

APPENDIX C

ALTERNATE COMPLIANCE MEASURES AGREEMENT TO BUILD
 MODERATELY PRICED DWELLING UNITS FOR A PERMIT
 OF 35 OR MORE DWELLINGS

THIS AGREEMENT is by and between W.M. RICKMAN CONSTRUCTION COMPANY LLC, a Maryland limited liability company (hereinafter the "Owner"), and MONTGOMERY COUNTY, MARYLAND (hereinafter the "County").

RECITALS:

WHEREAS, the Owner owns a 13.31-acre parcel of land on River Road, Potomac, Maryland, known as Stoneyhurst Quarry, particularly described in a deed recorded in Liber 7136 at Folio 806 among the Land Records of Montgomery County, Maryland, and shown as Parcel 318 on tax map GN23 (the "Property"); and

WHEREAS, the Owner plans to construct a 97-unit midrise residential condominium complex (the "Project") on the Property pursuant to Project Plan #9-04004 (the "Project Plan") approved by the Montgomery County Planning Board on August 20, 2004; and

WHEREAS, Chapter 25A of the Montgomery County Code (the "Code") requires that a percentage of the total number of dwelling units in the Project be Moderately Priced Dwelling Units (MPDUs), which, for the Project, would be fifteen (15) units; and

WHEREAS, §25A-5(e) of the Code provides that, in exceptional cases, a developer, instead of building the required MPDUs on site, may: (i) contribute to the Housing Initiative Fund an amount that will produce significantly more MPDUs; or (ii) construct or otherwise provide the required MPDUs in the same or an adjacent planning area; or (iii) use a combination of the alternatives described in (i) and (ii) (the "Alternative Compliance Measures" or "ACM"); and

WHEREAS, the Director of the Department of Housing and Community Affairs (the "Director") has determined that if the MPDUs for the Project were located on site, the condominium fees and sale prices for the MPDUs would exceed the affordability levels for MPDU certificate holders; and

WHEREAS, the Director has agreed to approve an ACM proposed by the Owner which is consistent with §25A-5(e) of the Code and which will provide a public benefit that outweighs the benefit of constructing the MPDUs at the Project; and

WHEREAS, Montgomery County is willing to issue building permits for the construction of the Project in accordance with the terms of this Agreement and pursuant to Chapter 25A of the Code.

NOW, THEREFORE, in consideration of the mutual promises, conditions and obligations hereinafter set forth, the parties agree as follows:

1. The foregoing recitals are part of this Agreement and are incorporated herein.

2. The Owner must satisfy the MPDU requirements by exercising any one of the following options within six (6) months of completing construction of the first Phase of the Project:

Owner must contribute to the Housing Initiative fund One Million Seven Hundred Thousand and 00/100 Dollars (\$1,700,000.00) (\$100,000/unit x 17 units) according to the schedule set out below. The payment for each Phase must be provided by the earlier of (i) the time at which the Phase is 90% occupied or (ii) twelve months of completing construction of the Phase.

(a)	Phase One: 24 units - 15% payment in amount	\$255,000.00
	Phase Two: 24 units - 20% payment in amount	\$340,000.00
	Phase Three: 25 units - 25% payment in amount	\$425,000.00
	Phase Four: 24 units - 40% payment in amount	<u>\$680,000.00</u>
	Total:	\$1,700,000.00

Or

(b) Provide fifteen (15) offsite MPDUs in the same or adjacent policy area, as approved by the County, as rental or sale units to MPDU certificate holders. The units must be provided to MPDU certificate holders in accordance with Chapter 25A of the Code.

3. Montgomery County will issue building permits as requested by the Developer for the Project. Developer acknowledges County's authority to suspend or revoke any or all building or occupancy permits issued to Developer for the Project and/or to suspend or deny the issuance of all subsequent permit requests by Developer for the Project and/or invoke any other of the enforcement measures authorized by §25A-10 of the Code, as amended, and the Executive Regulations adopted pursuant thereto, for failure to comply with this Agreement.

