



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

MCPB
Item #
6/3 /10



MEMORANDUM

DATE: May 21, 2010

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Catherine Conlon, Subdivision Supervisor *CC*
Development Review Division

FROM: Richard Weaver, Coordinator (301-495-4544) *RAW*
Development Review Division

REVIEW TYPE: Preliminary Plan of Subdivision

APPLYING FOR: Resubdivision of Parcel N158 and P169, Block 4, Bradley Farms into two one-family residential lots.

PROJECT NAME: 9490 River Road
CASE #: 120090370
REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: RE-2
LOCATION: Located in the southern quadrant of the intersection of River Road and Logan Drive
MASTER PLAN: Potomac Subregion
APPLICANT: Louis T. and Ann K. Donnatelli
ENGINEER: Site Solutions

FILING DATE: July 10, 2009
HEARING DATE: June 3, 2010

RECOMMENDATION: Approval, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to two residential lots.
- 2) The applicant must comply with all conditions of approval of the preliminary forest conservation plan prior to plat recordation or Montgomery County issuance of sediment and erosion control permit(s), as appropriate.
- 3) The applicant must dedicate all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan unless otherwise designated on the preliminary plan.
- 4) The Applicant must comply with the conditions of the Montgomery County Department of Permitting Services (MCDPS) stormwater management approval dated March 5, 2010. These conditions may be amended by MCDPS provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 5) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated April 20, 2010. These conditions may be amended by MCDOT provided the amendments do not conflict with other conditions of the preliminary plan.
- 6) The certified preliminary plan must contain the following note: “Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, driveway and sidewalks shown on the preliminary plan are illustrative. The final locations of buildings, structures and driveway will be determined during the building permit process. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board’s approval.”
- 7) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.
- 8) Other necessary easements must be shown on the plat.

SITE DESCRIPTION (See figure 1)

The subject property “Property” or “Subject Property” is identified as a parcel recorded by plat, Parcel N158, and an unplatted parcel identified as P169, within Block 4 of the Bradley Farms subdivision on Tax Map FP561, totaling 5.4 acres in the RE-2 zone. The Property is located in the southern quadrant defined by the intersection of River Road and the Logan Drive right-of-way in the Potomac Subregion Master Plan Area. There is an existing house on Parcel N158 surrounded by maintained turf grass with a swimming pool and tennis courts. The Logan Drive right-of-way along the Property frontage is unimproved but there is an existing private driveway that has been constructed within the right-of-way that serves the two homes immediately south of the site. The driveway provides access for these two homes out to Persimmon Tree Road.

The neighborhood surrounding the Property is zoned RE-2. Most of the lots have been developed with a one family residence although, there are two privately owned lots with frontage on Logan Drive that remain undeveloped to the west of the Subject Property. The lot that

confronts the Subject Property on Logan Drive has driveway access to River Road. The German Elementary School confronts the Property on River Road.

The approved Natural Resource Inventory/Forest Stand Delineation shows no forest on the site but there are scattered specimen trees and a perennial stream within the Logan Drive right-of-way. The environmental buffer for that stream extends on to the Property; a portion of the existing house and driveway are within the buffer. The site drains to the Cabin John Creek, a Use I-P watershed. The Property abuts existing community water and sewer lines.

