

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

June 16, 2008

CALL TO PODIUM:

Fred Felton, Assistant City Manager

RESPONSIBLE STAFF:

Fred Felton, Assistant City Manager
Erica Shingara, Environmental Services Director

AGENDA ITEM:

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
	Public Hearing
	Historic District
	Consent Item
	Ordinance
X	Resolution
	Policy Discussion
	Work Session Discussion Item
	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	
Hearing Date	
Record Held Open	
Policy Discussion	

TITLE:
Resolution of the Mayor and City Council Approving an Amendment to the Waiver of the Environmental Standards for Development Regulation to Permit, at a Maximum, 1.12 Acres of Disturbance Within the Stream Valley Buffer at the Crown Property

SUPPORTING BACKGROUND:
As part of SDP-06-005 (Crown Property), the Mayor and City Council approved a waiver of the <i>Environmental Standards for Development Regulation (R-57-07)</i> on June 18, 2007. Since that time, the applicant has engaged in final engineering and additional field coordination and is requesting minor modifications to the environmental waiver.
As seen in the attached letter from Rodgers Consulting, the applicant requests minor changes to four of the eight previously approved environmental waiver impact areas: <ul style="list-style-type: none"> ▪ Area #1: adjust Pond 1 stormwater management outfall to minimize disturbance; ▪ Area #2: adjust Pond 2 stormwater management outfall to minimize disturbance; ▪ Area #4: relocate sanitary sewer connection in Neighborhood 2 to accommodate revised road grades; and ▪ Area #6: relocate sanitary sewer connection in Neighborhood 3 to avoid existing storm drain line.
These requested modifications result in a zero net change in area disturbed from the previously approved environmental waiver (i.e., areas #4 and #6 increase disturbed area by 900 square feet, while areas #1 and #2 decrease disturbed area by the same amount).
The original annexation agreement provided that the applicant could begin rough grading prior to the approval of final site plan; however, the original environmental waiver provided that no rough grading could occur until all necessary offsite stormwater management and sewer easements were obtained. To date, the applicant has been unable to obtain certain offsite easements that are necessary to accommodate the proposed development in Neighborhood 3.
Please see continuation sheet.

DESIRED OUTCOME:
Vote on Resolution.

MAYOR & COUNCIL AGENDA COVER SHEET

Therefore, in order to allow for phased rough grading and construction of Neighborhoods 1 and 2, the applicant is requesting that the original environmental waiver conditions #2, #4, #7, and #9 be modified to apply to *each neighborhood*, instead of the entire project. Accordingly, these four conditions have been modified to include the phrase "each neighborhood".

If the Mayor and City Council approve this amendment, the applicant will be able to move forward with grading in Neighborhoods 1 and 2 (assuming compliance with applicable laws and development approval conditions); however, no grading or land disturbance will be permitted in Neighborhood 3 until such time as the necessary easements are obtained or alternative solutions are developed.

Attachments:

Exhibit 1: Resolution

Exhibit 2: Letter from Dusty Rood, Rodgers Consulting, dated October 2, 2007, regarding the Crown Property Environmental Waiver- Minor Field-Based Modification Request

RESOLUTION NO. _____

RESOLUTION OF THE MAYOR AND CITY COUNCIL APPROVING AN AMENDMENT
TO THE WAIVER OF THE ENVIRONMENTAL STANDARDS FOR DEVELOPMENT
REGULATION TO PERMIT, AT A MAXIMUM, 1.12 ACRES OF DISTURBANCE WITHIN
THE STREAM VALLEY BUFFER AT THE CROWN PROPERTY

WHEREAS, the *Environmental Standards for Development Regulation* was adopted by the Mayor and City Council on November 19, 2001, providing the Mayor and City Council the authority to grant a waiver; and

WHEREAS, a condition of approval of SDP-06-005 (Crown Property) is for the applicant to obtain approval of an environmental waiver from the Mayor and City Council for intrusions into the stream buffer, as required by the *Environmental Standards for Development Regulation*; and

WHEREAS, on June 18, 2007 the Mayor and City Council reviewed the original environmental waiver (R-57-07) and determined that this circumstance warrants a waiver because the public interest benefits outweigh the risks to the environment, there are no other feasible alternatives, and the proposed mitigation measures will compensate for the disturbance to the stream valley buffer; and

WHEREAS, due to final engineering and field coordination constraints, minor modifications to the original environmental waiver impact areas were determined to be necessary and unavoidable; and

WHEREAS, the Mayor and City Council have determined that it is desirable for development to occur in Neighborhoods 1 and 2 (assuming compliance with applicable laws and development approval conditions) prior to the applicant obtaining the necessary easements to support development in Neighborhood 3; and