4. Any notices sent pursuant to this Agreement must be delivered in writing to:

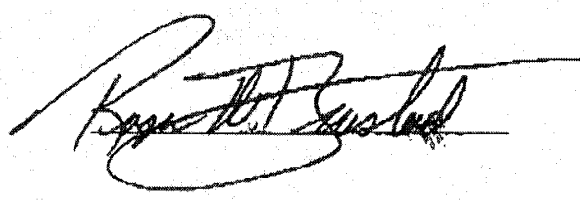
Montgomery County at:
Director
Department of Housing and Community Affairs
100 Maryland Avenue, 4th Floor
Rockville, Maryland 20850

Owner at:
William M. Rickman, Sr. and
William M. Rickman Jr.
W.M. Rickman Construction Company
15215 Shady Grove Road, Suite 201
Rockville, MD 20850

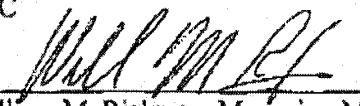
- 5. This Agreement is binding upon the agents, successors, heirs and assigns of the Owner.
- 6. The terms of this Agreement will survive the execution and delivery of any deeds or leases, and shall not merge therein.
- 7. In accordance with Chapter 19A of the Code, no member, officer or employee of the County, and no other public official of the County will either exercise any function or responsibility with respect to the subject matter of this Agreement during his or her tenure, or for ten years thereafter have any interest direct or indirect, in the subject matter of this Agreement. This section will not be construed to prohibit any such person from owning an MPDU as a personal residence in accordance with the provisions of Chapter 25A and applicable Executive Regulations.
- 8. Applicant agrees to abide by and comply with all applicable laws and regulations regarding the subject matter of this Agreement, whether or not such laws or regulations are herein specifically enumerated or referred to, and Applicant agrees to sign such documents as may be required to effectuate the intent and purpose of this Agreement.
- 9. This Agreement may only be modified in a writing signed by the parties hereto, their heirs, successors or assigns.
- 10. This Agreement is effective on the date that it is executed by the County.

WITNESS/ATTEST:

OWNER:



W. M. RICKMAN CONSTRUCTION COMPANY
LLC


 William M. Rickman, Managing Member

STATE OF MARYLAND

*
* to wit:
*

COUNTY OF MONTGOMERY

I HEREBY CERTIFY that on this 25th day of March 2005, before me, the undersigned Notary Public, personally appeared William M. Rickman, known to me (or satisfactorily proven to be the Managing Member of W.M. Rickman Construction Company LLC, a Maryland limited liability company, and by virtue vested in him as aforesaid, acknowledged the same to be his act and deed for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and seal.


 Notary Public

My Commission Expires: 9/1/05

COUNTY:

MONTGOMERY COUNTY, MARYLAND

Elizabeth B. Davison

By: *Elizabeth B. Davison*
Elizabeth B. Davison, Director
Department of Housing and Community Affairs

APPROVED FOR FORM AND LEGAL SUFFICIENCY

Vickie L. Gaul
Vickie L. Gaul
Associate County Attorney

Date: 3/24/05

STATE OF MARYLAND

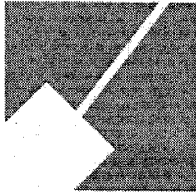
*
* to wit:
*

COUNTY OF MONTGOMERY

I HEREBY CERTIFY that on this 24th day of March, 2005, before me, the undersigned Notary Public, personally appeared Elizabeth B. Davison, known to me (or satisfactorily proven to be the person whose name is subscribed to the within instrument as Director, Department of Housing and Community Affairs of Montgomery County, Maryland, and acknowledged that she, as such Director, executed the foregoing and annexed instrument for the purposes therein contained by signing the name of Montgomery County, Maryland.

IN WITNESS WHEREOF, I hereunto set my hand and seal.