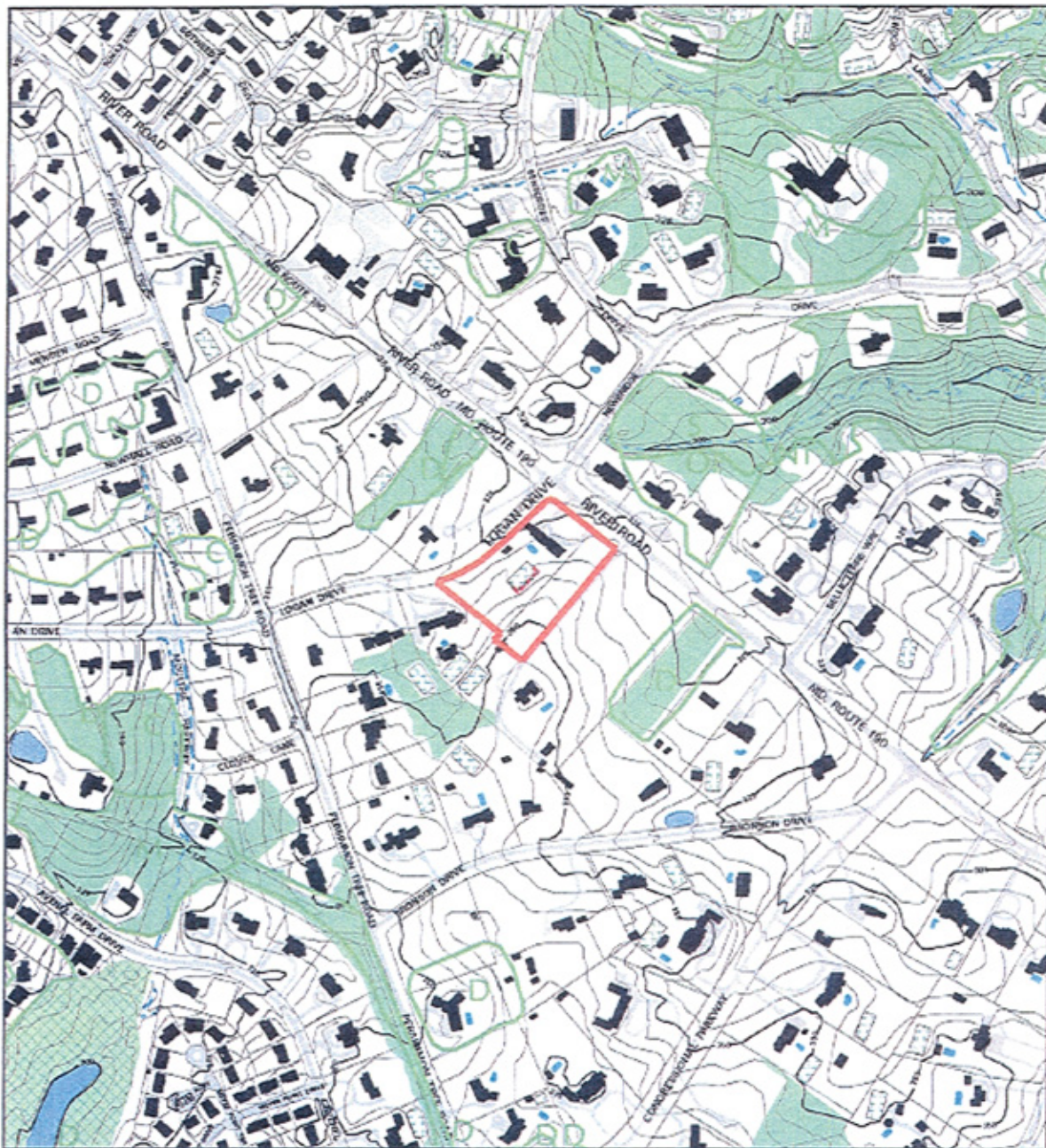


Figure 1

PROJECT DESCRIPTION (see figure 2)

The application proposes to resubdivide the platted parcel and the unplatted parcel into two, one family residential lots to allow one new house to be constructed. The new house would be located on proposed Lot 2 which will be to the south and west of the existing house and have access to the Logan Drive right-of-way and Persimmon Tree Road via an extension of the existing private driveway built to MCDOT standards. The driveway will be extended from its current termination point as 20 foot wide driveway with side ditches and an enclosed storm drain system as required by MCDOT. The new termination point of the driveway will be constructed to provide an adequate turnaround for fire and emergency equipment. The existing house on the Property will continue to have access to River Road.

Proposed Lot 1, with the existing house, will be approximately 2.78 acres after 0.24 acres of dedication to the River Road right-of-way. Proposed Lot 2 will be approximately 2.24 acres in size. The new house will have the ability to connect to public water, sewer, natural gas, telecommunications and cable service.

