

AGENDA ITEM #7  
July 13, 2010

**Introduction**

**MEMORANDUM**

July 9, 2010

TO: County Council

FROM: Jean Arthur, Legislative Analyst *JCA*  
Marlene Michaelson, Senior Legislative Analyst *MM*

SUBJECT: Acquisition of Real Property from the Estate of Mary Koskoris in the Germantown Area of Montgomery County as Parkland for the Ovid Hazen Wells Greenway

The Park and Planning Commission has negotiated a Land Purchase Contract to purchase the Mary Koskoris property. The purchase is an initial acquisition for the Ovid Hazen Wells Greenway which will provide a master planned trail corridor that will connect Ovid Hazen Wells Recreational Park with Damascus. The Koskoris property is located immediately adjacent to Ovid Hazen Wells Recreational Park, west of Ridge Road (MD Rte. 27). The Planning Board recommendation is attached at © 3 to 15. A resolution approving the acquisitions is attached at © 1 to 2.

The Ovid Hazen Wells Greenway connection is recommended in the Clarksburg Master Plan and Hyattstown Special Study Area, approved and adopted in June 1994. A discussion of this proposed greenway is found on page 158 of the plan, and it is shown on Figure 28, page 72 and Figure 48, page 57. Copies of these pages are attached at © 10 to 12.

The Koskoris property falls within the Little Seneca Creek Watershed, which has high water quality and is recommended for key protection strategies in the Master Plan. The environmentally sensitive areas of the stream buffer adjacent to little Seneca Creek on the Koskoris property will be protected as a result of this acquisition.

The proposed acquisition consists of approximately 4.27 acres and currently is improved with a two-story wood frame house with a gross living floor area of about 1,484 square feet. There also is a detached two-car garage and accessory barn. The condition of all the buildings on the

property is considered average to poor. The buildings have been vacant for at least two years. The Department of Housing and Community Affairs was consulted to see if they were interested in potential reuse of the structure and they indicated that they were not interested (see ©13). The purchase price of the entire property, including the improvements, is **\$345,000**. Up to \$75,000 may be spent on demolition.

The Montgomery County Planning Board is recommending that this purchase be funded through the Commission's Advance Land Acquisition Revolving Fund (ALARF) because of the lack of funds in the Acquisition: Non-Local Parks CIP project. The District Council must give approval when ALARF funds are to be used.

Article 28 of the State Code authorizes the Planning Commission to use the ALARF, with the approval of the County Council, to purchase land for highways, schools, and other public uses. The intent of this section is to provide a mechanism for protecting sites planned for future public use from development by allowing rapid acquisition. ALARF is typically repaid once a capital project to construct the facility is approved. Property to be acquired under this authority must be shown on an approved and adopted master plan. In addition, sites planned for a public use other than a State highway, street, road, or mass transit facility may not be purchased with ALARF funds if the site is within a public construction program current at the time of acquisition.

Resolution No.: \_\_\_\_\_  
Introduced: July 13, 2010  
Adopted: \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: District Council

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**SUBJECT:** Acquisition of Real Property from the Estate of Mary Koskoris in the Germantown Area of Montgomery County as Parkland for the Ovid Hazen Wells Greenway

**Background**

1. The Montgomery County Council has approved the establishment of an Advance Land Acquisition Revolving Fund for the Maryland-National Capital Park and Planning Commission. The fund was originally created through a \$7 million bond issue in FY72 and supplemented with a \$5 million bond issue in FY90, a \$2.2 million bond issue in FY94, and a \$2 million bond issue in FY05.
2. The Montgomery County Council has provided for expenditures from this fund in Fiscal Year 2011.
3. The Maryland-National Capital Park and Planning Commission has requested the Council's approval to acquire the below-described real property, in the Germantown area of Montgomery County, as an advance land acquisition to provide parkland for the Ovid Hazen Wells Greenway.
4. The subject property will be acquired from a willing seller for a master planned public purpose.

**Action**

The County Council for Montgomery County, Maryland, sitting as District Council for that portion of the Maryland-Washington Regional District within Montgomery County, approves the following resolution:

The County approves the acquisition by The Maryland-National Capital Park and Planning Commission of the below described real property:

1. All that piece or parcel of land conveyed to James Koskoris and Mary Koskoris, his wife, as Tenants by the Entireties, from Edgar L. Thompson and Bertha Thompson, his wife, by deed dated September 2, 1970 and recorded on September 14, 1970 in Liber

3999 at Folio 276 among the Land Records of Montgomery County, Maryland, consisting of 4.27 acres, more or less, improved, said land being located in the Clarksburg (2nd) Election District, situated on the west side of Ridge Road (MD Rte. 27), north of its intersection with Davis Mill Road, having a street address of 23500 Ridge Road, Germantown, Maryland 20876.

