



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

**Staff Report: Site Plan 820090040,  
Lots 1-10, Parcels A & B, Block 2, Rolling Acres**

**ITEM #:** \_\_\_\_\_

**MCPB HEARING DATE:** April 23, 2009

**REPORT DATE:** April 9, 2009

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow, Chief *RAK*  
Robert Kronenberg, Supervisor *PAK*  
Development Review Division

**FROM:** Sandra Pereira, Senior Planner *SP*  
Development Review Division  
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**APPLICATION**

**DESCRIPTION:** 10 one-family detached dwelling units; 2.23 acres; R-90/TDR; southwest quadrant of the intersection of Old Columbia Pike and Carters Grove Drive; 1997 Fairland Master Plan

**APPLICANT:** Jamaal Homes

**FILING DATE:** October 16, 2008

**RECOMMENDATION:** Approval with conditions

**EXECUTIVE**

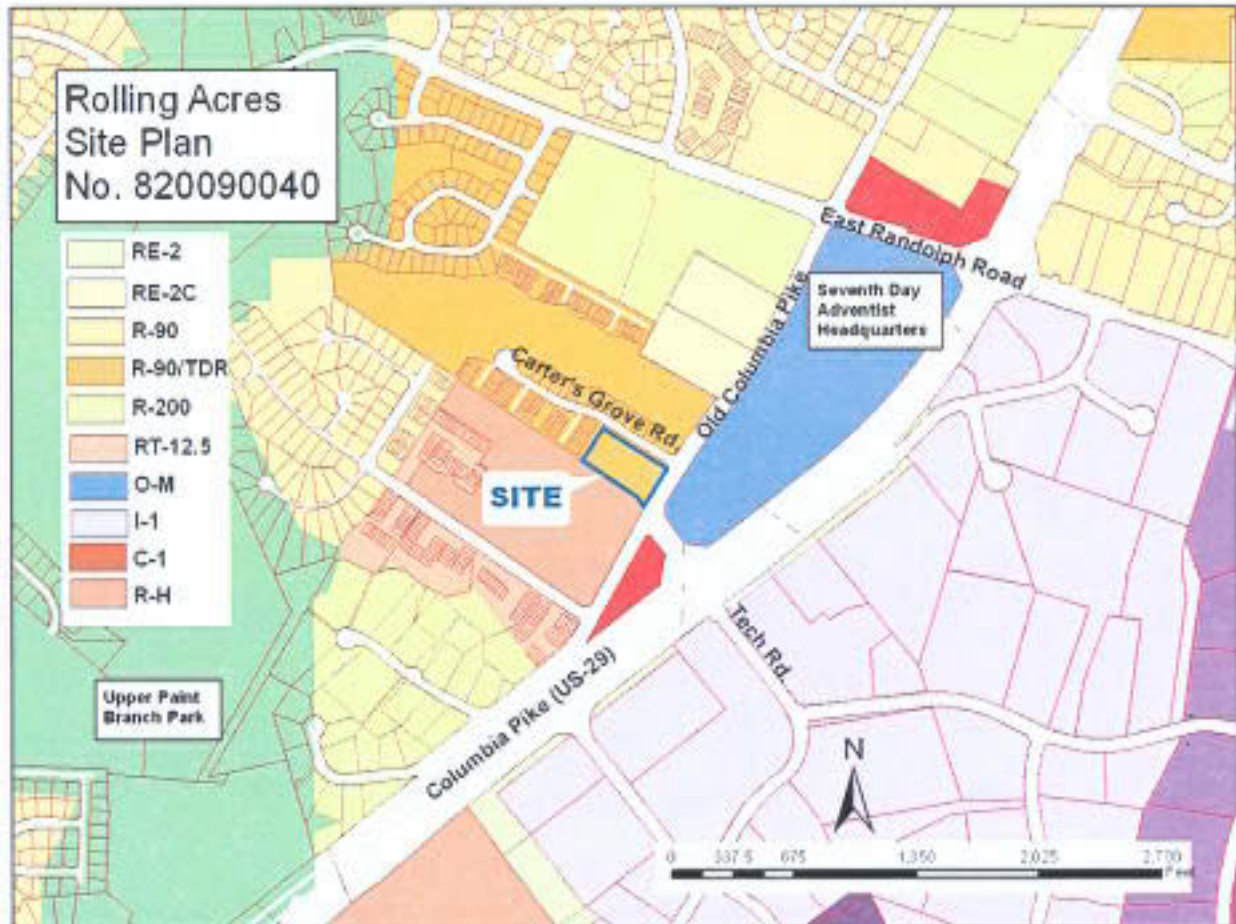
**SUMMARY:** The proposed development will create 10 one-family detached residential dwelling units, accessed from Old Columbia Pike via Conley Court, a tertiary residential street ending in a cul-de-sac, by using 2 TDRs and developing under the optional method. The proposal follows the Master Plan recommendations to provide detached housing in order to increase housing options in a master plan area where two-thirds of the existing units were attached units or apartments.

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## SITE DESCRIPTION

### Vicinity

The subject property is located on the west side of Old Columbia Pike, on the south side of Carters Grove Drive in Fairland. It consists of 2.23 acres in the R-90/TDR zone. The Property is adjacent to 3-story apartments zoned RH on the south and to a subdivision zoned R-90/TDR on the north and west. The property across Old Columbia Pike is zoned OM and contains the Seventh Day Adventist Headquarters, a small office building and a park-and-ride lot.



*Vicinity Map*

### Site Analysis

The subject site is currently occupied by a one-family detached dwelling unit, swimming pool and accessory buildings. The subject site is within the Paint Branch watershed (Use III waters) outside the Special Protection Area. There are no regulated environmental features on-site such as streams, wetlands, 100-year floodplain, environmental buffers, or steep and severe slopes. There is no forest onsite, however, the site contains 14 individual large trees. There are no known historic properties or features on site.



*Aerial photo with approximate site boundary outlined in blue*

## **PROJECT DESCRIPTION**

### **Previous Approvals**

The Planning Board approved Preliminary Plan No. 120060300 to create 10 lots for 10 one-family detached dwelling units, including purchase of a minimum of two Transferable Development Rights (TDRs), on February 14, 2008 (Resolution dated March 27, 2008) [Appendix A].