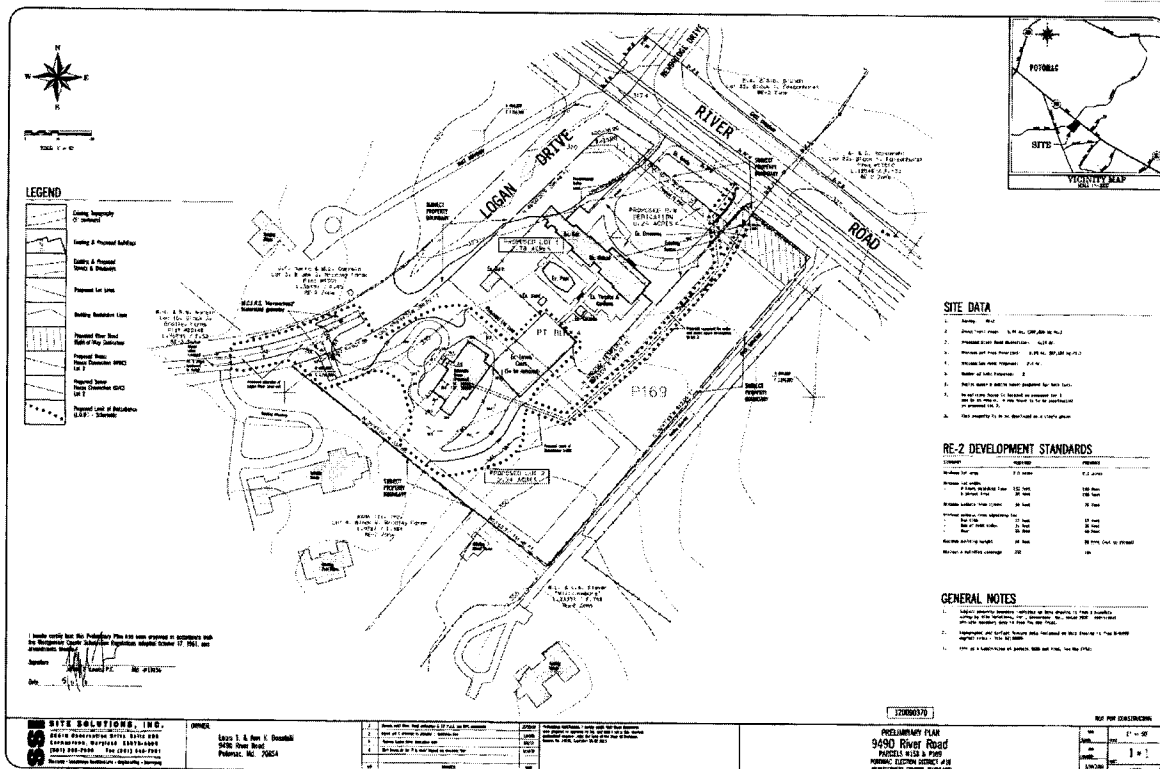


Figure 2

ANALYSIS AND FINDINGS

Master Plan Compliance

The Potomac Subregion Master Plan (2002) recommended the continuation of the RE-2 zone for the Property and nearby properties in recognition of, and to accommodate, the existing development patterns that had been established in this area. The Master Plan makes no specific recommendations for this Property. As such, the creation of lots for one family dwellings in conformance with the RE-2 zoning designation is in conformance with the Master Plan recommendations.

Public Facilities

Roads and Transportation Facilities

The proposed use will generate less than 30 vehicle trips during the morning or evening peak-hour, and therefore, the application is not subject to Local Area Transportation or Policy Area Mobility Review. While the existing house will maintain access to River Road, the plan proposes that the new house on Lot 2 will access Persimmon Tree Road by using the paved private driveway within the Logan Drive right-of-way. The driveway measures 20 feet in width for most of its length and appears to be in good condition. The County has never accepted the driveway for maintenance and according to Montgomery County Department of Permitting (MCDPS) and MCDOT staff, the driveway pavement was not constructed under permit; rather, the building permits for the two homes that now use the right-of-way were obtained in the late 1950's. It is not clear what the access permit process was, if any, at that time.

Staff understands that the two existing homes that currently use the driveway have no formal maintenance agreement; rather, snow removal and repairs to the driveway paving are done under some form of tacit agreement between the two landowners. This application proposes one additional house with access to the driveway. MCDOT has recommended approval of this plan but has required the Applicant to extend the pavement to the new lot and to provide a temporary terminus by construction of a turnaround that meets Fire and Rescue requirements. The Applicant will also need to enter into a recorded covenant to pay a pro-rata share of any improvements to the driveway if, or when, a public road is required in the existing right-of-way and it is brought up to County standards. The MCDOT approval letter dated April 20, 2010, recommends that the Applicant join the other two property owners in a private maintenance agreement for the driveway down to Persimmon Tree Road, however, they do not believe the County has the authority to mandate such an agreement since the existing driveway was not constructed under a county permit.

Note that Logan Drive is not required to be completed through to River Road at this time; however, the right-of-way is there should future development of other lots along Logan Drive warrant its completion. Staff notes that the stream located within the right-of-way is an issue that will need to be addressed if this need arises.

The circumstances of access to this new lot have been discussed in detail by reviewing staffs. What is somewhat unique is that the plats which platted only the right-of-way for Logan Drive and other roads in the Bradley Farms subdivision were recorded years before any subdivision of lots that fronted on them. The means by which this driveway was constructed cannot be located in the records of the County, yet the pavement is within a publically dedicated right-of-way and access to it for new construction is appropriate according to MCDOT. The Department of Fire and Rescue has deemed access adequate with the construction of the turnaround. Staff finds that access for vehicles is, therefore, adequate for the amount of traffic generated by the houses that will use it. Sidewalks are not required since this is an RE-2 zone in the rural area defined by the County Road Code. Pedestrians can safely use the road shoulders.

Other Public Facilities and Services

The application has been reviewed by all local utility agencies (gas, electric, and telecommunications) who have recommended approval of the plan because their respective utility, if available, can adequately serve the development. Other public facilities and services, such as schools, police stations, firehouses and health services, are operating within the standards set by the Growth Policy Resolution currently in effect. The Property is not subject to payment of a School Facilities Payment; the local school cluster is operating within acceptable levels.

Environment

Environmental Guidelines

Although as small portion of stream buffer extends on to the Property in the general area of the existing home, there is no development or disturbance planned for this portion of the site. Staff does not believe that placing the small buffer in an easement is prudent as it would become an enforcement problem. This project has no direct impacts on any environmental features and is in full compliance with the Environmental Guidelines.

Forest Conservation

Staff finds that the plan meets all applicable requirements of the county Forest Conservation Law, Chapter 22A. The 5.44 acre property has an afforestation requirement on the 1.09 acres. This is to meet the minimum afforestation threshold since there is no forest on-site currently. To meet this requirement, the Preliminary Forest Conservation Plan shows the entire 1.09 acre requirement being met off-site in a forest conservation bank.

There are five specimen trees onsite and one specimen tree off-site, all of which are being retained. Under State Bill #666 “No Net Loss of Forest Policy” no variance is required because no specimen trees are proposed for removal.

Stormwater Management

The application has an approved stormwater management concept dated March 5, 2010. The concept consists of non-structural water quality control measures. Channel protection measures are not required because post development flow does not exceed 2.0 cubic feet per second. The application meets the requirements of Chapter 50-24(j) for stormwater management.

Compliance with the Subdivision Regulations and Zoning Ordinance

This application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections including the resubdivision criteria, as discussed below. Staff has reviewed the proposed lot size, width, shape and orientation and finds them to be appropriate for the location of the subdivision.