Tax Account #02-1-23477

2. The subject property will be used to provide parkland for the Ovid Hazen Wells Greenway and is for a necessary and proper public purpose.
3. The total cost of the acquisition described in (1) above shall not exceed the sum of Three Hundred Forty-Five Thousand and .00/100 Dollars (\$345,000.00) and the total cost of demolition of improvements on the property described in (1) above shall not exceed the sum of Seventy Five Thousand and .00/100 Dollars. (\$75,000.00).
4. This action is in compliance with Maryland Ann. Code, Article 28, §7-106 (1957).

This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council

OWNER: Estate of Mary Koskoris

PARK: Ovid Hazen Wells Greenway

ADDRESS: c/o Sophia Cox, Personal Representative  
253 Galewood Drive  
Edgewater, MD 21037-3436

LAND PURCHASE AGREEMENT

THIS AGREEMENT, made this 6<sup>th</sup> day of May, 2010 by and between Sophia Cox, Personal Representative of the Estate of Mary Koskoris, hereinafter called "Grantor" and THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION, hereinafter called the "Commission", witnesseth:

WHEREAS, Grantor desires to sell and the Commission desires to buy certain property located in Montgomery County, Maryland, more particularly described as follows:

All that piece of parcel of land conveyed from Edgar L. Thompson and Bertha Thompson, his wife, to James Koskoris (who died on or about March 17, 1994) and Mary Koskoris, his wife, (who died on or about September 22, 1994), as Tenants by the Entireties, by deed dated September 2, 1970 and recorded on September 14, 1970 among the Land Records of Montgomery County, Maryland in Liber 3999 at Folio 276, consisting of 4.2702 acres, more or less, improved, said land being located at 23500 Ridge Road, Germantown, Maryland 20876, and as shown outlined in red on Exhibit "A" attached hereto and made a part hereof.

Tax I.D. #02-1-23477

and

WHEREAS, Grantor is willing to sell the above described property to the Commission as per Exhibit "A";

NOW THEREFORE WITNESSETH, for and in consideration of the sum of TEN DOLLARS (\$10.00) as part of the purchase price to the Grantor in hand paid by the Commission, at and before the execution and delivery of this Agreement, the premises, and mutual promises herein contained, and other good and valuable considerations, the receipt of which is hereby acknowledged by the Grantor, the parties hereto promise, stipulate, and agree as follows:

③

1. The Grantor does hereby agree to sell and convey to the Commission, as hereinafter set forth, the said property herein described.

2. The Commission agrees to purchase said property for the sum of THREE HUNDRED FORTY-FIVE THOUSAND AND .00/100 DOLLARS (\$345,000.00). Settlement, hereunder, shall occur within ninety (90) days from the date hereof or as soon as possible thereafter, as any attorney-at-law to be promptly selected by the Commission, reports upon the title of the land purchased and is ready to make settlement.

3. Settlement shall take place at the law offices of the settlement attorney selected by the Commission at a date and time mutually convenient to the parties. The deed and such other papers as are required of either party by the terms hereof shall be considered good and sufficient tender of performance of the terms hereof. Payment of full purchase price shall be by Commission check or wire transfer upon recordation of deed. If required, funds arising out of this transaction may be used to pay off existing encumbrances.

4. Title is to be good and marketable. If title is satisfactory, Commission shall prepare and furnish a deed to be promptly executed and delivered by Grantor to said Commission. The premises are to be conveyed by deed, in fee simple, free and clear of all liens and encumbrances; subject only to covenants, restrictions, and conditions of record which will not in any way interfere with Commission's proposed use of property. If the title is defective, Grantor shall promptly take necessary action to remedy at expense of Grantor or shall pay costs of remedy by Commission. If title cannot be remedied, Grantor will pay title search. Commission reserves the right to clear title by legal action, including condemnation, if necessary in the opinion of the Commission, and the Grantor hereby agrees that the fair market value of the property for the purpose of such proceedings, if required, is the price stated in Paragraph 2. Property shall be conveyed free of

notices of violations of any municipal or state orders or requirements, unless Commission consents.