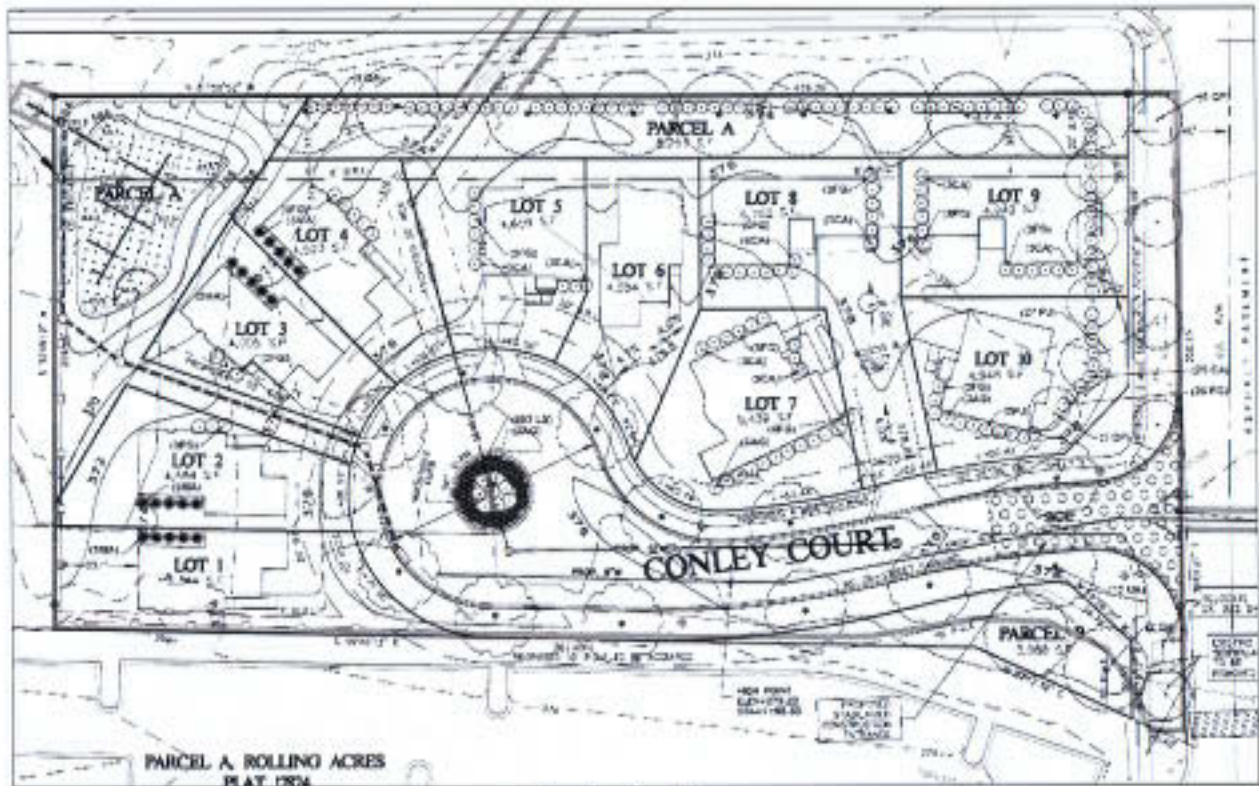
### **Proposal**

The proposed development will remove the existing dwelling unit, pool and outbuildings currently on the site in order to create 10 lots for 10 one-family detached residential dwelling units, accessed from Old Columbia Pike via the proposed Conley Court, a tertiary residential street ending in a cul-de-sac. Access to Carter's Grove Drive to the north is not possible due to an approximate 30-foot wide strip of land owned by the Manors of Paint Branch Homeowner's Association that separates the subject site from the public street. Since March 2005, the Applicant has made multiple attempts to gain access across the strip to serve the proposed lots, or to purchase the strip of land, however these were all rejected by the Homeowner's Association [Appendix C].

The development has an inward focus towards the cul-de-sac. The narrow open space on the northern edge of the property provides screening for the proposed backyards and contributes towards the green space requirements. Several improvements along Old Columbia Pike including

the relocation of the sidewalk, creation of a tree panel, and relocation of the bus shelter, will create a safer pedestrian environment.

By using TDRs and developing under the optional method, the maximum density allowed for this site is 4.6 dwelling units per acre, and the minimum lot size allowed is 4,000 square feet. This application proposes to use all the density allowed, and the minimum lot size proposed is 4,208 square feet.



*Illustrative Plan*

## PROJECT ANALYSIS

### Master Plan

The subject site is one of the last remaining TDR receiving areas in eastern Montgomery County. It is located within the Rolling Acres Neighborhood identified in the 1997 *Approved and Adopted Fairland Master Plan*. The residential neighborhood contains 124 detached units, 400 apartments, 144 townhouses, a church and historic house.

Previous master plans established the TDR zone and density. The 1991 Trip Reduction Amendment to the 1981 Eastern Montgomery County Master Plan set the TDR density at 4.6 units per acre, one TDR above the R-90 base density of 3.6 units per acre. The 1997 Master Plan confirmed the existing R-90/TDR zoning and left in place the 1991 TDR densities. The Plan encouraged new development to maximize detached housing in order to provide more housing

options in a master plan area where two-thirds of the existing units were attached units or apartments, as is the case in the Rolling Acres Neighborhood.

The Applicant is proposing 10 lots for 10 one-family detached residential dwelling units. Two lots are a result of the utilization of the TDR provisions. The Applicant is able to use the R-60/MPDU development standards for lot size, and PD zone standards for setbacks, as permitted under the R-90/TDR zone optional method of development standards. The unit type and density are compatible with the adjoining community. The proposal is in conformance with the 1997 Master Plan in that it uses TDRs and provides one-family detached residential housing.

### **Transportation and Circulation**

As part of the preliminary plan review, it was determined that this application is not subject to Local Area Transportation Review (LATR) because the proposed lots do not generate 30 or more vehicle trips during the morning or evening peak-hours, and not subject to a Policy Area Mobility Review (PAMR) because the preliminary plan application was submitted before January 1, 2007.

### **Environment**

A Preliminary Forest Conservation Plan (FCP) was approved with conditions as part of the approval of the preliminary subdivision plan on February 14, 2008. None of the large individual trees on the site are shown as being saved on the Preliminary FCP or on the Final FCP. This is because the site is relatively small and will be completely graded in order to locate a public road and cul-de-sac, a stormwater management facility, and 10 residential lots.

For a site development where there is no existing forest and which is using an optional method of development in a one-family residential zone, Section 22A-12(f)(2)(D) of the Forest Conservation Law states that "on-site afforestation must equal the applicable afforestation threshold." For this site, the afforestation threshold is 0.33 acre.

The Applicant proposes to meet the afforestation threshold by creating tree cover through the planting of street trees and landscape trees on the site. Staff agrees with the Applicant that tree cover is appropriate for this site because the project is a high-density residential use (R-90/TDR), using 2 TDRs; there are no environmentally-sensitive areas, such as environmental buffers, on the site where forest planting could occur; and there is no existing forest either on or adjacent to the site, which onsite afforestation would enhance.

### **Development Standards**

The subject site is zoned R-90/TDR. The purpose of the R-90/TDR Zone is to provide high-density residential uses through development standards that are more flexible. The proposed development meets the purpose and requirements of the zone as detailed in the Findings section of this report.

The following data table indicates the proposed development's compliance with the Zoning Ordinance.

*Project Data Table for the R-90/TDR Zone using the Optional Method of Development*

<b>Development Standard</b>	<b>Permitted/Required</b>	<b>Proposed for Approval</b>
<b>Gross Tract Area (GTA)</b>	n/a	96,977 square feet/ 2.23 acres
<b>Net Tract Area</b>	n/a	70,057 square feet/ 1.61 acres
<b>Max. Density (du/acre)</b> <i>According to the 1997 Approved and Adopted Fairland Master Plan</i>	4.6	4.6
<b>Max. Number of Dwelling Units</b>	10	10
<b>TDRs</b> <i>[See calculations below]</i>	2	2
<b>Green Area (% of GTA)</b> TDR/optional method, 59-C-1.395	35 % (33,942 square feet)	36.3% (35,235 square feet)
<b>Min. Lot Area (square feet)</b> R-60/MPDU, 59-C-1.625(a)(1)	4,000	4,208
<b>Min. Building Setbacks (feet) [See BRL setbacks chart below]</b>		
Adjoining property PD, 59-C-7.15(b)(2)	33	33
<b>Accessory Structures Setbacks (feet)</b>		
From rear lot line	5	5
From side lot line	5	5
<b>Max. Building Height (feet)</b> <i>See building height chart on plans for specific building heights</i>	40	40

<b>Density Calculations</b>		
	<b>Base Density*</b>	<b>Max. Density</b>
Density	3.6 du/ac	4.6 du/ac
No. of dwelling units	8 (3.6 x 2.23 acres = 8.028)	10 (4.6 x 2.23 acres = 10.25)
Bonus density	2 (= 10 du – 8 du)	
TDRs required	2	

\* The base density is 3.6 dwelling units per acre, however the Master Plan allows it to be increased to 4.6 dwelling units per acre with the use of TDRs.

<b>B.R.L. SETBACKS</b>			
<b>Lot No.</b>	<b>Front</b>	<b>Side</b>	<b>Rear</b>
1	20'	7'/0'	30'
2	20'	5'/4'	10'
3	20'	8'/5'	0'
4	20'	0'/16'	8'
5	20'	16'/0'	8'
6	20'	5'/5'	8'
7	10'	4'/0'	5'
8	10'	4'/10'	8'
9	10'	8'/10'	8'
10	10'	5'	4'

## **COMMUNITY OUTREACH**

The Applicant has met all proper signage, noticing, and submission meeting requirements. Staff has not received correspondence on this matter.