WHEREAS, the Mayor and City Council have determined that no grading or land disturbance will be permitted in Neighborhood 3 until such time as the necessary easements are obtained or alternative solutions are developed; and

WHEREAS, the amended Crown Property environmental waiver application satisfactorily complies with Section 6(e) of the Crown Farm Annexation (X-182) dated August 7, 2006, and therefore, the City is obligated to grant the necessary environmental waiver; and

WHEREAS, the Mayor and City Council believe it to be in the best interest of the City of Gaithersburg and its citizens to approve the amendments to the Crown Property environmental waiver, R-57-07:

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Gaithersburg, that the request for an amended waiver of the *Environmental Standards for Development Regulation* to permit, at a maximum, 1.12 acres of disturbance within the stream valley buffer at the Crown Property, including the Diamondback Road grading tie out, two stormwater management pond outfalls, a stormwater management pond grading tie out, two storm drain safe conveyance structures, and two sewer connections, is hereby amended subject to the following conditions:

1. The limits of disturbance and concept designs outlined in the waiver application are not absolute and may be modified by staff during final engineering and field coordination to minimize clearing, grading, tree removal, and encroachments into stream and wetland buffers; and
2. For each neighborhood, the applicant will obtain all necessary approvals and permits from all local, County, State, and Federal findings agencies prior to disturbing the stream valley buffer; and
3. The applicant will obtain all necessary approvals and permits for offsite impacts related to environmental waivers from offsite property owners and/or Montgomery County permitting agencies prior to the issuance of City development permits for each Neighborhood; and
4. The applicant will provide final engineering, pond reclamation, and construction details as part of the approval process of the final forest conservation plan, stormwater management plan, and/or sediment and erosion control plans to be approved by staff and other permitting agencies prior to the issuance of City development permits for each Neighborhood; and
5. As part of the project's onsite mitigation plan, the applicant will develop and implement approximately 700 linear feet of stream restoration utilizing natural channel design and bioengineering approaches; approximately 0.34 acres of wetland reclamation and reforestation; and contribute \$1.00 per square foot of encroachment into the stream valley buffer at the time of issuance of rough grading, at a rate of 1.5 to 1.0, to be used by Gaithersburg to enhance stream quality at a location to be determined off-site within the Muddy Branch Watershed; and
6. Storage or deposition of equipment, trucks, materials, waste, or debris within the stream buffer is prohibited; and
7. Upon the completion of construction for each Neighborhood, the applicant shall properly stabilize and restore all disturbed areas to natural conditions as soon as practicable, including the removal and proper disposal of refuse and debris as directed by City inspectors; and
8. The applicant will obtain stream restoration final design approval and MDE permits and will commence with restoration construction prior to the issuance of the first building permit for Neighborhood Two (2); and
9. Prior to the issuance of rough grading permits for each Neighborhood, the applicant will submit letters of intent from offsite property owners to grant the necessary sewer and storm drain easements.

ADOPTED by the Mayor and City Council this 16th day of June, 2008.

SIDNEY A. KATZ, MAYOR and
President of the Council

THIS IS TO CERTIFY that the foregoing
Resolution was adopted by the City Council
in a public meeting assembled on the 16th day
of June, 2008.

James D. Arnoult, Acting City Manager



October 2, 2007

Ms. Erica Shingara
City of Gaithersburg
31 South Summit Dr.
Gaithersburg, MD. 20877

Re: Crown Property
Environmental Waiver -
Minor Field-Based Modification
RCI Project No.: 1010A

Dear Ms. Shingara:

This correspondence and the enclosed exhibits are to notify you of a minor modification to the environmental waiver as a result of field coordination and final engineering. Per condition #1 of the Environmental Waiver Resolution (R-57-07) for the Crown property, *"The limits of disturbance and concept designs outlined in the waiver application are not absolute and may be modified by staff during final engineering and field coordination to minimize clearing, grading, tree removal, and encroachments into stream and wetland buffers."* The modifications outlined at this time are to Activities 1, 2, 4, and 6.

Activity 6, the sewer outfall for neighborhood 3, can not be constructed as previously shown due to the presence of a storm drain pipe and manhole located adjacent to the trunk sewer line that the sewer outfall would be tying into. An alternative alignment, an exhibit of which is enclosed, identifies a modified alignment which would avoid the crossing of the stream channel. There would be a slight increase to the temporarily disturbed area within the City's stream buffer associated with this new alignment. However, the impacts to the 100-year floodplain and stream channel have been reduced resulting in a more environmentally-desirable alignment.