My Commission Expires: 8/1/2005 *John P. [Signature]*
Notary Public



**THE MARYLAND-NATIONAL CAPITAL PARK AND
PLANNING COMMISSION**
Department of Park & Planning, Montgomery County, Maryland
8787 Georgia Avenue, Silver Spring, Maryland 20910

MEMORANDUM

TO: Robert Kronenberg, Acting Supervisor, Development Review

FROM: Mark Pfefferle, Planning Coordinator, Environmental Planning *MP*

DATE: March 3, 2006

SUBJECT: Site Plan 8-05029
The Quarry

The Environmental Planning staff has reviewed the site plan referenced above. Staff recommends approval of the site plan with the following conditions:

1. Compliance with the conditions of the final forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits.
2. Record plat to reflect a Category I conservation easement over all forest conservation areas.
3. Applicant to develop and implement a non-native and invasive management plan. Plan to be incorporated into the final forest conservation plan.
4. Applicant to comply with the recommendations of the March 22, 2005 noise analysis, as refined on January 20, 2006. Should the noise berms along River Road be removed, or not constructed, the noise analysis must be re-evaluated due to potential increases of noise at ground level. Applicant to mitigate the noise levels as recommended within the noise analyses.
5. Comply with conditions of approval as delineated by the Montgomery County Department of Permitting Services letter, dated January 26, 2004, concerning Special Inspections/Complex Structures

Background

The 13.31-acre property is located on the north side of River Road west of Seven Locks Road. Immediately to the east of the subject property is Cabin John Fire Company No. 10 and Stoneyhurst town homes. The Charred Oak Estates subdivision adjoins the subject property to

the north. Across River Road is Cabin John Creek Park. The entire property is within the Cabin John Creek watershed, Use I-P waters.

The site first began quarrying operations as an active quarry in the 1830s. After periods of no activity the quarry reopened in 1922 and was run until the natural resources were exhausted. The primary material mined at this quarry was schist. Excavation of the raw material was through the removal of a side embankment versus the creation of an open pit like some of the nearby quarries. The quarry bottom has been leveled and is approximately the same elevation of River Road. Steep walls ring three sides of the quarry. On top of the quarry walls are the native soils, vegetation, and trees. Parts of the walls appear stable and others are unconsolidated.

Environmental Guidelines

A natural resource inventory/forest stand delineation (NRI/FSD) was prepared for this site. Environmental Planning staff approved the NRI/FSD in January 2004. The NRI/FSD indicates that there are no streams, wetlands, floodplains, or environmental buffers on the subject property. The site includes 2.76 acres of existing forest.

Forest Conservation

The applicant is utilizing an optional method of development for this site and therefore must meet the appropriate threshold on site. The 13-acre site includes 2.76 acres of existing forest. Since the site includes more existing forest than the afforestation threshold the applicant must reforest to the conservation threshold. The applicant is proposing to remove 0.5 acres of forest. The forest to be removed is at the top of the quarry wall and is necessary for stabilization. Based on the size of the subject property, the existing amount of forest and the forest to be cleared there is a planting requirement of 0.76-acres. The applicant is proposing to meet these requirements through onsite reforestation, landscape credits, and supplemental plantings within existing forest.

Noise

A traffic noise impact analysis was conducted for the subject property and revealed that there is some noise impact on the proposed residential units from vehicle traffic on River Road. The noise analysis indicates that upper floors of Buildings 1 and 2 will have future unmitigated noise levels between 63 and 69 decibels. However, the noise analysis indicates that if the noise berms are not constructed that the noise analysis be re-evaluated because of the increase in ground level noise. The other buildings are outside the impacted areas. The noise analysis indicates that the interior noise guideline of 45 dBA Ldn can be achieved with standard windows, doors, and wall construction. Environmental Planning requests a condition that requires the applicant to comply with the March 22, 2005 noise analysis and incorporate the mitigation recommendations into the development of the site. The applicant submitted a refined noise analysis on January 20, 2006 but the refined analysis did not address the removal of the noise berms along River Road.