## FINDINGS

1. *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

Neither a development plan, diagrammatic plan, schematic development plan, nor a project plan were required for the subject site.

2. *The site plan meets all the requirements of the Overlay Zone as well as the applicable requirements of the underlying zone.*

The proposed use is allowed in the R-90/TDR Zone and the site plan fulfills the purposes of the zone by providing a high-density development with ten one-family detached residential units. As the project data table on page 7 indicates, the site plan meets all of the development standards of the zone. The site plan is using the R-60/MPDU development standards for lot size, and PD zone standards for setbacks, as permitted under the R-90/TDR zone optional method of development standards.

3. *The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

- a) Locations of buildings and structures

The ten one-family detached houses are oriented towards an internal cul-de-sac, which gives an inward focus to this community. They are located on the northern side of the cul-de-sac and wrap around the western side. Building frontage and access to Carter's Grove Drive to the north is not possible due to an approximately 30-foot wide strip of land that separates the subject site from the public street. The two buildings located on Old Columbia Pike will have adequate architectural treatment on the façade fronting the road. Although constrained by the site, the location of buildings is adequate, safe, and efficient.

- b) Open Spaces

This zone does not have an open space requirement; instead it has a minimum green area requirement of 35 percent of the net lot area. The plan meets the green area requirements by providing 36.3 percent mostly located along the northern and western edge of the property. These areas enhance the development by creating opportunities for landscaping and screening. The open space provided is safe, adequate, and efficient.

- c) Landscaping & Lighting

The landscaping consists of a variety of shade trees along the northern edge of the property, street trees along the perimeter of the cul-de-sac, and a variety of deciduous and evergreen shrubs as foundation plantings. In addition to aesthetic and environmental purposes, the landscaping also serves screening purposes especially along the northern

and eastern edges of the property where the backyards face the roads. The cul-de-sac island will be planted with low-growing shrubs and groundcover, which add pervious surface and improve the appearance of the cul-de-sac. The landscaping provided is safe, adequate, and efficient.

The lighting plan consists of colonial post-top, semi-cutoff light fixtures with fiberglass poles with a total height of 14 feet. These lights are located along the perimeter of the cul-de-sac to create enough visibility and to provide safety but not so much as to cause glare on the adjacent roads or properties. The light fixtures proposed provide adequate, safe, and efficient site illumination.

d) Recreation Facilities

The development is not subject to the Recreation Guidelines as it has less than 25 single-family homes.

e) Pedestrian and Vehicular Circulation Systems

Frontage and access to Carter's Grove Drive to the north is not possible due to an approximately 30-foot wide strip of land owned by the Manors of Paint Branch Homeowner's Association that separates the subject site from the public street. Since March 2005, the Applicant has made multiple attempts to gain access across the strip to serve the proposed lots, or to purchase the strip of land, but these were all rejected by the Manors of Paint Branch Homeowner's Association [Appendix C].

Both pedestrian and vehicular circulation systems rely on a single access point to the property off Old Columbia Pike. Access is provided via Conley Court, a tertiary residential street ending in a cul-de-sac, with a 4-foot wide sidewalk. All shared driveways will be included within an access and utility easement.

Pedestrian access from the sidewalk on Old Columbia Pike helps to better integrate this site into the surrounding area. Pedestrian safety is enhanced by several improvements, which include the creation of an approximately 12-foot wide tree panel between the curb and the sidewalk along Old Columbia Pike extending from Carter's Grove Drive to Tree Top Lane; the provision of handicapped ramps at intersections/driveways; the relocation of the bus shelter; and the provision of a crosswalk on Old Columbia Pike across from the relocated bus shelter. Although constrained by the site, the pedestrian and vehicular circulation systems are adequate, safe, and efficient.

f) *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The proposed residential development is compatible with the adjacent uses in that it provides detached housing which will increase the housing options in a master plan area where two-thirds of the existing units were attached units or apartments. The unit type, density, and building height are compatible with the adjoining community. Furthermore, the height and massing of the buildings is consistent with the compatibility provisions of the PD zone.

The landscaping proposed on the open space area at the northern property edge will add privacy to the backyards of the proposed units which will increase compatibility between this development and the adjoining communities. Similarly, the landscaping along the Old Columbia Pike frontage will buffer and screen the backyards of Lots 9 and 10 from the existing road and the future interchange right-of-way of US 29/Tech Road and Industrial Parkway.

- g) The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

A Natural Resources Inventory/Forest Conservation Plan (NRI/FSD), #420060200, was approved in August 2005. A Preliminary Forest Conservation Plan was approved with conditions as part of the approval of the preliminary subdivision plan on February 14, 2008. Per the Final Forest Conservation Plan, the entire site will be cleared and graded, and the 0.33 acres of required afforestation will be met by creating tree cover through the planting of street trees and landscape trees on the site.

The stormwater management concept consists of a waiver of onsite channel protection requirements due to the proximity of the existing Rolling Acres Regional Pond and onsite water quality control and onsite recharge via construction of a Bio Filter.

## **RECOMMENDATION AND CONDITIONS**

Staff recommends approval of Site Plan No. 820090040, Lots 1-10, Parcels A & B, Block 2, Rolling Acres, for 10 one-family detached units on 2.23 gross acres. All site development elements shown on the site and landscape plans stamped "Received" by the M-NCPPC on March 16, 2009 are required except as modified by the following conditions.

### **Conformance with Previous Approvals**

1. Preliminary Plan Conformance

The proposed development must comply with the conditions of approval for Preliminary Plan No. 120060300 as listed in the Planning Board Resolution dated March 27, 2008 [Appendix A] unless amended.

### **Environment**

2. Forest Conservation & Tree Save

The proposed development must comply with the conditions of the approved Preliminary Forest Conservation Plan and the Final Forest Conservation Plan. The Applicant must satisfy all conditions prior to the recording of a plat or the issuance of sediment and erosions control permits by the Montgomery County Department of Permitting Services. Conditions include, but are not limited to the following:

- a. Show plantings of native shade trees within common open space and public right-of-way to create a minimum of 0.33 acre of mature canopy tree cover on site.
- b. Locate shade tree plantings to avoid flow constrictions in swales that convey stormwater runoff.
- c. Submit financial security to M-NCPPC prior to clearing or grading. Financial security to cover trees planted within common open space.
- d. Prior to approval of the Final Forest Conservation Plan and Certified Site Plan, provide a list of alternate trees to be approved by Site Plan Review Staff and Environmental Planning Staff.

3. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated January 10, 2007, unless amended and approved by the Montgomery County Department of Permitting Services [Appendix B].

### **Density & Housing**

4. Transfer of Development Rights (TDRs)

Prior to recording the plat, the Applicant must provide Staff verification that 2 TDRs have been acquired for the proposed development.

### **Site Plan**

5. Site Design

- a. Lots 7 and 10 must be side loaded from the shared driveway.
- b. Provide architectural treatment on the rear façades of buildings 9 and 10 fronting on Old Columbia Pike to match masonry materials in the front of these buildings.
- c. Eliminate fence along Carters Grove Drive.

6. Landscaping

Replace the American Elm "Liberty" cultivar on the county street tree list with the "Valley Forge" cultivar.

7. Lighting

- a. The lighting distribution and photometric plan with summary report and tabulations must conform to IESNA standards for residential development.
- b. All onsite light fixtures must be semi cut-off fixtures.
- c. Deflectors shall be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties.
- d. Illumination levels of the onsite light fixtures shall not exceed 0.5 footcandles (fc) at any property line abutting county roads and residential properties.
- e. The height of the onsite light poles and fixtures shall not exceed 14 feet.