Activity 4, the sewer outfall for neighborhood 2, includes a minor modification to the sewer line as a result of road grade revisions. The increase to the temporary disturbance associated with the modifications to activities 6 and 4 is only 900 square feet. The limits of disturbance associated with activities 1 and 2, the outfalls for SWM ponds 1 and 2, have been reduced such that this modification is a wash and results in no additional impacts above that which was already authorized.

A revised letter-sized exhibit for each of these activities is enclosed for the record along with the approved Environmental Waiver Resolution.

Please contact us if there are any questions or comments concerning this minor modification. We can be reached at (301) 948-4700 or drood@rodgers.com.

Sincerely,
Rodgers Consulting, Inc.



Dusty Rood
Senior Associate, Team Leader

Cc: Greg May, KB Homes
Gary Unterberg, RCI

Encl: Environmental Waiver Resolution R-57-07
Letter-sized Exhibits: Activities 1, 2, 4 & 5

<p>CITY OF GAITHERSBURG MAYOR & COUNCIL 31 SOUTH SUMMIT AVENUE, GAITHERSBURG, MARYLAND 20877</p> <p>SCHEMATIC DEVELOPMENT PLAN APPROVAL</p> <p>AT THE REGULARLY SCHEDULED MEETING OF THE MAYOR AND CITY COUNCIL HELD ON <u>5-21-2007</u></p> <p>APPLICATION NO. <u>SDP-06-005</u> WAS GRANTED</p> <p>SCHEMATIC DEVELOPMENT PLAN APPROVAL</p> <p>BY RESOLUTION <u>R-51-07</u> WITH <u>Twenty-four</u> (24) CONDITIONS.</p> <p>DATE _____ BY _____</p> <p>NOTE: ANY REVISIONS TO SIGNED PLANS MUST BE REAPPROVED BY THE MAYOR & CITY COUNCIL</p>

RESOLUTION NO. R-57-07

RESOLUTION OF THE MAYOR AND CITY COUNCIL APPROVING A WAIVER OF
THE ENVIRONMENTAL STANDARDS FOR DEVELOPMENT REGULATION
TO PERMIT, AT A MAXIMUM, 1.12 ACRES OF DISTURBANCE WITHIN
THE STREAM VALLEY BUFFER AT THE CROWN PROPERTY

WHEREAS, the *Environmental Standards for Development Regulation* was adopted by the Mayor and City Council on November 19, 2001, providing the Mayor and City Council the authority to grant a waiver; and

WHEREAS, a condition of approval of SDP-06-005 (Crown Property) is for the applicant to obtain approval of an environmental waiver from the Mayor and City Council for intrusions into the stream buffer, as required by the *Environmental Standards for Development Regulation*; and

WHEREAS, the Crown Property environmental waiver application satisfactorily complies with Section 6(e) of the Crown Farm Annexation (X-182) dated August 7, 2006, and therefore, the City is obligated to grant necessary environmental waivers; and


WHEREAS, staff has reviewed the proposed waiver and determined that this circumstance warrants a waiver because the public interest benefits outweigh the risks to the environment, there are no other feasible alternatives, and the proposed mitigation measures will compensate for the disturbance to the stream valley buffer.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Gaithersburg, that the request for a waiver of the *Environmental Standards for Development Regulation* to permit, at a maximum, 1.12 acres of disturbance within the stream valley buffer at the Crown Property, including the Diamondback Road grading tie out, two stormwater management pond outfalls, a stormwater management pond grading tie out, two storm drain safe conveyance structures, and two sewer connections, is hereby approved subject to the following conditions:

1. The limits of disturbance and concept designs outlined in the waiver application are not absolute and may be modified by staff during final engineering and field coordination to minimize clearing, grading, tree removal, and encroachments into stream and wetland buffers;
2. The applicant will obtain all necessary approvals and permits from all local, County, State, and Federal findings agencies prior to disturbing the stream valley buffer;
3. The applicant will obtain all necessary approvals and permits for offsite impacts related to environmental waivers from offsite property owners and, or Montgomery County permitting agencies prior to the issuance of City development permits for each phase;
4. The applicant will provide final engineering, pond reclamation, and construction details as part of the approval process of the final forest conservation plan, stormwater management plan, and/or sediment and erosion control plans to be approved by staff and other permitting agencies prior to the issuance of City development permits for each phase;