The lots were reviewed for compliance with the dimensional requirements of the RE-2 zone as specified in the Zoning Ordinance. The lots, as proposed, will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is included in attached Table 1. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

Conformance with Section 50-29(b)(2)

A. Statutory Review Criteria

In order to approve an application for resubdivision, the Planning Board must find that each of the proposed lots complies with all seven of the resubdivision criteria, set forth in Section 50-29(b)(2) of the Subdivision Regulations, which states:

Resubdivision. Lots on a plat for the Resubdivision of any lot, tract or other parcel of land that is part of an existing subdivision previously recorded in a plat book shall be of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing block, neighborhood or subdivision.

B. Neighborhood Delineation

In administering Section 50-29(b)(2) of the Subdivision Regulations, the Planning Board must determine the appropriate "Neighborhood" for evaluating the application. In this instance, the Neighborhood agreed upon by staff and the applicant consists of 38 lots. (See figure 3) This Neighborhood includes all platted lots within the Bradley Farms subdivision and those lots on the opposite side of River Road that abut the Bradley Farms subdivision. Unplatted parcels and parts of lot were excluded. In staff's opinion, this Neighborhood provides an adequate sample of the lot and development pattern of the area. The tabular summary of the lots, based on the resubdivision criteria, is included in Attachment A.

C. Analysis

Comparison of the Character of Proposed Lots to Existing

In performing the analysis, the above-noted resubdivision criteria were applied to the delineated Neighborhood. Proposed Lots 1 and 2 as shown on the plan drawing meet all seven of the resubdivision criteria as compared to other lots within the defined Neighborhood and therefore complies with Section 50-29(b)(2). The attached tabular summary and graphical documentation support this conclusion:

Frontage:

Lot frontages in the Neighborhood range from 135 feet to 790 feet. The Proposed lots will have frontages that range from 240 feet to 336 feet and fall well within the range of all lots as is demonstrated in the tabular summary. **The proposed lots will be of the same character as existing lots in the Neighborhood with respect to lot frontage.**

Alignment:

In the 38 lot Neighborhood, all lots align perpendicularly to the street line in either a corner or standard perpendicular fashion. Both of the proposed lots have standard perpendicular alignments to the street. **The proposed lots are of the same character as existing lots with respect to the alignment criterion.**

Size:

Lot sizes in the Neighborhood range from 1.96 acres to 7.05 acres. The Proposed lots are 2.24 acres and 2.78 acres. Both proposed lots fall within the range of all lot sizes as is demonstrated in the tabular summary(s). **The lots are of the same character with respect to size as the other lots in the defined Neighborhood.**

Shape:

There are a variety of lot shapes in the Neighborhood including rectangular, irregular, angular and triangular shapes. The proposed lots are generally rectangular. **The shapes of the proposed lots will be in character with shapes of the existing lots.**

Width:

Lot widths in the Neighborhood range from 150 feet to 780 feet. The proposed lots vary in width from 240 to 336 feet and, therefore, **will be in character with existing lots in the Neighborhood with respect to width.**

Area:

The buildable area of lots in the Neighborhood ranges from 0.85 acres to 5.64 acres. The buildable areas for lot 1 and 2, respectively are, 1.60 acres and 1.89 acres and are well

within the range. **The lots are of the same character with respect to area as the other lots in the defined Neighborhood.**

Suitability for Residential Use:

The existing and the proposed lots are zoned residential and the land is suitable for residential use.

Citizen Correspondence and Issues

This plan was properly processed in accordance with the current submittal procedures. A pre-submission meeting was held with interested neighbors on February 9, 2009 at the applicant's residence at 9490 River Road in Potomac. Four neighbors attended the meeting. One issue discussed was whether the applicant would request abandonment of Logan Drive and the applicant responded that they were not considering it. Later in the review of the plan the applicant did consider applying for abandonment of this right-of-way, but dropped it from consideration.

Two questions pertained to the configuration and access of proposed Lot 2. The applicant described the shape of Lot 2 and the reasons for it and also discussed how Lot 2 might access River Road. Noticing requirements were also discussed as was the availability of water and sewer to the lots. According to the minutes provided by the applicant, all questions were answered in a satisfactory manner.

Since the submittal of the application, staff has met with two adjacent property owners to discuss the application, Mr. William Slover who abuts the property to the south and east (P224) and Mr. Rafic Bizri who abuts the Property on Logan Drive to the west (9700 Logan Drive). Both oppose the plan due to visual impacts to their properties. Mr. Slover explained that a portion of his property was carved off by a previous owner and conveyed to a former owner of the Subject Property to allow for a new septic system to be installed for the current Donatelli home. Mr. Slover explained that he did not believe that it should now be used to create a second lot on the Property and that by doing so would allow a house to be built that would have negative visual impacts to his property. Staff believes that the revised lot configuration showing a lot with frontage and access to Logan Drive resolves any visual impact that Mr. Slover may have.

Mr., Bizri also opposed the plan because he believed it would have negative visual impacts since a portion of his house looks out on to the back yard of the Subject Property where a new house could be built. Staff explained that vegetative screening could reduce the visual impact but that staff cannot require this of the Applicant. Staff discussed this with the Applicant; however, staff is not aware of any actions by the Applicant to address this concern. Proposed Lot 2 will allow a house to be constructed in an area that will be visible from Mr. Bizri's home.