8. Development Program

The Applicant must construct the proposed development in accordance with a development program that will be reviewed and approved prior to the approval of the Certified Site Plan. The development program must include the following items in its phasing schedule:

- a. Street lamps and sidewalks must be installed within six months after final paving of the street is completed. Street tree planting may wait until the next growing season.
- b. Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Final Forest Conservation Plan, Sediment Control Plan, and M-NCPPC inspection and approval of all tree-save areas and protection devices.
- c. The common areas shall be completed after the construction of the lots abutting Parcel A.
- d. Landscaping associated with each building shall be completed as construction of each building is completed.
- e. The development program must provide phasing of dedications, stormwater management, sediment and erosion control, afforestation, trip mitigation, and other features.

9. Certified Site Plan

Prior to approval of the Certified Site Plan the following revisions must be made and/or information provided subject to Staff review and approval:

- a. Include the stormwater management concept approval, development program, inspection schedule, and site plan resolution on the cover sheet.
- b. Add a note to the site plan stating that "M-NCPPC staff must inspect all tree-save areas and protection devices prior to clearing and grading".
- c. Add a note to the site plan stating that "The house footprints shown on the site plan are illustrative and will be determined during the building permit process. Please refer to the data table for the development standards such as setbacks, building restriction lines, lot coverage and impervious coverage for each lot."
- d. Modify data table to reflect development standards enumerated in the staff report.
- e. Provide detail of the proposed fence.
- f. Provide typical elevation of the rear facades of the buildings fronting on Old Columbia Pike showing architectural treatment, including windows, and masonry materials labeled.
- g. Provide a photometric plan.

## APPENDICES

- A. Preliminary Plan No. 120060300 Resolution
- B. Agency Letters
- C. Correspondence regarding 30-foot wide strip of land owned by the Manors of Paint Branch Homeowner's Association

## Appendix A



**MONTGOMERY COUNTY PLANNING BOARD**  
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MAR 27 2008

**MCPB No. 08-46**  
**Preliminary Plan No. 120060300**  
**Rolling Acres**  
**Date of Hearing: February 14, 2008**

**MONTGOMERY COUNTY PLANNING BOARD**

**RESOLUTION<sup>1</sup>**

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on August 30, 2005, Jamaal Homes, Inc. ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 10 lots on 2.23 acres of land located in the southwest quadrant of the intersection of Old Columbia Pike and Carters Grove Drive ("Property" or "Subject Property"), in the Fairland Master Plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120060300, Rolling Acres ("Preliminary Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated February 1, 2008, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staffs of other governmental agencies, on February 14, 2008, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

APPROVED AS TO LEGAL SUFFICIENCY

*g* *17 Mar 08*  
 MNCPPC LEGAL DEPARTMENT

<sup>1</sup> This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

WHEREAS, on February 14, 2008, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Robinson; seconded by Commissioner Bryant; with a vote of 4-0, Commissioners Bryant, Cryor, Hanson, and Robinson voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120060300 to create 10 lots on 2.23 acres of land located in the southwest quadrant of the intersection of Old Columbia Pike and Carters Grove Drive ("Property" or "Subject Property"), in the Fairland Master Plan area ("Master Plan"), subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to 10 lots for 10 one-family detached residential dwelling units, including purchase of a minimum of two Transferable Development Rights (TDRs).
- 2) The record plat(s) must reflect serialization and liber/folio reference for all TDRs utilized by the development.
- 3) The Applicant must comply with the conditions of approval for the preliminary 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, as applicable.
- 4) The record plat must provide for dedication along the property frontage to provide 40 feet of right-of-way from the centerline of Old Columbia Pike.
- 5) The record plat must reflect common ingress/egress and utility easements over all shared driveways.
- 6) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated January 10, 2007.
- 7) The Applicant must comply with the conditions of the Montgomery County Department of Public Works and Transportation (MCDPWT) letter dated August 15, 2006 unless otherwise amended.
- 8) The Applicant must satisfy provisions for access and improvements as required by MCDPWT prior to recordation of plat(s) or by Maryland State Highway Administration (MDSHA), as appropriate, prior to issuance of access permits.
- 9) No clearing, grading or recording of plats prior to certified site plan approval.
- 10) Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, sidewalks, and bikepaths will be determined at site plan.
- 11) A landscape and lighting plan must be submitted as part of the site plan application for review and approval by technical staff.
- 12) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board resolution.



13) Other necessary easements.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the Master Plan.*

The subject site is located within the Rolling Acres Neighborhood identified in the 1997 *Approved and Adopted Fairland Master Plan*. Previous master plans established the TDR zone and density. The 1991 Trip Reduction Amendment to the 1981 Eastern Montgomery County Master Plan set the TDR density at 4.6 units per acre, one TDR above the R-90 base density of 3.6 units per acre. The 1997 Master Plan confirmed the existing R-90/TDR zoning and left in place the 1991 TDR densities. The Plan encouraged new development to maximize detached housing in order to provide more housing options in a master plan area where two-thirds of the existing units were attached units or apartments, as is the case in the Rolling Acres Neighborhood.

The Applicant proposed 10 lots for 10 one-family detached residential dwelling units. Two lots are a result of TDR use. The Applicant is using the R-60 MPDU development standards for lot size, and setbacks will be determined at site plan per PD zone standards, as permitted under the R-90/TDR zone optional method of development standards. The unit type and density are compatible with the adjoining community. The Planning Board finds the Preliminary Plan Application is in conformance with the 1997 Master Plan in that it uses TDRs and provides one-family detached residential housing.

2. *Public facilities will be adequate to support and service the area of the proposed subdivision.*

Transportation

The lots do not generate 30 or more vehicle trips during the morning or evening peak-hours. Therefore, the Application is not subject to Local Area Transportation Review. The Application preceded the PAMR requirements that are pertinent to applications submitted after January 1, 2007.

Vehicle circulation is to be accommodated from Old Columbia Pike onto Conley Court. The new intersection is to be right-in, right-out only. A sidewalk located along the Old Columbia Pike frontage of the Subject Property and along the north side of Conley Court is proposed to accommodate pedestrians. The Planning

Board finds proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed public improvements.

Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the dwelling units. The lots will be served by public water and sewer. The Application meets the Montgomery County Fire and Rescue Service requirements for fire and rescue vehicle access. Other public facilities and services, such as schools, police stations, firehouses and health services are currently operating within the standards set by the Growth Policy Resolution currently in effect. Gas, electrical and telecommunications services are also available and adequate to serve the Property. The Preliminary Plan Application was submitted August 30, 2005, and, therefore, is not subject to the 2007-2009 Growth Policy. Furthermore, the Subject Property is not within a school moratorium area and is not subject to a School Facilities Payment.

3. *The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

This Application meets all applicable sections of the Montgomery County Code, Chapter 50, the Subdivision Regulations and Chapter 59, the Zoning Ordinance. The Planning Board finds that the proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

The Applicant submitted a preliminary forest conservation plan as part of the Preliminary Plan of subdivision. Under Section 22A-12 of the Montgomery County Forest Conservation Law, properties must retain, plant or mitigate a minimum threshold level on-site. The Applicant proposes to meet this requirement by planting street trees on-site, totaling 0.31 acres of planting. The Planning Board finds the proposed Preliminary Plan meets all applicable requirements of the county Forest Conservation Law.

5. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

The MCDPS Stormwater Management Section approved the stormwater management concept for the project on January 10, 2007 which includes on-site water quality control and on-site recharge via construction of a bio-filter. A waiver of on-site channel protection requirements was granted due to the existing Rolling Acres Regional Pond in close proximity. Thus, the Planning Board finds the Application meets all applicable stormwater management requirements and provides safe and adequate control of stormwater runoff from the site.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed; and

**MAR 27 2008** BE IT FURTHER RESOLVED, that the date of this Resolution is \_\_\_\_\_ (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

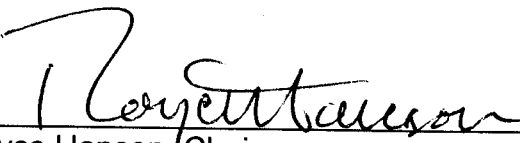
\* \* \* \* \*

**CERTIFICATION**

At its regular meeting, held on Thursday, March 20, 2008, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission ADOPTED the above Resolution, on motion of Vice Chair Robinson, seconded by Commissioner Bryant, with Chairman Hanson, Vice Chair Robinson, and Commissioner Bryant present and voting in favor, and with Commissioner Cryor absent. This Resolution constitutes the final decision of the

MCPB No. 08-46  
Preliminary Plan No. 120060300  
Rolling Acres  
Page 6

Planning Board, and memorializes the Board's findings of fact and conclusions of law for Preliminary Plan No. 120060300, Rolling Acres.

  
\_\_\_\_\_  
Royce Hanson, Chairman  
Montgomery County Planning Board

## Appendix B



## DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

January 10, 2007

Reginald Jetter  
Acting Director

Mr. Raymond Norris  
Maddox Engineers & Surveyors, Inc.  
100 Park Avenue  
Rockville, MD 20850

Re: Stormwater Management **CONCEPT** Request  
for Rolling Acres  
Preliminary Plan #: 1-06030  
SM File #: 220413  
Tract Size/Zone: 2.23 acres / R-90 / TDR  
Total Concept Area: 2.23 acres  
Lots/Block: N/A  
Parcel(s): P531  
Watershed: Paint Branch

Dear Mr. Norris:

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 onsite channel protection requirements due to the existing Rolling Acres Regional Pond and on-site water quality control and onsite recharge via construction of a Bio Filter.

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.
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. Formal approval of the waiver of the open section roadway requirement must be obtained prior to submission of detailed plans for review. If plans are submitted prior to approval of the waiver they will be returned to the engineer with no review.

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 Mark Etheridge at 240-777-6338.

Sincerely,  


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

RRB:dm mce

cc: C. Conlon  
S. Federline  
SM File # 220413

QN - SW; Acres: 2.23  
QL - ON; Acres: 2.23  
Recharge is provided



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## FIRE MARSHAL COMMENTS

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**DATE:** NOVEMBER 17, 2008

**TO:** ~~MFG~~ Maddox

**FROM:** TYLER MOSMAN

**RE:** ROLLING ACRES 820090040

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**NO COMMENTS**

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When ready for final approval, please notify your reviewer listed above and provide 4 folded copies of final plans.



**Pereira, Sandra**

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**From:** Mosman, Tyler [Tyler.Mosman@montgomerycountymd.gov]  
**Sent:** Wednesday, February 18, 2009 1:47 PM  
**To:** Pereira, Sandra  
**Subject:** Rolling Acres Cul-de-Sac Island

No Comments.

Feel free to contact me with any questions.

***Tyler Mosman, PE***

Fire Protection Engineer  
Montgomery County Department of Fire Rescue Services  
Fire Code Enforcement  
255 Rockville Pike, 2nd Floor  
Rockville, MD 20850  
240-777-2457 - office 240-777-2465 fax  
[tyler.mosman@montgomerycountymd.gov](mailto:tyler.mosman@montgomerycountymd.gov)



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

**MEMORANDUM**

**DATE:** March 26, 2009

**TO:** Sandra Pereira, Development Review Division

**FROM:** Kristin O'Connor, Senior Planner, East Transit Corridor  
Vision Division

**VIA:** Khalid Afzal, Team Leader, East Transit Corridor  
Vision/Community-Based Planning Division

**SUBJECT:** Rolling Acres Site Plan #80090040

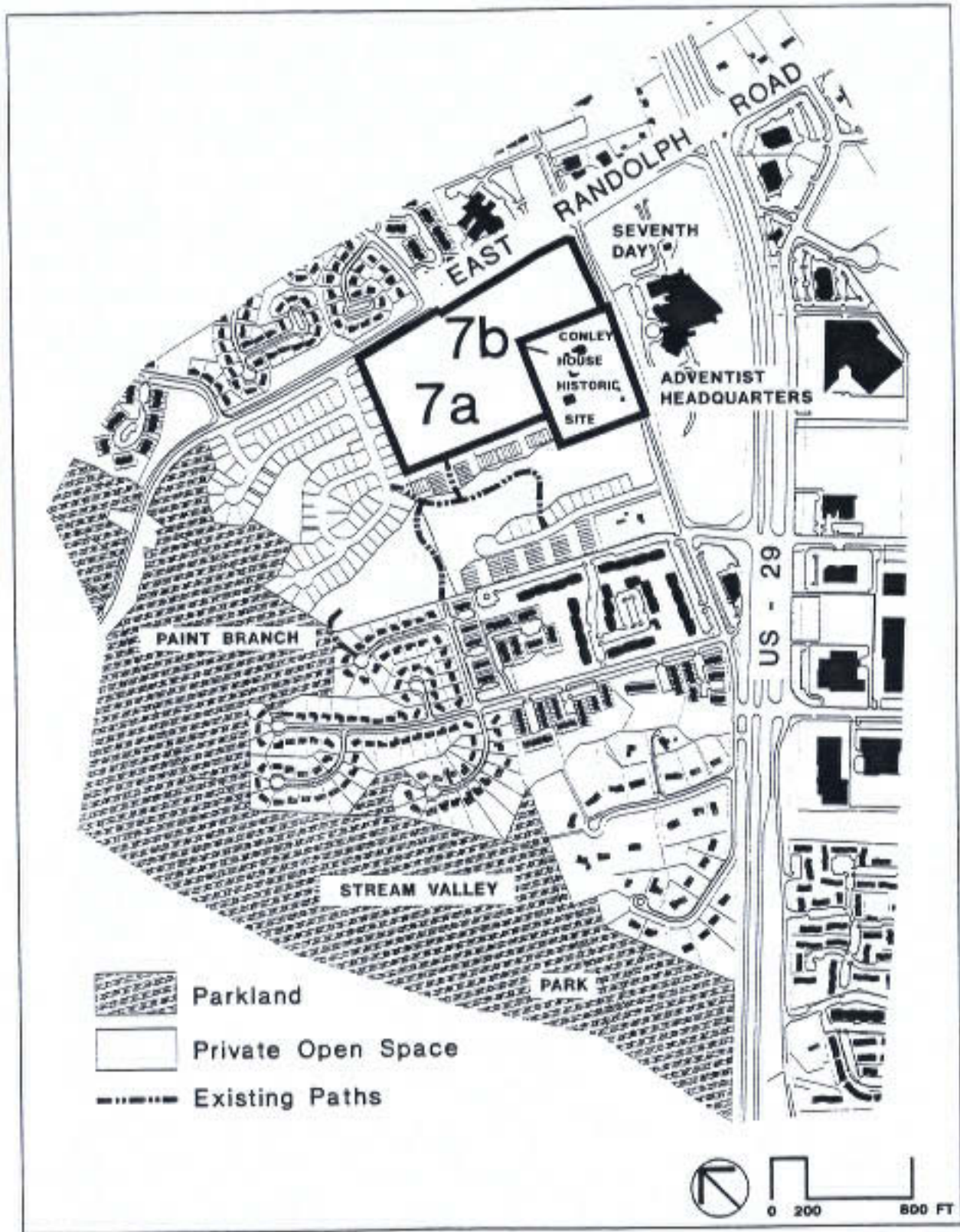
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The Vision/Community-Based Planning Division has reviewed the proposed Site Plan, located within the *1997 Approved and Adopted Fairland Master Plan*, and finds that the proposed plan is consistent with the Master Plan.