5. As part of the project's onsite mitigation plan, the applicant will develop and implement approximately 700 linear feet of stream restoration utilizing natural channel design and bioengineering approaches; approximately 0.34 acres of wetland reclamation and reforestation; and contribute \$1.00 per square foot of encroachment into the stream valley buffer, at the time of issuance of rough grading, at a rate of 1.5 to 1.0, to be used by Gaithersburg to enhance stream quality at a location to be determined off-site within the Muddy Branch Watershed;
6. Storage or deposition of equipment, trucks, materials, waste, or debris within the stream buffer is prohibited;
7. Upon the completion of construction, the applicant shall properly stabilize and restore all disturbed areas to natural conditions as soon as practicable, including the removal and proper disposal of refuse and debris as directed by City inspectors; and
8. The applicant will obtain stream restoration final design approval and MDE permits and will commence with restoration construction prior to the issuance of the first building permit for Neighborhood Two (2).
9. Prior to the issuance of rough grading permits, the applicant will submit letters of intent from offsite property owners to grant the necessary sewer and storm drain easements.

ADOPTED by the Mayor and City Council this 18th day of June, 2007.


SIDNEY A. KATZ, MAYOR and
President of the Council

THIS IS TO CERTIFY that the foregoing
Resolution was adopted by the City Council
in a public meeting assembled on the 18th day
of June, 2007.



