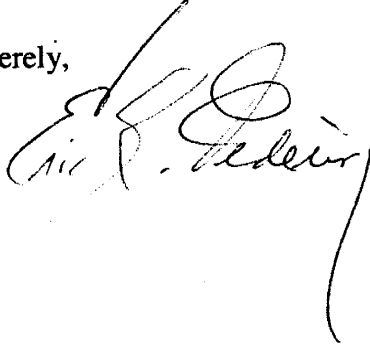
I have been debating how best to respond to this assertion with respect to me, mostly since it is strikingly irrelevant to the issues at hand. I will be happy to discuss this with the Commission or Commission staff if you believe the conversation I did have with the Applicant is somehow germane. Absent that, I will say only that the charge that I declined to discuss the matter is entirely inaccurate and misleading. In future, I might suggest to Landmark that it avoid commentary in reporting about a conversation in which it did not participate first-hand.

Regarding 9. in the July 22nd letter:

- These assertions are incorrect. Pipestem properties are not consistent with “the existing character and pattern of development in Cabin John”. “The existing character and pattern” of Cabin John is one of single-family homes which front their streets directly and not in pipestem configurations. Indeed, none of the most-recent and numerous infill projects I can think of in Cabin John – on 78th Street, MacArthur Boulevard, 77th Street, Tomlinson Avenue and Arden Road – have deployed pipestem resubdivisions. This includes at least two lots of 18,000 square feet or larger.
- I appreciate the assertion by Landmark Engineering that the “existing infrastructure affected *appears* to all have the capacity to accommodate the project.” This is another presumption.
- A property tax base that might be ever-so-slightly enriched by the resubdivision proposal for Lot 56A will be dwarfed by unfunded mandates imposed upon the County and property tax payers for long-term infrastructure improvements that are the direct result of unplanned increased housing density as a result of resubdivisions deployed on an ad hoc basis.

I seek the Commission staff’s and the Commission’s disapproval of the resubdivision proposal for Lot 56A. I remain grateful for your consideration and due diligence.

Sincerely,



1 July 2005

Ms. Cathy Conlon
Subdivision Supervisor
Development Review Division
Maryland – National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910

Dear Ms. Conlon:

We respectfully request the opposition of the Commission to a resubdivision proposal known as Preliminary Plan No. 1-05103, (named Cabin John Park Section 1), which would be a resubdivision of Lot 56A in the property otherwise known currently as 6517 78th Street. We understand that you will consider this matter for internal review on July 5th and that a hearing before the Montgomery County Planning Board is not likely to be held until after Labor Day.

The reasons for our opposition are extensive. They are focused on environmental impact, likely damage to adjacent properties, and a precedent that could lead to unfunded infrastructure improvement mandates for Montgomery County and its taxpayers. We ask for the Commission's opposition to this resubdivision Plan both in its particulars and also as a generic public policy for similar parcels in the one-block corridor between 77th and 78th streets bounded by MacArthur Boulevard and Tomlinson Avenue. Issues include:

Environmental Impact

The existing natural eastward slope of Lot 56A has been in place for many decades. The topography allows rainwater drainage to disperse naturally across Lot 56A and otherwise into what is understood to be a water easement within 7.5 feet of the property line to Lot 59A (also known as 6520 77th Street). The hard clay earth makes this scheme a necessity; the more the earth is covered by homes or supporting structures like driveway, the more water will flow and flow quickly to the lowest natural points. There is currently no property damage from Lot 56A runoff either to Lot 59A, to Lot 59B or to the other adjacent parcels between Lot 56A and MacArthur Boulevard or between Lot 55B and MacArthur Boulevard.

The Plan for resubdivision, we believe, would result in significant property damage due to increased runoff. To accommodate two homes, as the Plan proposes, significant changes in topography have been proposed. The lack of land to absorb the natural drainage of rainfall would be acute.

Under current Zoning, a home may have no more than a 30 percent footprint on these lots. Based on the engineering plan as submitted, we believe that the two proposed homes combined with long driveways could cover at least half of existing lot 56A.