**Master Plan Compliance**



The subject site is located within the Rolling Acres Neighborhood identified in the *1997 Approved and Adopted Fairland Master Plan*. The 1997 Master Plan confirmed the zone as R-90/TDR. The proposal is for 10 single-family detached dwelling units. Two lots are a result of TDR use. The Master Plan encourages new development to maximize detached housing in order to provide more housing options in the master plan area that already has two-thirds of the existing units as attached units or apartments. Since this is the case in the Rolling Acres Neighborhood, the detached units proposed provide conformance with the plan.

Staff finds that the proposed Site Plan is in conformance with the Master Plan as it uses TDRs and provides for one-family detached residential housing.





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

TO: Sandra Pereira, Planner Coordinator, Development Review  
VIA: Stephen D. Federline, Supervisor, Environmental Planning   
FROM: Candy Bunnag, Planner Coordinator, Environmental Planning   
SUBJECT: Site Plan No. 820090040 – Rolling Acres  
DATE: March 31, 2009

---

**RECOMMENDATION**

The memorandum supersedes the staff memorandum of February 11, 2009. Environmental Planning staff recommends **approval** of the above referenced site plan with the following conditions:

1. Compliance with the conditions of approval of the Final Forest Conservation Plan. The applicant must meet all conditions prior to recording of plat or MCDPS issuance of sediment and erosion control permit(s) as appropriate. Conditions include, but are not limited to the following:
  - a. Show plantings of native shade trees within common open space and public right-of-way to create a minimum of 0.33 acre of mature canopy tree cover on site.
  - b. Locate shade tree plantings to avoid flow constrictions in swales that convey stormwater runoff.
  - c. Submittal of financial security to M-NCPPC prior to clearing or grading. Financial security to cover trees planted within common open space.
  - d. Prior to approval of the Final Forest Conservation Plan and Certified Site Plan, provide a list of equivalent trees to be approved by Site Plan Review Staff and Environmental Planning Staff.

**DISCUSSION**

The 2.23-acre site is located on the west side of Old Columbia Pike, on the south side of Carter's Grove Drive. There is an existing house, swimming pool and some sheds located on lawn with tree cover. The site is zoned R-90/TDR. The applicant proposes to use the optional method of development.

**Environmental Guidelines**

A Natural Resources Inventory/Forest Conservation Plan (NRI/FSD), #420060200, was approved in August 2005. The site is located in the Paint Branch watershed (Use III waters) outside the

Special Protection Area. There are no regulated environmental features on-site such as streams, wetlands, 100-year floodplain, environmental buffers, or steep and severe slopes.

### **Forest Conservation**

There is no forest onsite. There are 14 individual trees that are of specimen size. A Preliminary Forest Conservation Plan was approved with conditions as part of the approval of the preliminary subdivision plan on February 14, 2008. Conditions of approval of the Preliminary Forest Conservation Plan are as follows:

- 1) Submittal of financial security to M-NCPPC prior to clearing or grading.
- 2) Required site inspections by M-NCPPC enforcement staff per Section 110 of the Forest Conservation Regulations.
- 3) Maintenance and management agreement to be reviewed and approved by M-NCPPC staff prior to first inspection of planted areas.
- 4) Placement and species of street trees to be used as credit for the forest conservation requirements to be determined at time of the Final Forest Conservation Plan.

None of the specimen trees on the site are shown to be saved on the Preliminary FCP. No trees are shown to be saved on the Final FCP. This is because the site is relatively small and will be completely graded in order to locate a public road and cul-de-sac, a stormwater management facility, and 10 residential lots.

For a site development where there is no existing forest and which is using an optional method of development in a one-family residential zone, Section 22A-12(f)(2)(D) of the Forest Conservation Law states that "on-site afforestation must equal the applicable afforestation threshold." For this site, the afforestation threshold is 0.33 acre.

The applicant proposes to meet the afforestation threshold by creating tree cover through the planting of street trees and landscape trees on the site. The use of tree cover is acceptable if it is determined that creating forest cover on the site is inappropriate. Section 22A-12(d)(2) of the Forest Conservation Law states:

"Afforestation should be accomplished by the planting of forest cover. However, if the applicant demonstrates to the satisfaction of the Planning Board or Planning Director, as the case may be, that afforestation using forest cover is inappropriate for a site because of its location in an urban setting, redevelopment context, high-density residential, commercial, industrial, planned unit development, or institutional area (as defined in Section 22A-3), or similar reason, afforestation requirements may be satisfied by tree cover."

Staff agrees with the applicant that tree cover is appropriate for this site. The project is a high-density residential use (R-90/TDR), using 2 TDRs. There are no environmentally-sensitive areas, such as environmental buffers, on the site where forest planting could

occur. In addition, there is no existing forest either on or adjacent to the site which onsite afforestation would enhance.

Some of the onsite trees that the applicant proposes to count towards the afforestation requirement are located on private lots. Staff recommends that all trees that are to be counted towards meeting the requirement be planted either within the public road right-of-way or common open space. This would avoid enforcement problems for the public sector and reduce conflicts for the homeowner who may inadvertently cut a tree on his or her property which was used to meet the subdivision's afforestation requirement.

### **STAFF RECOMMENDATION**

Environmental Planning staff recommends approval of the site plan and approval of the Final Forest Conservation Plan with conditions. The plan, if it incorporates staff's recommended changes, would comply with the County Forest Conservation Law (Section 22A of the Montgomery County Code).

Z:\Site Plans\FY '09\820090040\_RollingAcres\_2nd memo\_cb.doc

## Appendix C



Partners committed  
to the success of our  
Clients, our Professions  
and the Community.

RECEIVED

NOV 21 2008

DEVELOPMENT REVIEW

November 18, 2008

Ms. Sandra Pereira  
Maryland-National Capital Park & Planning Commission  
Development Review Division  
8787 Georgia Avenue  
Silver Spring, MD 20910

Re: Rolling Acres, Lot 1-10, Parcels A & B, Block 2  
Statement of Justification

Dear Ms. Pereira:

On behalf of the Applicant, Mr. Sabir Rahman, and per your request at Development Review Committee, we are presenting this explanation (and attached documentation) concerning our project's lack of access to Carter's Grove Road.

Our initial attempt to solve the issue of the "Spite Strip" was at the Conceptual Plan stage (March of 2005). The Manors of Paint Branch HOA was asked to consider being a party to the subdivision, and allowing access across the strip to serve the proposed Lots. They declined. Later (January of 2006), we made a monetary offer to purchase the strip, and were rejected (Copies of the appropriate documentation are attached). All of this data has been submitted to MCDOT per their request, and copied to Ms. Cathy Conlon; so I suspect you will find this documentation already in the Preliminary Plan folder.

We believe the Applicant has made a good faith effort to resolve a problem not of his making, and is justified in requesting that the Site Plan (already accepted for review) be allowed to receive technical review by staff and be presented to the Board for approval with access via Conley Court as proposed.

Sincerely,

Russell E. Reese, L.S.  
Vice President

Attachments  
Cc: Applicant

H:\Projects\05049\Document\Statement of Justification No Access.doc



# MADDOX

INCORPORATED

ENGINEERS • SURVEYORS

DANIEL T. CAYWOOD, L.S.  
RUSSELL E. REESE, L.S.

100 PARK AVENUE  
ROCKVILLE, MARYLAND 20850-2699  
TEL (301) 762-9001 • FAX (301) 294-6418

RAYMOND A. NORRIS, P.E.  
JON A. SHIANCOE, P.E.

March 2, 2006

Mr. Gregory Leck  
Department of Public Works and Transportation  
101 Orchard Ridge Drive, 2<sup>nd</sup> Floor  
Gaithersburg, MD 20878

**Re: Preliminary Plan No. 1-06030      Rolling Acres, Block 2**

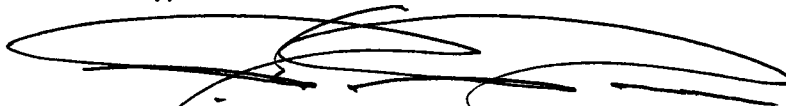
Dear Mr. Leck:

We are in receipt of Mr. Farhadi's letter to Cathy Conlon commenting on the above referenced plan. Comment numbered two states that your department was "unable to offer comments regarding the access to the lots.." and further expressed a requirement for the Applicant to prove that good faith efforts have been made to obtain a strip of ground that effectively denies access to a public road.