David B. Humpton, City Manager

CITY OF GAITHERSBURG MAYOR & COUNCIL
 31 SOUTH SUMMIT AVENUE, GAITHERSBURG, MARYLAND 20877

**SCHEMATIC DEVELOPMENT
 PLAN APPROVAL**

AT THE REGULARLY SCHEDULED MEETING OF THE MAYOR AND
 CITY COUNCIL HELD ON 5-21-2007

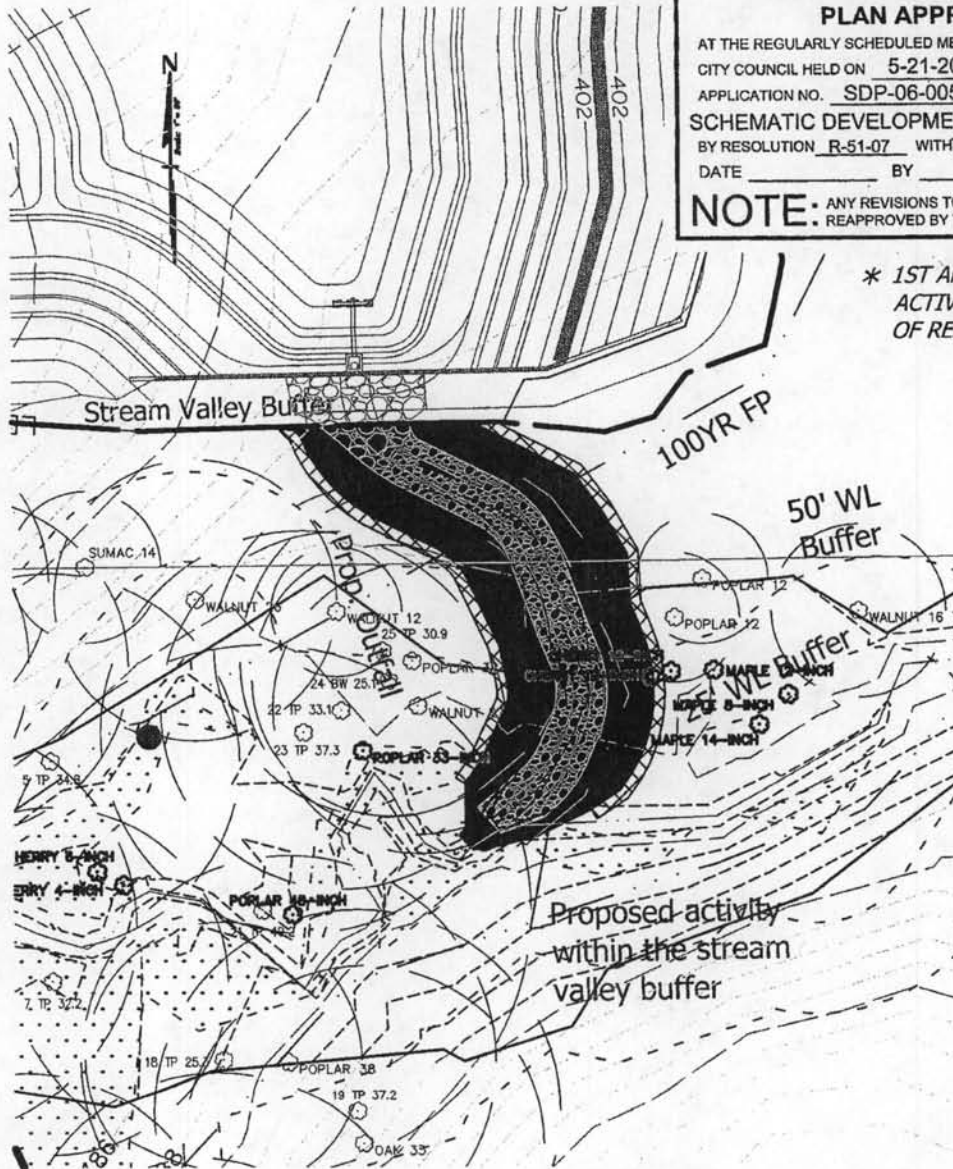
APPLICATION NO. SDP-06-005 WAS GRANTED

SCHEMATIC DEVELOPMENT PLAN APPROVAL
 BY RESOLUTION R-51-07 WITH twenty-four (24) CONDITIONS.

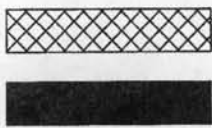
DATE _____ BY _____

NOTE: ANY REVISIONS TO SIGNED PLANS MUST BE
 REAPPROVED BY THE MAYOR & CITY COUNCIL

* 1ST AMENDMENT TO THIS
 ACTIVITY PER CONDITION 1
 OF RESOLUTION R-57-07



Critical Root Zone
 Indicates tree to be removed



Previously approved activity within
 the Stream Valley Buffer
 Proposed amendment to activity within
 the Stream Valley Buffer

*For exhibit purposes only. Please refer to SWM Pond 1
 Construction Plans for additional details*

THE CROWN PROPERTY
 Vision for a New Community

SWM -- Safe Conveyance

City of Gaithersburg, Maryland

Environmental Waiver
 (Scale: 1"=50')

**RODGERS
 CONSULTING**

Enhancing the value of land assets

Rodgers Consulting, Inc.
 19847 Century Blvd., Suite 200
 Germantown, MD 20874
 301.948.4700
 301.948.6256 (fax)
 301.253.6609
 www.rodgers.com