5. Rent, operating expenses, water rent, utilities and interest on existing encumbrances, if applicable, shall be adjusted to date of settlement. Taxes, general and special, are to be adjusted to date of settlement (according to the certification of taxes issued by the Director of Finance for Montgomery County). All County and State transfer taxes, if any, shall be paid by the Commission. Farm Assessment Transfer taxes, if any, shall be paid by the Grantor. If the Grantor's entire parcel is to be conveyed, and there are assessments for improvements completed prior to the date of settlement, whether assessment therefore has been levied or not, they shall be paid by the Grantor or allowance made therefore at time of settlement. If only part of Grantor's land is to be conveyed, Grantor shall pay or make allowance for such assessment proportionate to property conveyed. If part of larger parcel is to be conveyed hereunder, annual front foot benefit charges of the Washington Suburban Sanitary Commission, if any, are to be adjusted to date of settlement and thereafter apportioned to the respective interest. If entire parcel is conveyed, Commission will assume or pay off such charges, if any. Grantor shall pay all costs for preparation and recordation of releases of existing liens and encumbrances. Costs of title search, preparation and recordation of necessary deed shall be assumed by the Commission.

6. Risk of loss or damage to the said property by fire or other casualty is assumed by Grantor and Grantor shall maintain insurance coverage on the subject property until Commission takes possession of said property pursuant to paragraph 8 herein.

7. Duly authorized Commission personnel, agents or assigns, shall have the right to enter in and upon the above-described property for purposes of examination and inspection immediately upon the signing of this Agreement by both parties provided such entry shall be during normal business hours and cause no disturbance to the property or any person in possession and provided that such entry shall not be construed as a waiver of any objection to title.

8. Possession shall be delivered to the Commission at the time of final settlement, except as otherwise herein noted. Grantor must deliver the property free and clear of any tenancies. Buildings and improvements sold hereunder are to be left in condition as of time of this Agreement and no air-conditioning, furnaces, fixtures or any other items of realty, are to be removed except as may specifically appear under special conditions of this Agreement. Grantor shall enter into no leases that will extend beyond the settlement date.

9. It is hereby further understood and agreed that all notices to be given under this Agreement will be given to Grantor at address shown herein. Notices to the Commission will be sent to the following address:

Montgomery County Department of Parks  
Land Acquisition Specialist  
9500 Brunett Avenue  
Silver Spring, Maryland 20901

10. This Agreement shall be binding upon the Grantor, its successors, and assigns, and shall be binding upon the Commission, its successors and assigns.

11. It is further understood and agreed that the content hereof comprises the entire Agreement, and that no verbal representations made before or after the signing hereof or anything not herein written shall vary the terms of this Agreement, and that the said Commission shall have no further obligations. This Agreement shall not merge but shall survive recording of deed.

12. M-NCPPC is a bi-county agency empowered by the State of Maryland to acquire, develop, maintain and administer a regional system of parks within the Metropolitan District in Montgomery and Prince George's Counties. In accordance with the MD Ann. Code, Art, 28, Section 5-101, M-NCPPC may acquire land or other property located within the district by means of donations, purchases, or condemnation. The property was purchased in lieu of condemnation.

13. In the event that, on or before July <sup>31</sup> 2010, the Montgomery County Council

(6)

does not take such action as is required in accordance with MD Ann. Code, Article 28, Section 7-106 and pass a formal resolution authorizing the Commission to purchase the property in accordance with this Agreement, this Agreement shall terminate and be of no further force and effect and the parties shall be released from any and all obligations hereunder without recourse.