Mr. Bizri was also concerned about maintenance of the driveway in Logan Drive and how the new home may be required to join in, or assist in maintenance of the driveway. Staff

explained that the driveway is there without any formal permission of MCDOT or MCDPS. Staff has explored all of the issues with County staff and believes that it is purely a matter for the users of the driveway to resolve. MCDPS advises that nothing prohibits the addition of one home on this driveway and would support any private agreements between the individuals on the continued maintenance of this driveway.

There are six letters submitted to the file on this application:

1) From Stanley D. Abrams dated July 28, 2009.

This letter correctly points out that the application contains properties previously shown on a record plat and, therefore, it is a resubdivision and should be reviewed under Section 50-29(b)(2) of the Subdivision Regulations. Staff had made this finding by the time the letter was received to the file; the application is being reviewed as a resubdivision.

2) From William and Katherine Slover dated September 3, 2009

This letter provides some of the history of the area known as Bradley Farms. It explains that a portion of the Applicant's Property was conveyed solely for the purpose of creating a new septic reserve area and that it was not anticipated that it would be used for subdivision purposes. The letter goes on to suggest that the new lots are not in character with the neighborhood and would be within an area that was formerly "part of their front yard".

Staff discussed the resubdivision with Mr. Slover at the meeting held here at Park and Planning. We advised him that the lots meet the resubdivision criteria that establish them to be in character with the Neighborhood. The house location proposed by this plan is not, in staff's opinion, necessarily within the area described as being in the Slover's front yard area. The lot and building envelope allow a house location that aligns well with Logan Drive similar to the other homes on Logan Drive.

3) From Richard E. Hurney, P.E. dated November 19, 2009

The letter references a note on the plan suggesting that Logan Drive would be abandoned. That note was subsequently removed since the Applicant no longer considers requesting such abandonment.

4) From Richard E. Hurney, P.E. dated April 3, 2010

This letter discusses that proposed Lot 2 will have an 18 foot side yard setback to Mr. Bizri's lot while Mr. Bizri now enjoys a 35 foot rear yard setback under the existing lot configuration. The letter asks for a 35 foot side yard setback to be placed on the plat. Staff does not have the authority to require such a setback for the purpose described but, as mentioned above, has discussed the neighbor's concerns with the applicant's attorney.

This letter also suggests that the Applicant's house (proposed Lot 1) does not meet current front yard setbacks along Logan Drive and that it is a violation of RE-2 zone setbacks.

Staff advises that MCDPS reviewed this application and recognizes this as an existing non-conformance. The approval of this plan does not create this non-conformance, does not exacerbate this non-conformance and will record the existing parcel line along Logan Drive exactly as it exists currently.

5) From William and Katherine Slover dated April 26, 2010

This letter expresses concern over the sign posted on the property which describes the subdivision of a 5 acre parcel into 2 - 2.5 acre lots and that this is inaccurate and suggests that the sign does not comply with Chapter 50. Staff believes that the sign makes a reasonable representation of what is being considered under this application. The term parcel is sometimes used interchangeably to describe a single division of land and is also used to describe an assemblage of land. In this case, it describes two pieces of property totaling 5.4 acres. The lot sizes have changed somewhat since the original submission to 2.24 acres and 2.78 acres. It is not unusual for lots to change in configuration as the plan evolves and staff does not find issue with the signage.

The letter also discusses the hammerhead that is required for the temporary terminus of Logan Drive. The author believes that it conflicts with 50-26(b) which discusses the use of cul-de-sacs or turnarounds and the limitations placed on their use. Staff believes that the author confuses the use of *permanent* cul-de-sacs and turnarounds with the *temporary* hammerhead that is proposed here on Logan Drive. Since Logan Drive is a thru right-of-way, a final determination has not been made regarding its final design. It may eventually be constructed through to River Road when other properties develop and require access to Logan Drive. It may, after review of any environmental impacts or other traffic concerns, be completed as a non-through road. MCDOT, at this time, has required a temporary hammerhead and that the proposed lots enter into a covenant whereby, they will pay a pro-rate share towards the ultimate completion of Logan Drive when deemed necessary by MCDOT.

This letter also raises the issue of the house on proposed Lot 1 being too close to Logan Drive.

6) From Richard E. Hurney, P.E. dated April 23, 2010

This letter mimics the previous letter and questions the use of an "overlength cul-de-sac". As discussed above, staff and MCDOT envision this hammerhead as a temporary termination of the driveway in Logan Drive. If, or when, additional homes require access to Logan Drive, it is very likely that it will need to be brought up to full County standards. Future applications for subdivisions or building permits will trigger a review for access; the pavement in the Logan Drive right-of-way will be re-evaluated for those applications. A decision on whether to extend Logan Drive all the way to River Road or to terminate it in a permanent cul-de-sac are two options but neither are under consideration at this time.

Staff believes that all of the community concerns have been reasonably addressed by the responses provided in this memo and through the meetings with the neighbors.

CONCLUSION

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and complies with the recommendations of the Potomac Subregion Master Plan. Access and public facilities will be adequate to serve the proposed lots and use and the application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan. Therefore, approval of the application with the conditions specified above is recommended.