Structural Fill

In order to prepare the site for residential development the applicant must stabilize the quarry walls. The Department of Permitting Services is the lead agency for reviewing and approving

special inspections and complex structures. The applicant indicates that they have submitted the necessary information to DPS for their review and that DPS has conceptually approved the means to stabilize the quarry rock face. However, Environmental Planning is still requesting a condition of approval requiring the applicant to follow DPS complex structure approval requirements due to the nature and complexity of the site, as stated in the January 26, 2004 stormwater concept approval letter.



FIRE MARSHAL COMMENTS

DATE: 2-21-06
TO: PLANNING BOARD, MONTGOMERY COUNTY
VIA:
FROM: CAPTAIN JOHN FEISSNER 240.777.2436
RE: APPROVAL OF ~ *THE QUARRY(8-05018) BASED ON ACCESS PLAN DATED 2-15-06*

1. **PLAN APPROVED.**

- a. Review based only upon information contained on the plan submitted 2-20-06. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
- b. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

Please note: Amend access to clubhouse to meet 20' paved clear width instead of 19' as shown.

cc: Department of Permitting Services

4/20/05

TO: Cathy Conlon, Subdivision Supervisor, Development Review Division
Richard Weaver, Subdivision Review, Development Review Division
Michael Ma, Site Plan Supervisor, Development Review Division

FROM: Doug Powell, Plan Review Coordinator, Park Planning and Resource
Analysis Unit, Countywide Planning Division

RE: Park and Natural Resources Issues involved in plans to be reviewed at
the DRC on April 25, 2005

8-05029
The Quarry

- Construction of a suitably sized hard surface trail along the north side of River Road extending from the Seven Locks Road intersection and continuing west past the subject development to the parking area located on parkland at the east side of Cabin John Creek. Trail to be adequately signed to designate it for use as part of the Cabin John trail system.
- Discuss with M-NCPPC staff possible improvements to the Cabin John Creek Trail parking area and park trails near the proposed development.
- Applicant to convey to the homeowners' association the land designated for conveyance to M-NCPPC.
- Applicant not to establish direct connection from the development to the natural surface park trail located south of River Road since trail planning staff is attempting to keep trail users on the north side of River Road in this area.

**MONTGOMERY COUNTY DEPARTMENT OF PERMITTING SERVICES
WATER RESOURCES SECTION**

255 Rockville Pike, 2nd Floor, Rockville, Maryland 20850-4153

Date: April 21, 2005

MEMO TO: Michael Ma, Supervisor
Development Review Committee, MNCPPC

FROM: William Campbell
Water Resources Section, MCDPS

SUBJECT: Stormwater Management Concept Plan/100-Year Floodplain Review
Site Plan # 8-05029, The Quarry
Project Plan # _____
Preliminary Plan # _____, DPS File # 210273
Subdivision Review Meeting of April 25, 2005

The subject plan has been reviewed to determine if it meets the requirements of Executive Regulation 7-02AM for stormwater management and Executive Regulation 108-92 AM for a 100year floodplain. The following summarizes our findings:

SM CONCEPT PLAN PROPOSED:

- On-site: CPv WQv Both
 CPv < 2cfs, not required
 On-site/Joint Use Central (Regional): waived to
 Existing Concept Approved
 Waiver: CPv WQv Both
 Approved on January 26, 2005
 Other

Type Proposed:

- Infiltration Retention Surface Detention Wetland Sand Filter
 Separator Sand Filter Non Structural Practices Other

FLOODPLAIN STATUS: 100 Year Floodplain On-Site Yes No Possibly

- Provide source of the 100Year Floodplain Delineation for DPS approval:
 Source of the 100-Year Floodplain is acceptable.
 Submit drainage area map to determine if a floodplain study (> or equal to 30 acres) is required.
 Dam Breach Analysis: Approved Under Review:
 100-Year Floodplain study: Approved Under Review:

SUBMISSION ADEQUACY COMMENTS:

- Provide verification of Downstream notification.