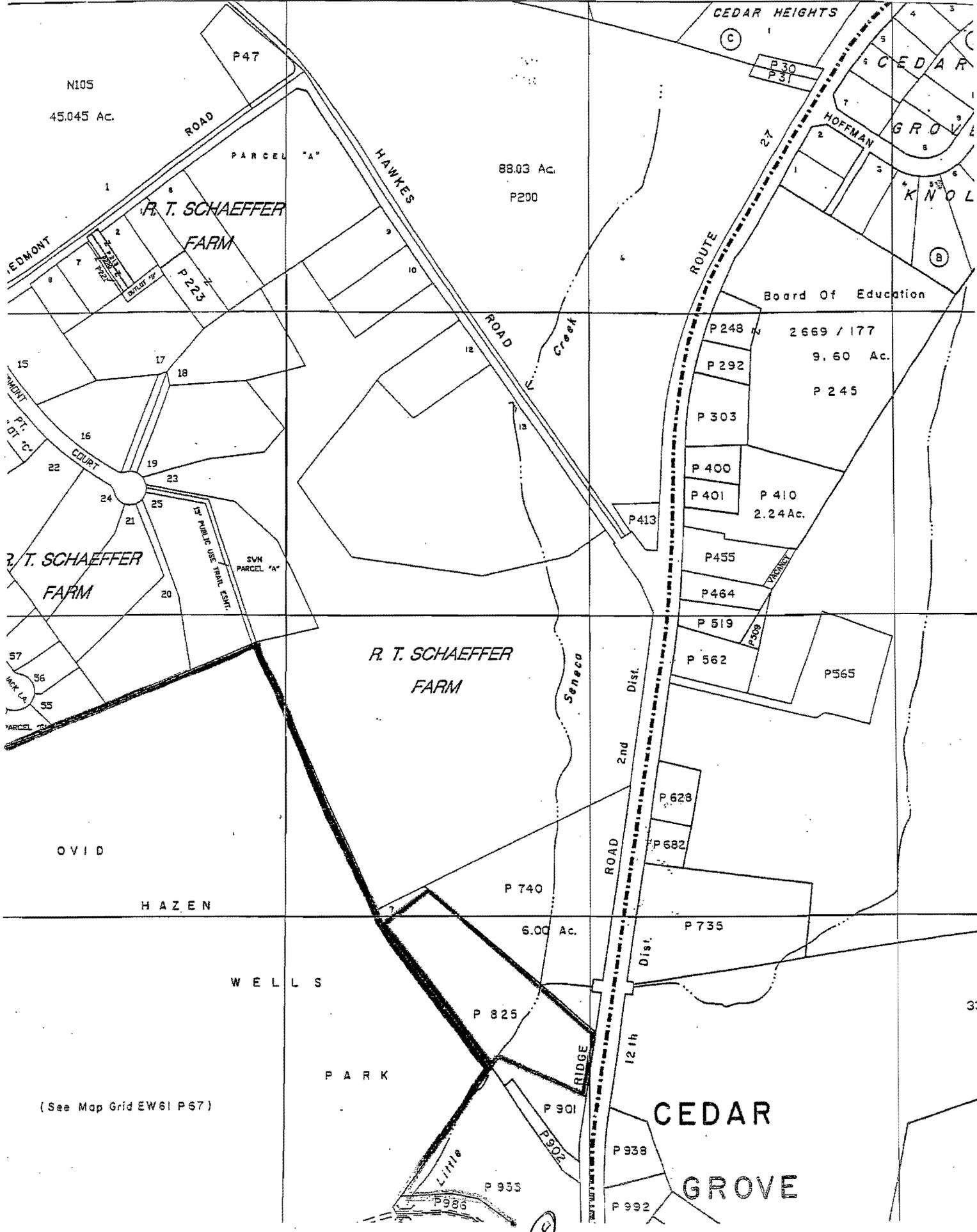
IN WITNESS WHEREOF, the Agreement, made in triplicate, the Grantor hereto sets its hand and seal, and the Commission has caused these presents to be signed by its Executive Director.

WITNESS: *Barbara Veludo* BY: *Sophia Cox* (SEAL)  
Estate of Mary Koskoris (Grantor)  
Sophia Cox, Personal Representative

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

ATTEST: \_\_\_\_\_  
Al Warfield  
Acting Secretary-Treasurer

BY: \_\_\_\_\_  
Patricia Colihan Barney  
Executive Director



N105  
45.045 Ac.

88.03 Ac.  
P200

Board Of Education  
2669 / 177  
9.60 Ac.  
P 245

2.24 Ac.  
P 410

P 740  
6.00 Ac.