CITY OF GAITHERSBURG MAYOR & COUNCIL
 31 SOUTH SUMMIT AVENUE, GAITHERSBURG, MARYLAND 20877

**SCHEMATIC DEVELOPMENT
 PLAN APPROVAL**

AT THE REGULARLY SCHEDULED MEETING OF THE MAYOR AND
 CITY COUNCIL HELD ON 5-21-2007

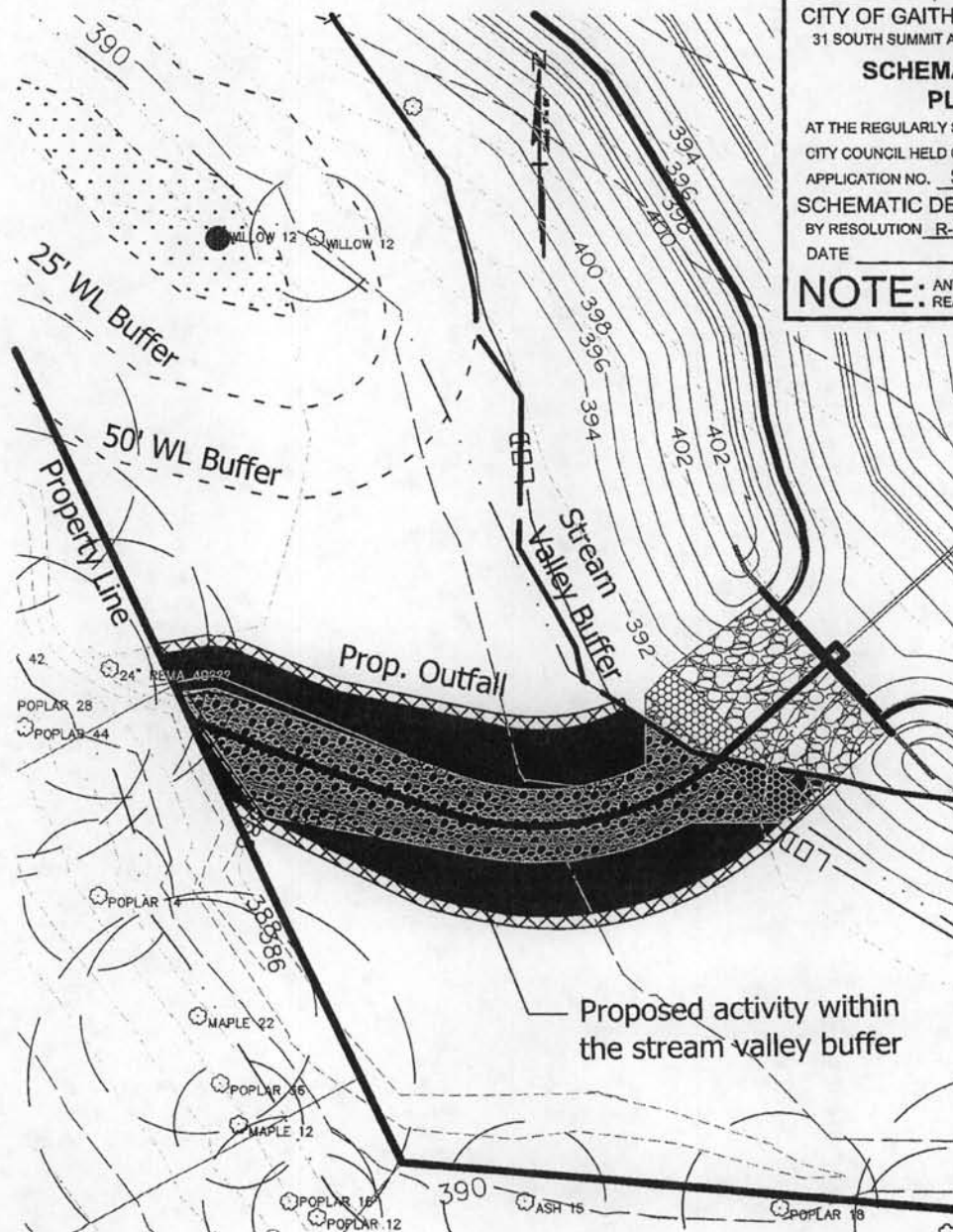
APPLICATION NO. SDP-06-005 WAS GRANTED





SCHEMATIC DEVELOPMENT PLAN APPROVAL
 BY RESOLUTION R-51-07 WITH twenty-four (24) CONDITIONS.

DATE _____ BY _____

NOTE: ANY REVISIONS TO SIGNED PLANS MUST BE
 REAPPROVED BY THE MAYOR & CITY COUNCIL

* 1ST AMENDMENT TO THIS
 ACTIVITY PER CONDITION 1
 OF RESOLUTION R-57-07



-  Critical Root Zone
-  Indicates tree to be removed
-  Previously approved activity within the Stream Valley Buffer
-  Proposed amendment to activity within the Stream Valley Buffer

*For exhibit purposes only. Please refer to SWM Pond 2
 Construction Plans for additional details*

THE CROWN PROPERTY
 Vision for a New Community

SWM -- Safe Conveyance

City of Gaithersburg, Maryland

Environmental Waiver
 (Scale: 1"=50')

2

RODGERS
 CONSULTING

Enhancing the value of land assets

Rodgers Consulting, Inc.
 19847 Century Blvd., Suite 200
 Germantown, MD 20874
 301.948.4700
 301.948.6256 (fax)
 301.253.6609
 www.rodgers.com