Attachment A – Resubdivision Map and Tables (4)

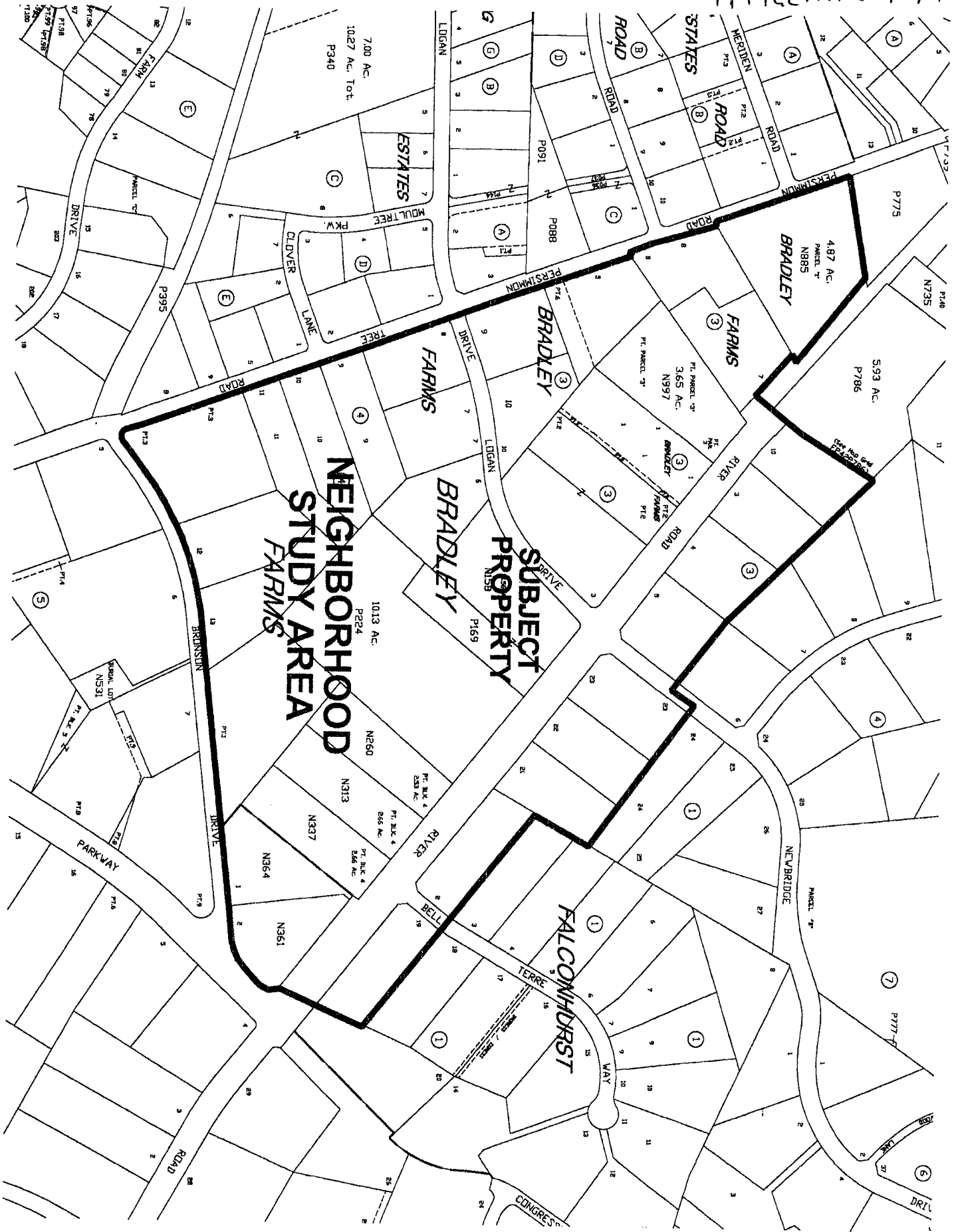
Attachment B – Neighborhood correspondence

Table 1: Preliminary Plan Data Table and Checklist

Plan Name: 9490 River Road				
Plan Number: 120100150				
Zoning: RE-2				
# of Lots: 2				
# of Outlots: 0				
Dev. Type: Residential				
PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval by the Preliminary Plan	Verified	
Minimum Lot Area	87,120 sq. ft.	97,574 sq. ft.	RW	5/24/10
Lot Width	150 ft.	265 ft.	RW	5/24/10
Lot Frontage	25 ft.	240 ft.	RW	5/24/10
Setbacks				5/24/10
Front	50ft. Min.	Must meet minimum ¹	RW	5/24/10
Side	17 ft. Min./ 35 ft. total	Must meet minimum ¹	RW	5/24/10
Rear	35 ft. Min.	Must meet minimum ¹	RW	5/24/10
Height	50 ft. Max.	May not exceed maximum ¹	RW	5/24/10
Max Resid'l d.u. per Zoning	2	2	RW	5/24/10
MPDUs	N/A		RW	5/24/10
TDRs	N/A		RW	5/24/10
Site Plan Req'd?	No		RW	5/24/10
FINDINGS				
SUBDIVISION				
Lot frontage on Public Street		Yes	RW	5/24/10
Road dedication and frontage improvements		Yes	Agency letter	2/19/10
Environmental Guidelines		N/A	Staff memo	3/29/10
Forest Conservation		Yes	Staff memo	3/29/10
Master Plan Compliance		Yes	RW	5/24/10
Other (i.e., parks, historic preservation)		N/A	RW	5/24/10
Stormwater Management		Yes	Agency letter	2/5/10
Water and Sewer (WSSC)		Yes	Agency letter	8/24/09
10-yr Water and Sewer Plan Compliance		Yes	RW	5/24/10
Well and Septic		N/A	RW	5/24/10
Local Area Traffic Review		N/A	RW	5/24/10
Policy Area Mobility Review		N/A	RW	5/24/10
Transportation Management Agreement		N/A	RW	5/24/10
School Cluster in Moratorium?		No	RW	5/24/10
School Facilities Payment?		No	RW	5/24/10
Fire and Rescue		Yes	Agency letter	2/1/10
Other (i.e., schools)		N/A	RW	5/24/10