RECOMMENDATIONS:

- Approve as submitted with conditions (see approval letter)
 Incomplete; recommend not scheduling for Planning Board at this time.
 Hold for additional information. See below
 Comments/Recommendations:

cc: Steve Federline, Environmental Planning Division, MNCPPC

bl DRC site plan.03/01

180



Robert L. Ehrlich, Jr., Governor | Michael S. Steele, Lt. Governor

Robert L. Flanagan, Secretary | Neil J. Pedersen, Administrator

Maryland Department of Transportation

April 25, 2005

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

Re: Montgomery County
MD 190
Stoneyhurst Quarry
File No. 8-05029

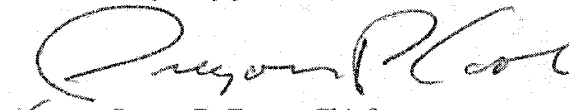
Dear Ms. Conlon:

The State Highway Administration (SHA) has reviewed the submitted site plan application and offers the following comments at this time:

- Please show the appropriate geometrics along MD 190 at the entrance to the subject property. A Maryland 'T' is to be proposed along MD 190, allowing left-turns in and out of the site.
- Please remove the notes and symbols associated with the traffic signal along MD 190 at the site entrance. A traffic signal is not warranted at this time for the site's access point.

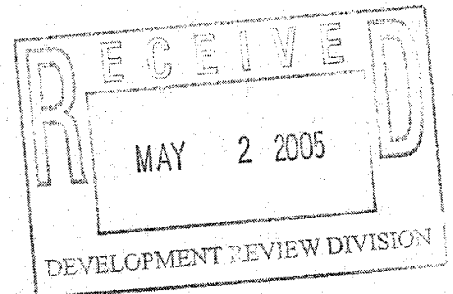
If additional information is required from SHA regarding this project, please do not hesitate to contact Mr. Gregory Cooke of this office at 410-545-5602, Mr. John Borkowski of this office at 410-545-5595, or by using our toll free number in Maryland only, 1-800-876-4742 (x-5602 for Greg, x-5595 for John). You may also E-mail Greg at gcooke@sha.state.md.us or John at jborkowski@sha.state.md.us. Thank you for your cooperation.

Very truly yours,


Steven D. Foster, Chief
Engineering Access Permits Division

SDF/jb

- cc: Mr. Darrell Mobley (Via E-mail)
Mr. Augustine Rebish (Via E-mail)
Mr. Richard Weaver, M-NCPPC (Via E-mail)
Mr. Mike Plitt (Macris, Hendricks and Glascock, P.A.)



My telephone number/toll-free number is _____
Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free



RECEIVED

DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan
County Executive

January 26, 2004

Robert C. Hubbard
Director

Mr. Steven Wilde
Macris, Hendricks and Glascock, P.A.
9220 Wightman Road, Suite 120
Montgomery Village, Maryland 20886-1279

Re: Stormwater Management **CONCEPT** Request
for The Quarry
SM File #: 210273
Tract Size/Zone: 13.3 acres / RMX-1/TDR 6
Total Concept Area: 12
Parcel(s): 318
Watershed: Cabin John Creek

Dear Mr. Wilde:

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 on-site channel protection measures via an underground pipe detention system. On-site water quality control via a Stormfilter. Additionally the proposed sidewalk along River Road will be constructed using a pervious material or is to sheet flow into a grassed swale. Onsite recharge via will not be required due to the soil conditions.

The following **item** 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.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. The quality volume is to be flow-split to the Stormfilter facility.
5. The FEMA 100-year floodplain map is to be amended and is to be shown to have no impact on the proposed development.

Please note that the fill placement and foundation systems for the proposed buildings will be required to follow the Department of Permitting Services (DPS) complex structure approval due to the nature and complexity of the project. As such, the fill placement and foundation systems must be constructed under the supervision of a DPS approved geotechnical engineer licensed in the State of Maryland. This engineer must certify and submit reports on the compaction and soil bearing capacity of the fills and certify that the fill is adequate for the proposed foundation systems. If you have any questions please call George Muste, 240-777-6232.