CITY OF GAITHERSBURG MAYOR & COUNCIL
 31 SOUTH SUMMIT AVENUE, GAITHERSBURG, MARYLAND 20877

**SCHEMATIC DEVELOPMENT
 PLAN APPROVAL**

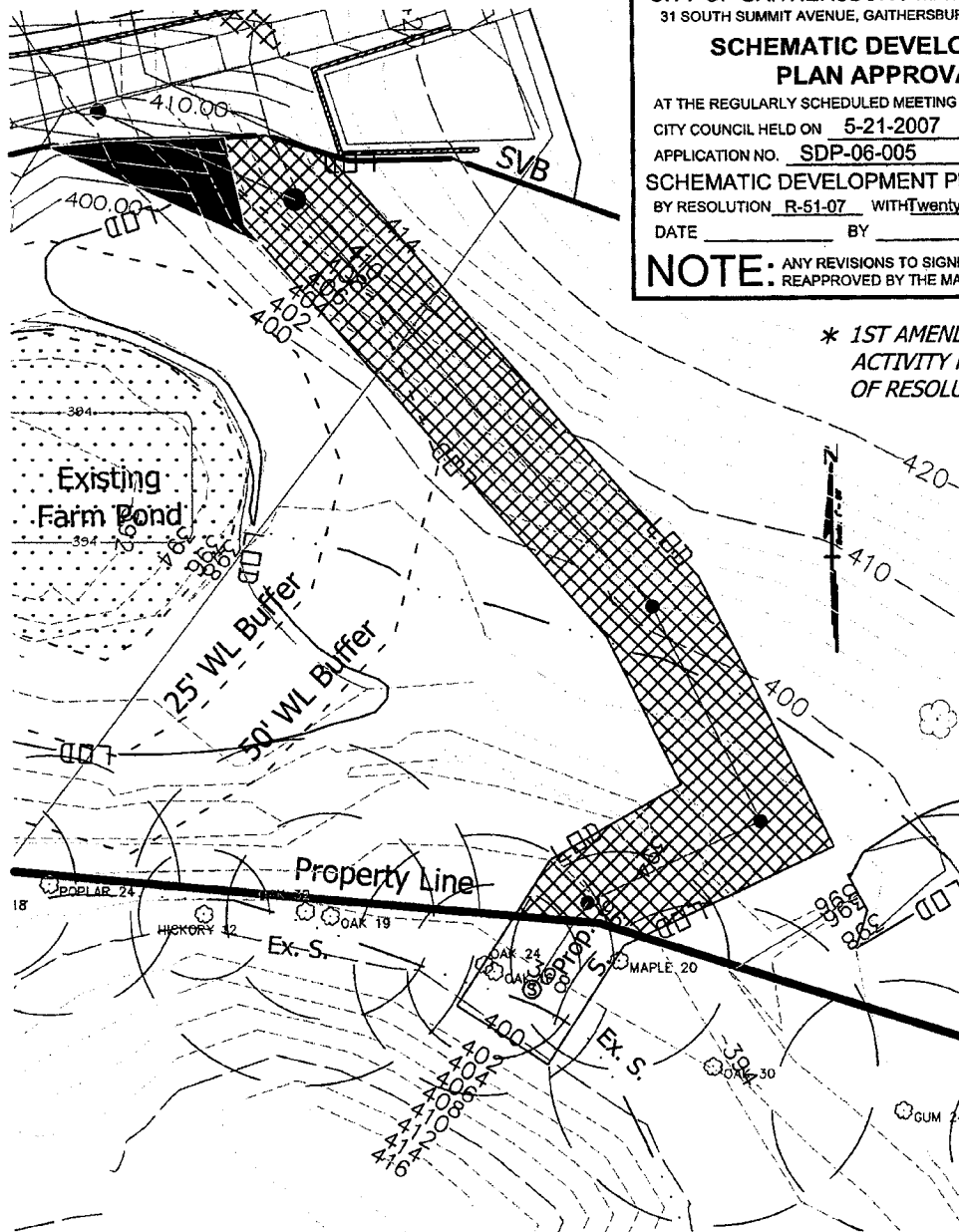
AT THE REGULARLY SCHEDULED MEETING OF THE MAYOR AND
 CITY COUNCIL HELD ON **5-21-2007**

APPLICATION NO. **SDP-06-005** WAS GRANTED
 SCHEMATIC DEVELOPMENT PLAN APPROVAL
 BY RESOLUTION **R-51-07** WITH **twenty-four (24)** CONDITIONS.

DATE _____ BY _____

NOTE: ANY REVISIONS TO SIGNED PLANS MUST BE
 REAPPROVED BY THE MAYOR & CITY COUNCIL

** 1ST AMENDMENT TO THIS
 ACTIVITY PER CONDITION 1
 OF RESOLUTION R-57-07*



Critical Root Zone



Previously approved activity within
 the Stream Valley Buffer



Proposed amendment to activity within
 the Stream Valley Buffer

*For exhibit purposes only. Please refer to WSSC Improvement
 Plans for additional details*

Note: Off site improvement subject to approval by
 property owner & county.

THE CROWN PROPERTY

Vision for a New Community

Sanitary Sewer Connection

City of Gaithersburg, Maryland

Environmental Waiver
 (Scale: 1"=50')

4



Enhancing the value of land assets

Rodgers Consulting, Inc.
 19847 Century Blvd., Suite 200
 Germantown, MD 20874
 301.948.4700
 301.948.6256 (fax)
 301.253.6609
 www.rodgers.com