¹ As determined by MCDPS at the time of building permit.

Attachment "A"



NEIGHBORHOOD STUDY AREA FARMS

SUBJECT PROPERTY

BRADLEY

FARMS

BRADLEY

FALCONHORST

7.00 Ac.
10.27 Ac. Tot.
P340

4.87 Ac.
Parcel "A"
N885

3.65 Ac.
Parcel "B"
N997

10.13 Ac.
P224

5.93 Ac.
P786

PARKWAY

RIVER

BELL

TERRE

WAY

CONGRESS

NEVBRIDGE

STAYES

ROAD

ROAD

LOGAN

ESTATES

MUL TREE

PKV.

CLOVER

LANE

ROAD

DRIVE

DRIVE

9490 River Road

120090370 Re-subdivision Analysis

NEIGHBORHOOD DATA TABLE

Neighborhood Rank by Buildable Area

<u>Subdivision</u>	<u>Lot/Blk</u>	<u>Lot Size</u>	<u>Shape</u>	<u>Frontage</u>	<u>Alignment</u>	<u>Width @ BRL</u>	<u>Buildable Area</u>
Falconhurst	23/1	2.16 ac.	rectangular	213 ft.	corner	211 ft.	0.85 ac.
Bradley farms	10/3	2.00 ac.	irregular	388 ft.	perpendicular	352 ft.	0.88 ac.
Bradley Farms	8 / 3	2.00 ac.	irregular	349 ft/	perpendicular	349 ft.	0.98 ac.
Falconhurst	5 / 3	2.06 ac.	square	275 ft.	corner	275 ft.	1.01 ac.
Bradley Farms	5 / 3	1.96 ac	irregular	272 ft.	Corner lot	275 ft.	1.01 ac.
Bradley Farms	9 / 3	2.00 ac.	rectangular	265 ft.	corner lot	265 ft.	1.02 ac.
Falconhurst	22/1	2.00 ac.	rectangular	214 ft.	perpendicular	214 ft.	1.08 ac.
Falconhurst	21/1	2.00 ac.	rectangular	235 ft.	perpendicular	215 ft.	1.08 ac.
Falconhurst	10/3	2.01 ac.	rectangular	212 ft.	perpendicular	212 ft.	1.09 ac.
Bradley Farms	8 / 4	2.05 ac.	rectangular	226 ft.	corner	250 ft.	1.10 ac.
Falconhurst	3 / 3	2.00 ac.	rectangular	257 ft.	perpendicular	257 ft.	1.10 ac.
Falconhurst	4 / 3	2.00 ac.	rectangular	274 ft.	perpendicular	274 ft.	1.10 ac.
Falconhurst	19/1	2.12 ac.	rectangular	180 ft.	corner	180 ft.	1.10 ac.
Falconhurst	19/1	2.12 ac.	rectangular	180 ft.	corner	180 ft.	1.10 ac.
Bradley Farms	7 / 4	2.09 ac.	rectangular	274 ft.	perpendicular	270 ft.	1.13 ac.
Bradley Farms	11/4	2.11 ac.	irregular	150 ft.	perpendicular	150 ft.	1.16 ac.
NEHA Estates	lot 2	2.19 ac.	triangular	365 ft.	corner	305 ft.	1.21 ac.
Bradley Farms	9 / 4	2.20 ac.	rectangular	170 ft.	perpendicular	170 ft.	1.43 ac.
Bradley Farms	10/4	2.23 ac.	rectangular	150 ft.	perpendicular	150 ft.	1.45 ac.
NEHA Estates	Lot 1	2.31 ac.	triangular	305 ft.	perpendicular	335 ft.	1.50 ac.
Bradley Farms	6/4	2.46 ac	irregular	175 ft.	perpendicular	195 ft.	1.59 ac.
Bradley Farms	Lot 2	2.24 ac.	rectangular	240 ft.	perpendicular	240 ft.	1.60 ac.
Bradley Farms	N260	2.54 ac.	rectangular	175 ft.	perpendicular	175 ft.	1.65 ac.
Bradley Farms	12/4	2.59 ac.	irregular	263 ft.	perpendicular	250 ft.	1.68 ac.
Bradley Farms	7 / 3	2.63 ac.	irregular	303 ft.	perpendicular	303 ft.	1.71 ac.
Bradley Farms	1 / 3	2.66 ac.	rectangular	200 ft.	perpendicular	200 ft.	1.73 ac.
Bradley Farms	2 / 3	2.66 ac.	rectangular	200 ft.	perpendicular	200 ft.	1.73 ac.
Bradley Farms	N313	2.66 ac.	rectangular	200 ft.	perpendicular	200 ft.	1.73 ac.
Bradley Farms	N337	2.66 ac.	rectangular	200 ft.	perpendicular	200 ft.	1.73 ac.
Bradley Farms	13/4	2.69 ac.	irregular	311 ft.	perpendicular	265 ft.	1.75 ac.
Bradley Farms	Lot 1	2.78 ac.	rectangular	336 ft.	perpendicular	336 ft.	1.89 ac.
Falconhurst	20/1	3.10 ac.	irregular	135 ft.	perpendicular	150 ft.	2.01 ac.
Bradley Farms	3 / 3	3.56 ac.	irregular	290 ft.	corner	270 ft.	2.31 ac.
Bradley Farms	N997	3.65 ac.	irregular	200 ft.	perpendicular	219 ft.	2.37 ac.
Bradley Farms	5 / 4	3.95 ac.	irregular	298 ft.	Perpendicular	310 ft.	2.76 ac.
Bradley Farms	4 / 4	4.67 ac.	rectangular	487 ft.	corner	487 ft.	3.27 ac.
Bradley Farms	N885	4.87 ac.	Irregular	412 ft.	perpendicular	412 ft.	3.65 ac.
Bradley Farms	1 / 4	5.17 ac.	irregular	760 ft.	perpendicular	725 ft.	3.88 ac.
Bradley Farms	2 / 4	6.25 ac.	irregular	415 ft.	perpendicular	415 ft.	5.01 ac.
Bradley Farms	3 / 4	7.05 ac.	rectangular	790 ft.	perpendicular	780 ft.	5.64 ac.