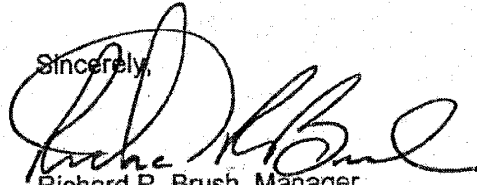
This list may not be all-inclusive and may change based on available information at the time.

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. 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 Ellen Rader at 240-777-6336.

Sincerely,



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

RRB:dm CN210273.TheQuarry.EBR

cc: M. Shaneman
S. Federline
SM File # 210273

QN -on-site; Acres: 12
QL - on-site; Acres: 12
Recharge is not provided

**STORMWATER MANAGEMENT
CONCEPT COMPUTATIONS**

The Quarry

MHG PROJECT No. 2001.205.22

**October 16, 2003
Revised November 14, 2003**

PREPARED FOR:

**W. M. Rickman Construction Co.
c/o Woodside Ventures & Realty Services, LLC
6912 Woodside Place
Chevy Chase, Maryland 20815**

Macris, Hendricks & Glascock, P.A.
Engineers • Planners • Surveyors • Landscape Architects

9220 Wightman Road, Suite 120
Montgomery Village, Maryland
20886-1279



Phone 301.670.0840
Fax 301.948.0693

Stormwater Management Summary

The subject property is a 13.3 acre parcel located on the north side of River Road, approximately 1,200 feet west of the intersection with Seven Locks Road. The site is zoned RMX1/TDR 6 and is currently an active stone quarry. The proposed development consists of condominium apartments, with associated parking and related improvements. Runoff from the site flows under River Road in two culverts directly into Cabin John Creek; this drainage pattern will be maintained with the development of the site.

On-site quantity and quality stormwater management is proposed for approximately 11.9 acres of the project, which includes the proposed improvements on-site and the proposed improvements in River Road. The details of park dedication and requirements have not been resolved; stormwater management will be provided for any additional impervious surface created in association with the park dedication and construction. Channel protection volume (Cpv) is proposed in an array of 54" diameter pipes, with additional storage provided in the stormwater quality vault. The required Cpv volume is 20,742 cubic feet. The Cpv release rate is 0.25 cubic feet per second (c.f.s.). A control orifice of 2" diameter will provide this release rate.

Water quality volume (WQv) is proposed in a StormFilter vault. According to sizing computations provided by Stormwater Management Inc., a bed of 75 StormFilter cartridges is required.

Recharge volume (Rev) should not be required on this site. Given the current use of the site, it is expected that most of the site will be either on significant structural fill or on bedrock. Rev volume should not be provided in either of these situations.