CITY OF GAITHERSBURG MAYOR & COUNCIL
 31 SOUTH SUMMIT AVENUE, GAITHERSBURG, MARYLAND 20877

**SCHEMATIC DEVELOPMENT
 PLAN APPROVAL**

AT THE REGULARLY SCHEDULED MEETING OF THE MAYOR AND
 CITY COUNCIL HELD ON **5-21-2007**

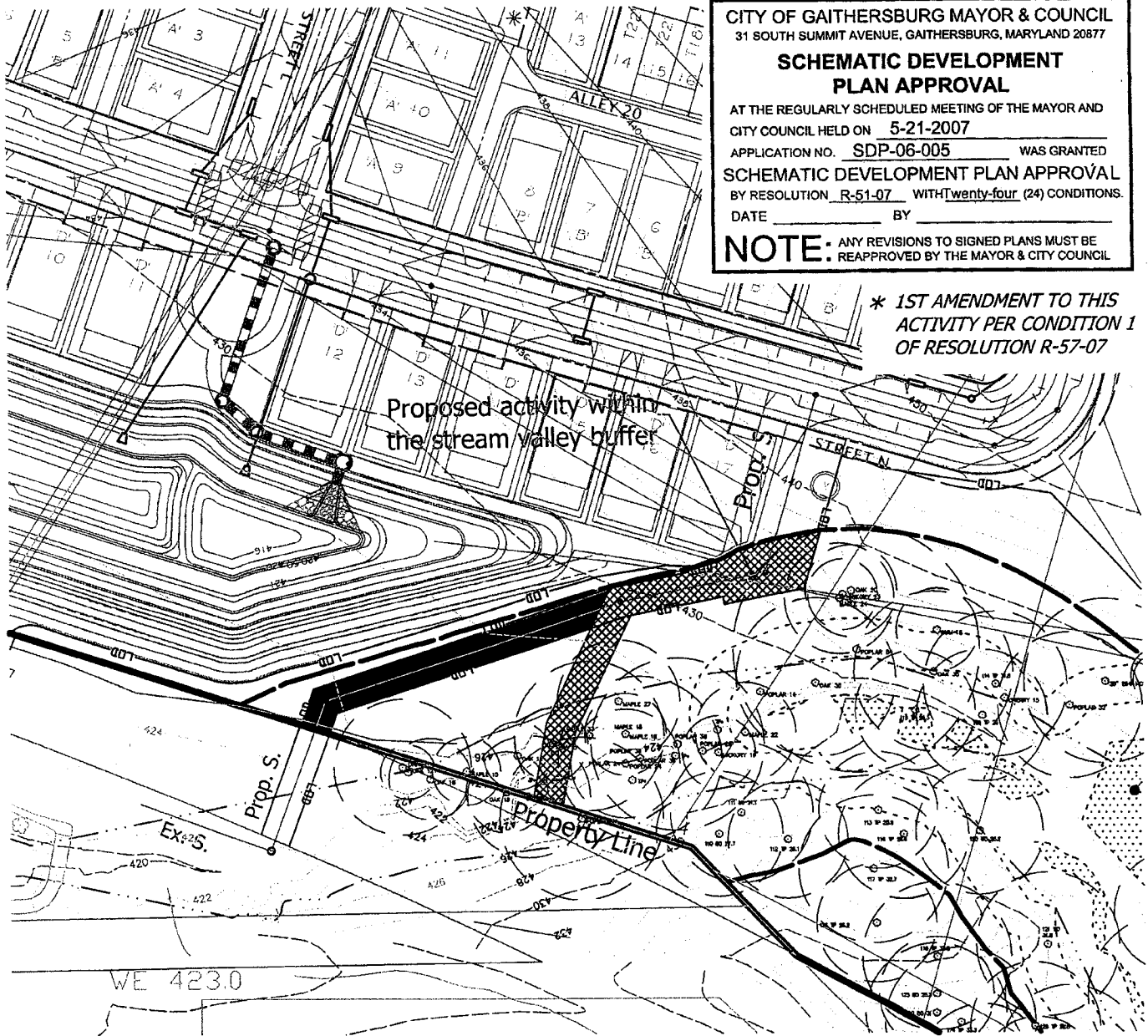
APPLICATION NO. **SDP-06-005** WAS GRANTED

SCHEMATIC DEVELOPMENT PLAN APPROVAL
 BY RESOLUTION **R-51-07** WITH **twenty-four (24)** CONDITIONS.

DATE _____ BY _____

NOTE - ANY REVISIONS TO SIGNED PLANS MUST BE
 REAPPROVED BY THE MAYOR & CITY COUNCIL

** 1ST AMENDMENT TO THIS
 ACTIVITY PER CONDITION 1
 OF RESOLUTION R-57-07*



Critical Root Zone

Indicates tree to be removed



Previously approved activity within
 the Stream Valley Buffer



Proposed amendment to activity within
 the Stream Valley Buffer

*For exhibit purposes only. Please refer to WSSC Improvement
 Plans for additional details*

Note: Off site improvement subject to approval by
 property owner & county.

THE CROWN PROPERTY

Vision for a New Community

Sanitary Sewer Connection

City of Gaithersburg, Maryland

Environmental Waiver
 (Scale: 1"=100')

6



Enhancing the value of land assets

Rodgers Consulting, Inc.
 19847 Century Blvd., Suite 200
 Germantown, MD 20874
 301.948.4700
 301.948.6256 (fax)
 301.253.6609
 www.rodgers.com