With the topographical changes, the homes would act as dams, the driveways (especially of proposed Lot 222) would act as funnel swales, and the water could be expected to flow heavily

1 (20)

towards the easement, resulting in dramatically increased water flow for all adjacent lots between Lot 56A and MacArthur Boulevard.

Lot 56B (also known as 6523 78th Street) is home currently to the Saint George Coptic Orthodox Church. The topography of that lot – which includes two structures and a parking lot) also drains water towards the easement. The proposed Plan for Lot 56A effectively creates a dam in both Proposed Lot 221 and 222, forcing the water artificially at the property line with Lot 56B to drain immediately towards the easement, and therefore in greater volume and with greater speed.

A similar resubdivision proposal, adopted in 1980, is considered by at least one of those property owners (Lot 60D also known as 6510 77th Street; signatory to this letter) to have been a grave mistake. Since buying this home, the homeowner has spent many thousands of dollars attempting to mitigate and otherwise control the continual water damage to the home's foundation. Standing water in the yard, and the mosquitoes this invites, has been a constant problem.

We are in the process of exploring a professional assessment of existing environmental conditions as well as those to be expected in the resubdivision proposed in the Plan

There are a number of majestic, mature trees that would certainly be impacted negatively by increased water flow from a resubdivided Lot 56A. Trees that are weakened or drowned due to increased water flow would present a danger to property owners and a loss to the community at large.

Overall, it is our contention that the environmental mistake made in 1980 must be avoided now and in the future. In addition, the resubdivision of 1980 was achieved in part as a zoning matter by an agreement of two east-west adjacent property owners who subdivided simultaneously. In consideration of the proposed Plan, there is no agreement between the owner of Lot 56A and the owner of Lot 59A (who is signatory to the letter).

Board approval of the Plan could be construed as a defacto property taking since real property damage to adjacent lots could be anticipated for any resubdivision of Lot 56A.

Another specific (and generic concern) is land use policy and the lack of such a study by the County for the precedent that could be set by the proposed Plan and further resubdivisions.

Ill-conceived precedent and potential for unfunded mandates

We believe the precedent of resubdividing Lot 56A could over time constitute an unfunded mandate to the County and taxpayers. The mandate would originate from doubling the home population on certain streets in Cabin John within a block of MacArthur Boulevard. The demand arising from this increased land usage would come in the form of necessary infrastructure improvements ranging from storm drainage to street modernization to widening MacArthur Boulevard (which is not possible due to the Aqueduct below).

For example, at great expense to the County a storm drain modernization project was just completed on 78th Street due to a unique environmental (i.e., water drainage) concern in the vicinity of Lot 67-B (also known as 6518 78th Street). The proposed Plan would add two driveways into 78th street, one of these being nearly 200 feet long in l-shaped length This driveway for Proposed Lot 222

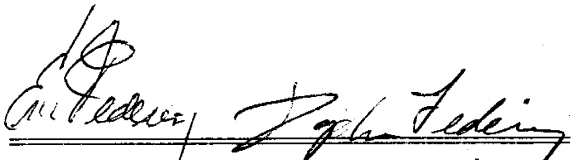
would not spill into 78th Street at a point that would allow capture of the runoff by the new storm drain system. Indeed, the topography suggests that this driveway would flow downgrade towards the water easement. To raise the topography and to at least partially address the drainage issues would create a problem to replace the one solved on 78th Street.

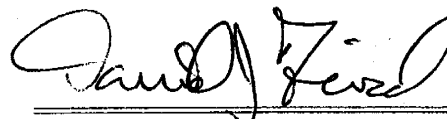
In addition, increased traffic flows on such streets as 77th and 78th Streets could not be accommodated safely by the existing width of such streets. Indeed, when MacArthur Boulevard becomes backed up from the one-lane Cabin John Bridge during rush hours, it is common to find non-area motorists racing up side streets like 77th and 78th Streets. Adding increased residential traffic into that scenario is a prescription for unsafe pedestrian and vehicular conditions. A viable solution would be to widen the streets, which would be born by the County and by taxpayers. Increased density in the absence of land use planning for in-fill, resubdivided projects like the one proposed in the Plan threatens to be costly to Cabin John residents in particular and County residents in general.