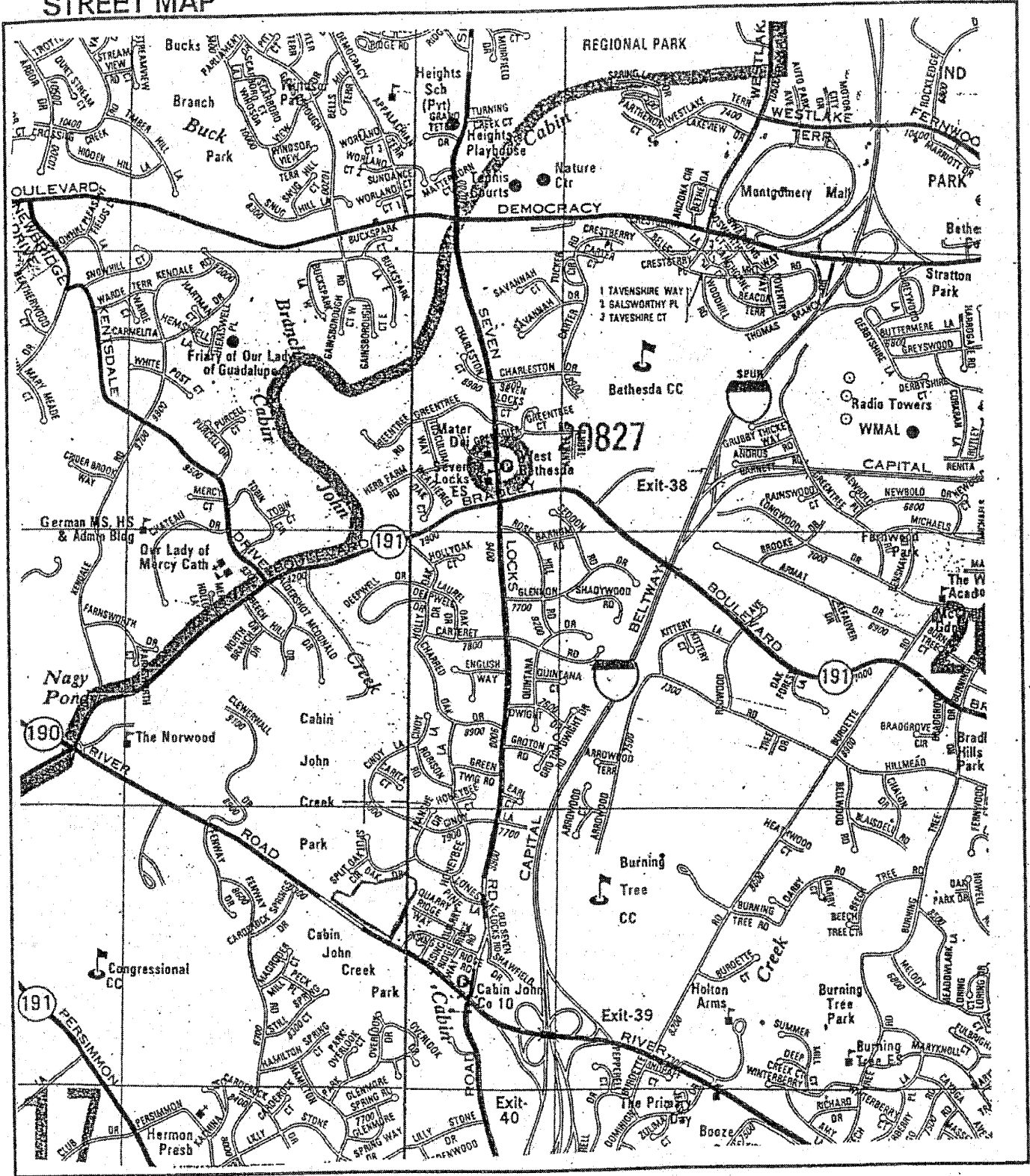
Three off-site areas, noted as Off-Site Area No. 1, No. 2 and No. 3 and comprising approximately 16.0 acres, currently drain to the quarry. Off-Site Area No. 1 is conveyed around the developed portion of the site in an existing 15" CMP storm drain and an existing channel that run along the eastern property line. This channel outfalls to the existing storm drain system the crosses the fire station driveway to the east. This 15" CMP storm drain and channel will be replaced/reconstructed if necessary. Off-Site Area No. 2 flows into the River Road right-of-way, and will be intercepted in a new inlet proposed in the existing ditch line. Off-Site Area No 3 is a small area of River Road, uphill from the improvements proposed for this project. This area will be intercepted by an inlet located at the transition from the existing bituminous curb to the proposed curb.

Macris, Hendricks & Glascock, P.A.
9220 Wightman Road, Suite 120
Montgomery Village, Maryland 20886
(301) 670-0840

Project Stoneyhurst Quarry
Project No. 01-205-11 Date 11/20/01
Prepared By JDS
Scale 1" = 2000'

STREET MAP

MAP 34 K9



WATERBODY: CABIN JOHN CREEK
STATE: MARYLAND

CLASS I-P WATERS
COUNTY: MONTGOMERY