We believe we can satisfy that requirement; a monetary offer was made to the Homeowner's Association in title to the property in question, and their written response has been received (Please refer to the attached documentation of our offer and their refusal. Also attached is a copy of the preliminary plan as originally submitted to Park and Planning). We are therefore asking your Department to offer its comments on this aspect of the proposed development. We are ready to proceed with the development of this property in accordance with the master plan, but we cannot continue with so basic an issue as access being unresolved.

Thank you for your prompt attention to this matter. Please let me know if I can provide you with any additional information.

Sincerely,



Russell E. Reese, LS  
Vice President

Attachments

Cc: Mr. Sabir Rahman, Jamaal Homes  
Ms. Cathy Conlon, Development Review Division-P&P



The Management Group  
Associates, Inc.

A FULL SERVICE PROFESSIONAL PROPERTY MANAGEMENT COMPANY

February 14, 2006

Maddox, Inc.  
Attention: Russell Reese  
100 Park Avenue  
Rockville, Maryland 20850-2699

Dear Mr. Reese:

I am writing on behalf of the Board of Directors for the Manors of Paint Branch Homeowners Association in response to your letter dated January 27, 2006. I apologize for my delay in responding to your letter, but several Board members were out of town and I wanted to make sure that they each had a chance to respond. The offer of \$95,236.40 to purchase 10,262 square feet of property in the Manors of Paint Branch community (Parcel H) is a generous offer; however, the community residents who live in that area were quite clear at the last Homeowners Association meeting that they were adamantly opposed to any additional traffic in front of their homes, and they felt that the sale of this parcel would cause additional traffic. The Association is not opposed to the most recent proposed plans for this land; however, they are declining your offer at this time.

If you have any questions, please feel free to call me.

Sincerely,

Todd Hassett, Agent for  
Manors of Paint Branch  
Homeowners Association

TH/lds  
WI - III6, IIe

# MADDOX

INCORPORATED

ENGINEERS • SURVEYORS

100 PARK AVENUE  
ROCKVILLE, MARYLAND 20850-2699  
TEL (301) 762-9001 • FAX (301) 294-6418

DANIEL T. CAYWOOD, L.S.

RUSSELL E. REESE, L.S.

January 27, 2006

Mr. Todd Hassett  
The Management Group Associates, Inc.  
One Bank Street, Suite 250  
Gaithersburg, MD 20878-1504

RE: The Manors of Paint Branch  
Purchase Offer for adjoining property development

Dear Mr. Hassett:

I am contacting you again on behalf of my client, Memon Enterprises, LLC, who is the owner of Parcel 531 (The Conley Tract). This parcel adjoins "Parcel H, Manors of Paint Branch" along the southerly side of Carter's Grove Road in Montgomery County, Maryland. We are hereby offering to purchase a 10,262 square feet portion of the said Parcel H (please refer to the attached sketch) for \$95,236.40. This sale of property (in fee simple) would require that the HOA be a party to the subdivision documents.

Our previous proposals for development of this parcel in cooperation with the Home Owners' Association have been declined. We find it necessary in our dealings with the County reviewing authorities to document this offer and your response. If you would be good enough to present this offer to the HOA and convey their response in a timely manner, we will be very grateful.

Please review the attached sketch, give the matter its due consideration, and give me a call to discuss any terms, conditions, or questions you may have.

Thank you for your time and attention. For Memon Enterprises, I am sincerely yours,



Russell E. Reese, LS  
Vice President



The Management Group  
Associates, Inc.

A FULL SERVICE PROFESSIONAL PROPERTY MANAGEMENT COMPANY

May 9, 2005

Russell Reese  
Maddox, Inc.  
100 Park Avenue  
Rockville, Maryland 20850-2699

Re: Manors of Paint Branch Homeowners Association  
Proposal for Adjoining Property

Dear Mr. Reese:

I am writing on behalf of the Board of Directors for the Manors of Paint Branch Homeowners Association in response to your letter dated March 11, 2005. The Board of Directors reviewed your letter and plans at their meeting on May 5, 2005, as well as revised plans which several residents received and brought to the meeting. These revised plans included access to your lots directly off of Old Columbia Pike and reduced the number of single family homes to eight. The Board is not sure if you are still requesting an easement off of Carters Grove Drive; however, they voted to deny any requests for a similar type of easement. Other than minor questions with regard to landscaping, screening and construction traffic, the Board members and residents in attendance were pleased with your proposed development with the entrance off of Old Columbia Pike.

Please let me know if you have any questions.

Sincerely,

Todd Hassett, Agent for  
Manors of Paint Branch  
Homeowners Association

TH/lds  
WI - III6, IIe

# MADDOX

INCORPORATED

ENGINEERS • SURVEYORS

100 PARK AVENUE  
ROCKVILLE, MARYLAND 20850-2699  
TEL (301) 762-9001 • FAX (301) 294-6418  
maddox@maddoxinc.com

March 11, 2005

Mr. Todd Hassett  
The Management Group Associates, Inc.  
One Bank Street, Suite 250  
Gaithersburg, MD 20878-1504

RE: The Manors of Paint Branch  
Development Proposal for Adjoining Property

Dear Mr. Hassett:

I am writing on behalf of my client, Memon Enterprises, LLC, who is the contract purchaser of Parcel 531 (The Conley Tract). This parcel adjoins "Parcel H, Manors of Paint Branch" along the southerly side of Carter's Grove Road in Montgomery County, Maryland.

We understand that a previous potential developer had approached the Homeowner's Association (through your agency) with a proposal for a townhouse development. We learned that the HOA was decidedly against such a development, and would prefer that a single family home development be pursued.

My client and I met with the area planner, Ms. Tierra Weis, to review the development possibilities for the Conley tract, and all of our initial conclusions seem to agree with the collective wisdom of the HOA.

I would therefore like to propose, on behalf of Memon Enterprises, a single family development for the Conley Tract that I believe meets both the requirements of the area master plan, as well as the desires of the Manors of Paint Branch Homeowner's Association. The development would require that the HOA be a party to the subdivision documents; since conveyance of the twenty five foot wide landscaping strip would be necessary to create road frontage. The subsequently recorded Lots would then need to be incorporated into the HOA. The resultant development would resemble those residential Lots that currently exist along the northerly side of Carter's Grove Road.