OVID

HAZEN

WELLS

PARK

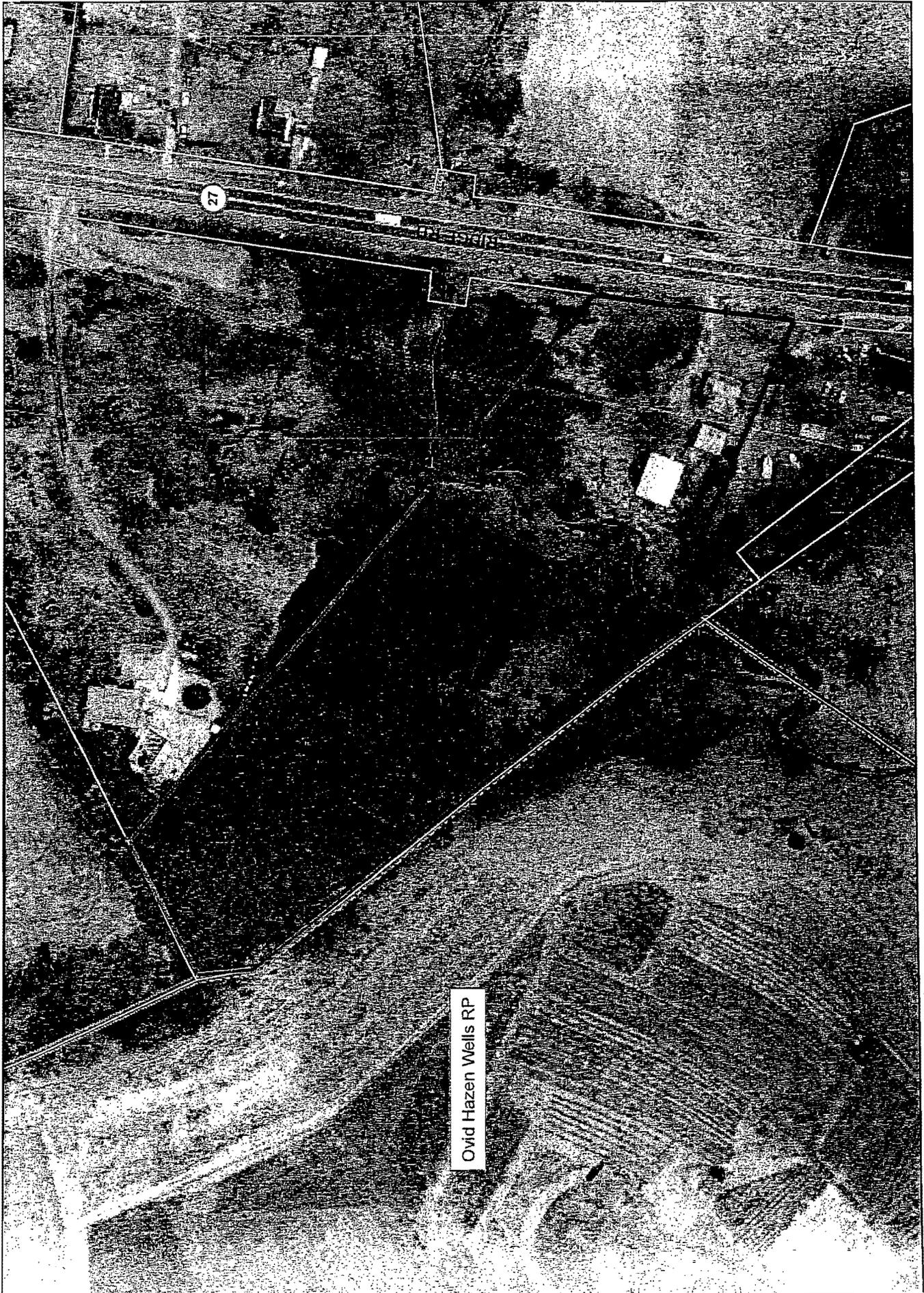
CEDAR  
GROVE

(See Map Grid EW61 P67)

EXHIBIT "A"

8

Koskoris Property



Ovid Hazen Wells RP

9

Today's Date: 5/26/09  
Sources: M-NCPPC, 2008



1" = 100'