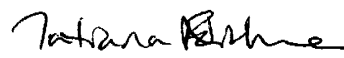
Enclosed please find a letter from the Cabin John Citizens Association in support of our petition.

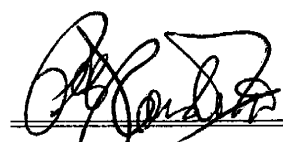
We thank you for your consideration and will respond to any questions the Commission might have.

Sincerely,


Eric and Daphne Federing (6520 77th Street)


DANIEL J. FRISCH, 6506 77th ST.


Tatiana and Erich Eichmann (6516 77th Street)


Pete and Joanne Couste (6510 77th Street)

CABIN JOHN CITIZENS ASSOCIATION
P.O. Box 31, Cabin John, MD 20818

Organized 1919
Charter Member Montgomery County Civic Federation

Burr Gray - President
Larry Heflin - Vice President

Bruce Wilmarth - Treasurer
Gary Barnhard - Secretary

June 30, 2005

Eric and Daphne Federing
6520 77th St.
Cabin John, MD 20818

Re: Zoning Matter – Preliminary Plan No. 1-05103 (Cabin John Park Section 1);
Resubdivision of Lot 56A located at 6517 78th St.

Dear Eric and Daphne,

This letter responds to your letter of June 22, 2005 requesting the support of the Cabin John Citizens Association (CJCA) in opposing the subdivision described as Preliminary Plan No. 1-05103 (Cabin John Park Section 1); Resubdivision of Lot 56A located at 6517 78th St.

We do not have any formal CJCA meetings scheduled until September. However, given the fact that the County may review this matter over the summer, I have discussed this particular issue with the other CJCA officers. We are all very concerned by the proposal, in part due to the nature of the pipestem lot that would be created and in part due to the impact on the immediate neighbors downgradient from the lot.

A few years ago, CJCA members listened to the “pro’s and con’s” regarding the proposed subdivision and creation of a pipestem lot at 6519 76th St. In that case, the neighbors were in opposition to the pipestem lot, and the consensus at the meeting was to oppose the proposal. That lot was never subdivided. The main concern voiced during the meeting was that pipestem lots present a real possibility of overcrowding in the community and the elimination of a feeling of space. Cabin John is in the midst of a transition where small homes are sold then knocked down and replaced by larger ones. The somewhat bucolic feel of our community is quite important to those who live here and so CJCA is quite sensitive to proposals, as is the case here, that will eliminate a great deal of the natural environment on a property. CJCA tries not to be “knee-jerk” in its reaction to development and in fact, decided deliberately a couple of years ago to not object to the subdivision of a lot located at 6526 75th St. because there was adequate space for two new homes that would both be set back the same distance from the road.

A few years ago, I personally assisted one of the homeowners immediately downgradient from the current property at issue (6517 78th St.) as he struggled to prevent damage to his house from water flowing from upgradient properties. The creation of even more impervious area uphill will certainly exacerbate this serious issue.

We will be willing to submit comments to the County (M-NCPPC) when the opportunity arises as well as testify in person if a public hearing is held. Please call me (703-607-2740 (w)) if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Burton Gray". The signature is written in a cursive style with a large, stylized initial "B".

Burton Gray
CJCA President



Attachment E

DEPARTMENT OF PUBLIC WORKS
AND TRANSPORTATION

Douglas M. Duncan
County Executive

Arthur Holmes, Jr.
Director

October 2, 2005

Ms. Catherine Conlon, Subdivision Supervisor
Development Review Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan #1-05103
Cabin John Park, Section 1

Dear Ms. Conlon:

We have completed our review of the preliminary plan dated May 31, 2005. This plan was reviewed by the Development Review Committee at its meeting on July 5, 2005. 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 DPS 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.
2. Necessary dedication for future widening of 78th Street.
3. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
4. We have accepted the supplemental storm drain capacity and impact analyses submitted by the applicant's consultant engineer. No modifications to the downstream public storm system will be required of this applicant.
5. The sight distances study has been accepted. A copy of the accepted Sight Distances Evaluation certification form is enclosed for your information and reference.
6. The owner will be required to furnish this office with a recorded covenant whereby said owner agrees to pay a prorata share for the future reconstruction of 78th Street, whether built as a Montgomery County project or by private developer under permit, prior to DPS approval of the record plat. The deed reference for this document is to be provided on the record plat.