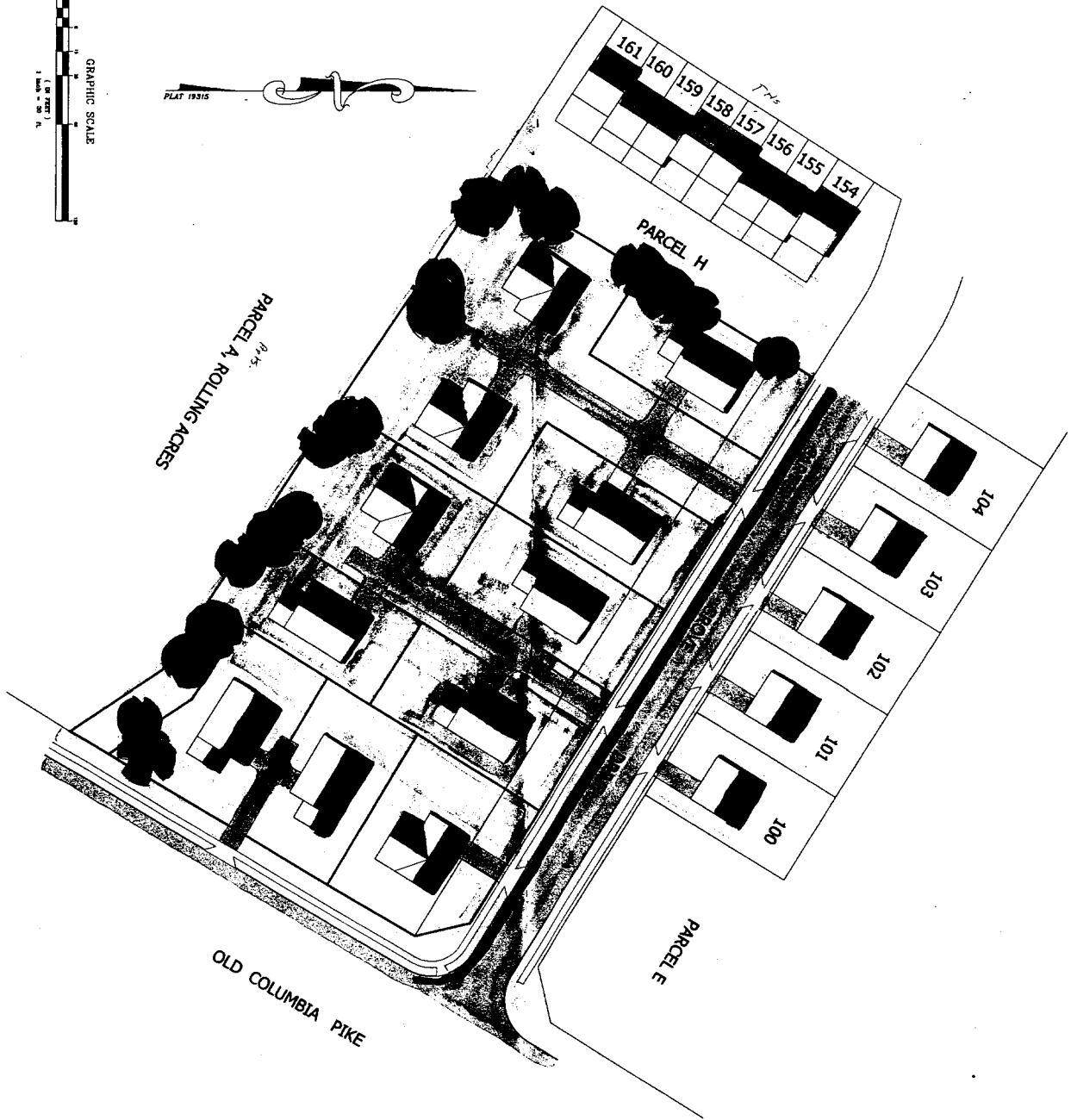
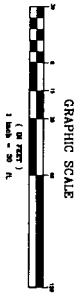
I have included a rendered plan with this correspondence, and I'm hopeful that it will clearly illustrate our intent for this development. It should be noted that approval of all eleven Lots as depicted is highly unlikely; with the engineering restraints typically imposed by M-NCPPC and MCDPS, I would consider nine approved Lots a success for a parcel this size.

Please review the plan, give the matter its due consideration, and give me a call to discuss any terms, conditions, or questions you may have.

Thank you for your time and attention. For Memon Enterprises, I am sincerely yours,

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and lines, positioned above the typed name.

Russell E. Reese, LS  
Vice President



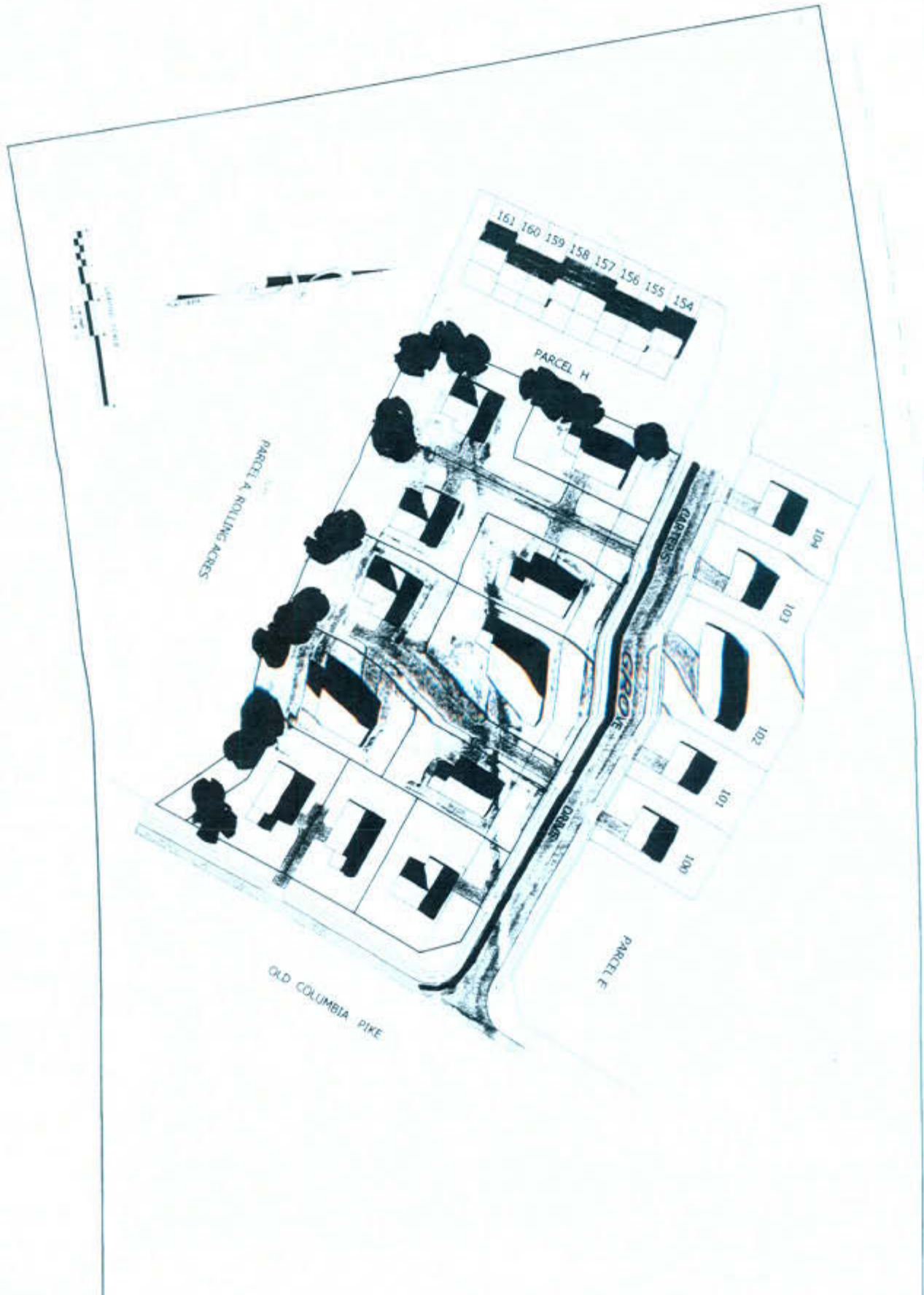
DATE	REVISION

PARCEL 531  
"CONLEY TRACT"  
5TH ELECTION DISTRICT  
MONTGOMERY COUNTY, MARYLAND

CONCEPT SKETCH

**MADDOX**  
INCORPORATED  
ENGINEERS • SURVEYORS

100 PARK AVENUE  
ROCKVILLE, MARYLAND 20850-2690  
(301) 762-9001



NO.	DATE	BY	CHKD.	DESCRIPTION

PARCEL 521  
 "CONLEY TRACT"  
 174 EASTERN STREET  
 MONTGOMERY COUNTY, MARYLAND

CONCEPT SKETCH

**MADDOX**  
 INCORPORATED  
 ENGINEERS & ARCHITECTS

100 PAUL AVENUE  
 SUITE 100  
 ROCKVILLE, MARYLAND 20850  
 301-771-1000