N

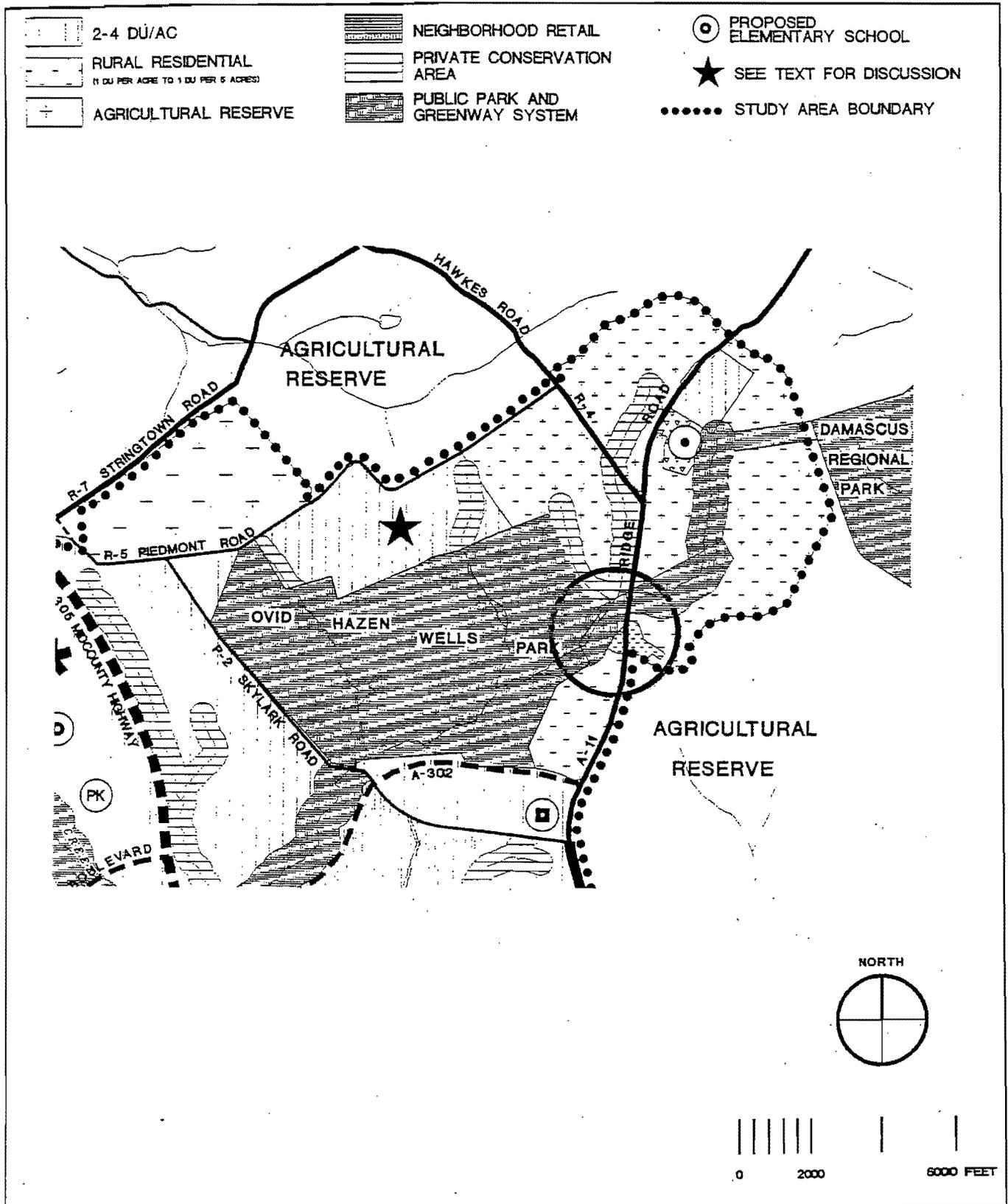
## Description of Greenways

Table 12

Segment	Description
Ten Mile Creek Greenway	<p>The Ten Mile Creek greenway is recommended to connect the western part of Black Hill Regional Park and the southern part of Little Bennett Regional Park. The greenway is planned to cross over I-270 along Comus Road due to limits on crossing under I-270 with the stream. The greenway is recommended to continue along West Old Baltimore Road to connect with the main entrance to Black Hill Regional Park and the Little Seneca Creek greenway. Approximately 200 acres are recommended for acquisition in the Ten Mile Creek sub-basin assuming an area 300 feet wide on each side of the stream (600 feet total).</p> <p>This Plan recommends that the location of an unpaved trail within the greenway be on the east side of the valley. Topographic constraints would make it extremely difficult to achieve the grading standards for a paved trail. The path may be located on the west side when environmental or functional considerations preclude construction on the east. This policy is intended to minimize potential conflicts with active agricultural activities on the west side of the stream.</p>
Little Seneca Creek Greenway	<p>The Little Seneca Creek greenway is recommended to connect the eastern part of Black Hill Regional Park with Kings Pond Local Park, the southern portion of Little Bennett Regional Park, and the western part of Ovid Hazen Wells Recreational Park. The greenway will cross under I-270 along West Old Baltimore Road due to limits on crossing under I-270 with the stream. The greenway is recommended to enter Black Hill Regional Park at the current entrance on West Old Baltimore Road. Approximately 280 acres are recommended for acquisition in the Little Seneca Creek Basin assuming an area 300 feet wide on each side of the stream (600 feet total). Of the 280 acres, approximately 180 acres are already in the acquisition program. North of Kings Pond Local Park, the total width of the greenway is recommended to be 300 feet where not associated with a stream valley.</p> <p>Within the Town Center District, the total width of 600 feet conflicts with the Plan's Land Use and Urban Design recommendations regarding the need to provide physical connections and an integrated development pattern in the Town Center. The Department of Parks will be evaluating the amount of land needed to achieve the park-like environment while achieving the Land Use and Urban Design objectives in this urbanized portion of the Study Area.</p>
Ovid Hazen Wells Greenway	<p>The Ovid Hazen Wells greenway is recommended to connect the eastern portion of Ovid Hazen Wells Recreation Park to the western portion of Damascus Recreational Park. Approximately 30 acres of new parkland is recommended for acquisition. Unlike the sections of the greenways which parallel stream valleys, this section of the greenway will be a total of 300 feet wide. In addition, a crossing of Ridge Road (MD 27) must be provided.</p>
Little Bennett Creek Greenway	<p>The Little Bennett Creek greenway is recommended to connect Little Bennett Park to conservation areas in Frederick County. It also would provide trail access to the camping entrance at Little Bennett Regional Park. This recommendation extends beyond the Study Area boundaries. The final decisions regarding the location of the greenway as it crosses Midcounty Highway in the vicinity of Little Bennett Regional Park must await more information regarding the character of Midcounty Highway.</p>