Division of Operations

101 Orchard Ridge Drive, 2nd Floor • Gaithersburg, Maryland 20878
240/777-6000, TTY 240/777-6013, FAX 240/777-6030

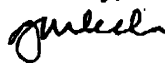
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Ms. Catherine Conlon
Preliminary Plan No. 1-05103
October 2, 2005
Page 2

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. Fred Lees of our Traffic Control and Lighting Engineering Team at (240) 777-6000 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
9. 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. Enclosed storm drainage and/or engineered channel (in accordance with the DPWT Storm Drain Design Criteria) within the County rights-of-way and all drainage easements.
 - B. Remove and replace the existing driveway apron with a standard DPWT driveway apron.
 - 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.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact me at greg.leck@montgomerycountymd.gov or (240) 777-6000.

Sincerely,



Gregory M. Leck, Manager
Traffic Safety Investigations and Planning Team
Traffic Engineering and Operations Section

m:/subd/gml/docs/pp/1-05103, Cabin John Park Section 1

Enclosure

cc: Richard Weaver; M-NCPPC DRD
Charles T. Grimsley; Landmark Engineering
Joe Bender; Potomac Land Investments Assoc., Inc.
Joseph Y. Cheung; DPS RWPPR
Christina Contreras; DPS RWPPR

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WSSC Comments on Items for July 5, 2005
 Development Review Committee Meeting

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File Number	Project Name	Substantial Comments
1-05103	CABIN JOHN PARK, SECTION 1	<p><u>WATER AND SEWER AVAILABLE</u></p> <p>An existing 6-inch water main and an 8-inch sewer main in 78th Street about the subject property. Connections can be made directly to these mains to obtain water and sewer service. Existing connections are available for reuse but existing water service may be too small for proposed house. If existing connections can be reused, service connection fees are not applicable. If connections will not be reused, connections must be properly abandoned and applicant must pay abandonment fee.</p> <p><u>PAY SERVICE CONNECTION AND APPLICABLE FEES AND CHARGES</u></p> <p>Submit Connection application form to WSSC's One-Stop-Shop and settle all fee requirements for new connections.</p> <p>For connection information, it will be necessary for you to contact the Permit Services Group at (301) 206-4003 or visit our One-Stop Shop located on the lobby level of our Consolidated Office Building at 14501 Sweitzer Lane, Laurel, Maryland 20707.</p> <p><u>PAY SYSTEM DEVELOPMENT CHARGE (SDC) FEE</u></p> <p>System Development Charge (SDC) payment is required. Make payment to WSSC's One-Stop-Shop at the time of application for plumbing permit to install fixtures or hookup to the Commission's water and/or sewerage system(s).</p>



DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan
County Executive

Robert C. Hubbard
Director

June 29, 2005

Mr. David V. Albamonte
Landmark Engineering, Inc.
6110 Executive Boulevard, Suite 110
Rockville, MD 20852

Re: Stormwater Management **CONCEPT** Request
for Cabin John Park Lot 56A
SM File #: 218713
Tract Size/Zone: 0.45 acres/R90
Total Concept Area: 0.45 acres
Lots/Block: 221 & 222
Watershed: Rock Run

Dear Mr. Albamonte:

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 consists of a waiver of water quality control. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cfs.

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.

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

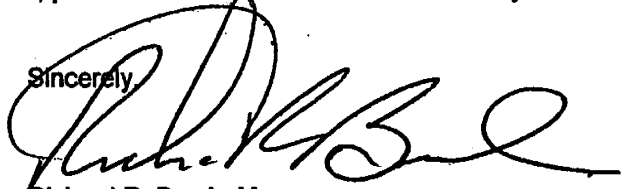
Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is required.

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 Nadine Vurdelja Piontka at 240-777-6334.

Sincerely,



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

RRB:dm CN218713

cc: R. Weaver
S. Federline
SM File # 218713

QN -onsite; Acres: 0.5
QL - waived; Acres: 0.5
Recharge is not provided