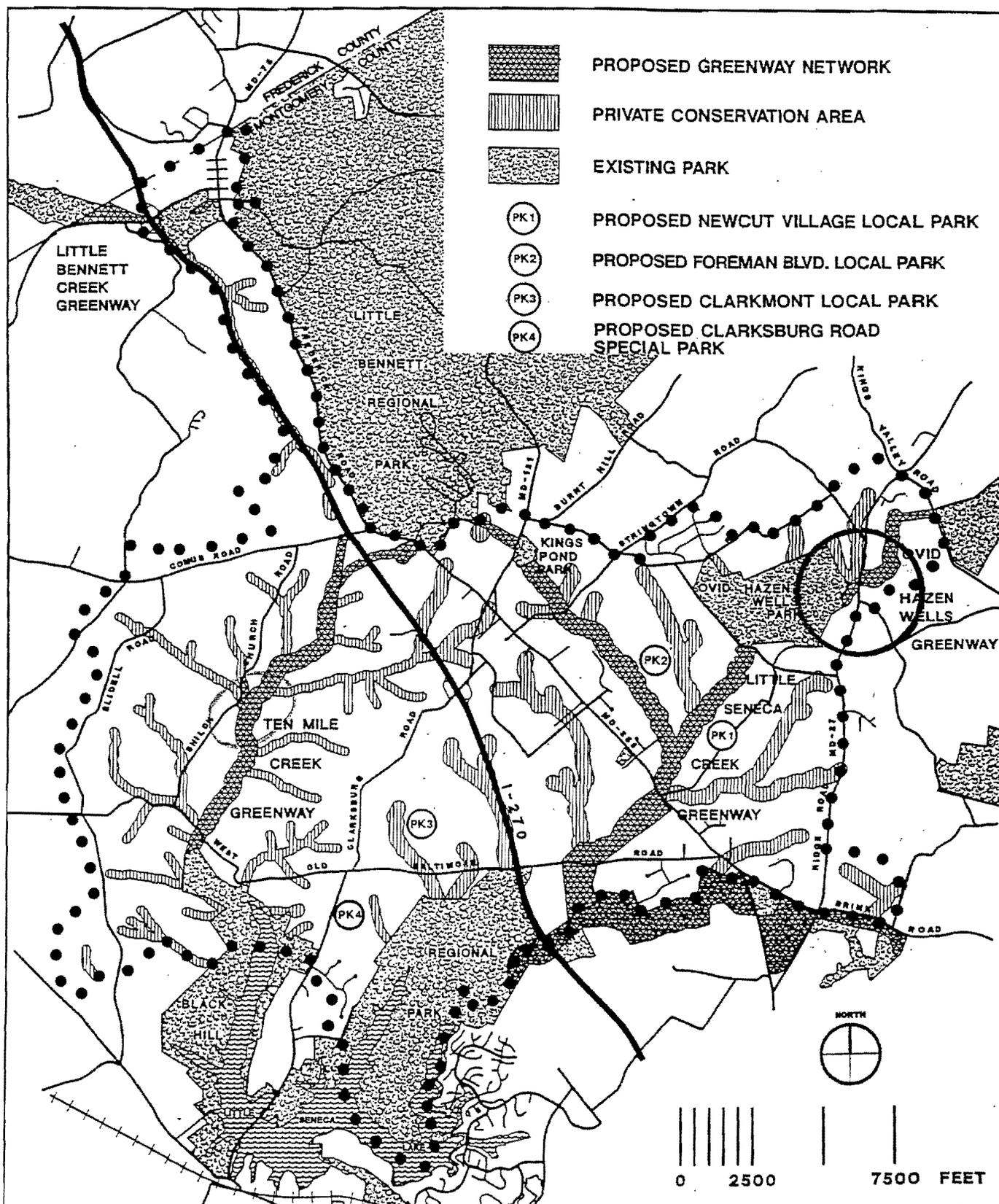
# Ridge Road Transition Area

Figure 28



# Proposed Park and Open Space System

Figure 48





DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett  
County Executive

Richard Y. Nelson, Jr.  
Director

May 21, 2010

Mr. William Gries  
Land Acquisition Specialist  
Montgomery County Department of Parks  
The Maryland-National Capital  
Park and Planning Commission  
9500 Brunett Avenue  
Silver Spring, Maryland 20901

Re: 23500 Ridge Road  
Germantown, MD 20876

Dear Mr. Gries:

Thank you for providing access to the above referenced residential structure located on the property that the Maryland-National Capital Park and Planning Commission will be purchasing as part of the Ovid Hazen Wells Greenway. Based upon this site visit, it has been determined that this Department does not have a possible re-use for this residential structure. If you have questions regarding this determination, please give Joseph T. Giloley, Chief, Division of Housing and Code Enforcement a call at 240-777-3654.

Sincerely,

Richard Y. Nelson, Jr.  
Director

RYN:jgs

cc: Joseph T. Giloley, Chief  
Division of Housing and Code Enforcement

S:\Files\PS 2010 Housing\Chief\General Correspondence\DHC A 0198.10.doc

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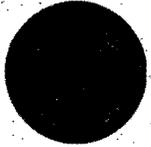
Office of the Director



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

MM  
CC  
SBF  
J  
JCA

June 10, 2010



MEMORANDUM

**057624**

TO: Marlene Michaelson, Legislative Analyst, Montgomery County Council

VIA: Mary Bradford, Director of Parks

FROM: Bill Gries, MNCPPC, Land Acquisition Specialist

SUBJECT: Proposed ALARF Acquisition -  
Ovid Hazen Wells Greenway  
Estate of Mary Koskoris Property  
4.27 acres, more or less, improved

2010 JUN 16 PM 12: 27

RECEIVED  
MONTGOMERY COUNTY  
COUNCIL

The Maryland-National Capital Park and Planning Commission has negotiated a Land Purchase Contract to acquire the above referenced, improved property, as an initial acquisition for the Ovid Hazen Wells Greenway which will provide a master planned trail corridor that will connect Ovid Hazen Wells Recreational Park with Damascus Recreational Park. A copy of the Land Purchase Contract is included as Attachment #1

The Koskoris property is located immediately adjacent to Ovid Hazen Wells Recreational Park, west of Ridge Road (MD Rte. 27). Its address is 23500 Ridge Road, Germantown, Maryland 20876. The property has approximately 200 feet of frontage on Ridge Road and its westerly property line runs adjacent to Ovid Hazen Wells Recreational Park for approximately 600 feet. The property is bisected by Little Seneca Creek. See photo of the property included as Attachment #2.

Two-thirds of the property is forested or covered by low level vegetation, with one-third being open area surrounding the improvements. The improvements include a two story wood frame home having a gross living area of approximately 1,484 square feet, with a full basement. The home, reportedly built in the 1950's, has three bedrooms, one bath, a living room and kitchen. The property also is improved with a detached two car garage and small accessory barn. The overall condition of the improvements on the property is considered to be average to poor. The property has been vacant for two years and the owner is a willing seller.

The Ovid Hazen Wells Greenway connection is recommended in the Clarksburg Master Plan and Hyattstown Special Study Area, approved and adopted in June 1994. A discussion of this proposed greenway is found on page 158 of the plan, and it is clearly shown on Figure 28, page 72 and Figure 48, page 157. Copies of these pages from the plan are included for your convenience as Attachments #s 3, 4, and 5, respectively. It should also be noted that this acquisition falls within the Little Seneca Creek Watershed which has high water quality and is recommended for key protection strategies in the

(14)

Master Plan. The environmentally sensitive areas of the stream buffer adjacent to Little Seneca Creek on the Koskoris property will be protected as a result of this acquisition.

Due to funds not being available in the Commission's Acquisition: Non-Local Parks CIP, the Montgomery County Planning Board is recommending that this purchase be funded through the Commission's Advance Land Acquisition Revolving Fund (ALARF). As required by Article 28, when ALARF funds are to be used we first need to receive District Council approval before these monies can be spent. Would you, therefore, include this item for Council consideration during an upcoming meeting convenient to the Council's current work program. It is important that this matter come before the Council just as soon as possible, preferably before July 31.

In that the Council has directed the Commission to evaluate improvements on all ALARF acquisitions for other public uses compatible with parkland prior to presenting such a recommended acquisition to the Council for approval, the Commission reached out to the County's Department of Housing and Community Affairs (DHCA) to determine if it had an interest in this regard. A response was received from DHCA's Director, Richard Y. Nelson, Jr., which is included as Attachment #6. It is clear from Mr. Nelson's letter that DHCA does not have an interest in the possible re-use of this residential structure. As a result, the Commission, unless directed otherwise by the Council, intends to demolish the improvements on this property following its acquisition. Due to the extent of the demolition and debris removal that will be required following the purchase of this property, we are also asking the Council to approve an additional expenditure from ALARF of up to \$75,000 to complete the demolition work as a related acquisition expense.

Please let me know the date and approximate time when this matter will be scheduled before the Council so I can plan to attend to present the Planning Board's recommendation in this regard.

I have provided as Attachment #7 a "draft" resolution for this item that should be of help to you as you prepare your informational material for the Council.

Thank you for your attention to this matter. If you have any questions, please call me at (301) 650-2861.