9490 River Road

120090370 Re-subdivision Analysis

NEIGHBORHOOD DATA TABLE

Neighborhood Rank by Frontage

<u>Subdivision</u>	<u>Lot/Blk</u>	<u>Lot Size</u>	<u>Shape</u>	<u>Frontage</u>	<u>Alignment</u>	<u>Width @ BRL</u>	<u>Buildable Area</u>
Falconhurst	20/1	3.10 ac.	irregular	135 ft.	perpendicular	150 ft.	2.01 ac.
Bradley Farms	11/4	2.11 ac.	irregular	150 ft.	perpendicular	150 ft.	1.16 ac.
Bradley Farms	10/4	2.23 ac.	rectangular	150 ft.	perpendicular	150 ft.	1.45 ac.
Falconhurst	2 / 1	2.12 ac.	rectangular	162 ft.	corner	174 ft.	1.12 ac.
Bradley Farms	9 / 4	2.20 ac.	rectangular	170 ft.	perpendicular	170 ft.	1.43 ac.
Bradley Farms	6/4	2.46 ac.	irregular	175 ft.	perpendicular	195 ft.	1.59 ac.
Bradley Farms	N260	2.54 ac.	rectangular	175 ft.	perpendicular	175 ft.	1.65 ac.
Falconhurst	19/1	2.12 ac.	rectangular	180 ft.	corner	180 ft.	1.10 ac.
Bradley Farms	1 / 3	2.66 ac.	rectangular	200 ft.	perpendicular	200 ft.	1.73 ac.
Bradley Farms	2 / 3	2.66 ac.	rectangular	200 ft.	perpendicular	200 ft.	1.73 ac.
Bradley Farms	N313	2.66 ac.	rectangular	200 ft.	perpendicular	200 ft.	1.73 ac.
Bradley Farms	N337	2.66 ac.	rectangular	200 ft.	perpendicular	200 ft.	1.73 ac.
Bradley Farms	N997	3.65 ac.	irregular	200 ft.	perpendicular	219 ft.	2.37 ac.
Falconhurst	10/3	2.01 ac.	rectangular	212 ft.	perpendicular	212 ft.	1.09 ac.
Falconhurst	23/1	2.16 ac.	rectangular	213 ft.	corner	211 ft.	0.85 ac.
Falconhurst	22/1	2.00 ac.	rectangular	214 ft.	perpendicular	214 ft.	1.08 ac.
Bradley Farms	8 / 4	2.05 ac.	rectangular	226 ft.	corner	250 ft.	1.10 ac.
Falconhurst	21/1	2.00 ac.	rectangular	235 ft.	perpendicular	215 ft.	1.08 ac.
Bradley Farms	Lot 2	2.24 ac.	rectangular	240 ft.	perpendicular	240 ft.	1.60 ac.
Falconhurst	3 / 3	2.00 ac.	rectangular	257 ft.	perpendicular	257 ft.	1.10 ac.
Bradley Farms	12/4	2.59 ac.	irregular	263 ft.	perpendicular	250 ft.	1.68 ac.
Bradley Farms	9 / 3	2.00 ac.	rectangular	265 ft.	corner lot	265 ft.	1.02 ac.
Bradley Farms	5 / 3	1.96 ac.	irregular	272 ft.	Corner lot	275 ft.	1.01 ac.
Falconhurst	4 / 3	2.00 ac.	rectangular	274 ft.	perpendicular	274 ft.	1.10 ac.
Bradley Farms	7 / 4	2.09 ac.	rectangular	274 ft.	perpendicular	270 ft.	1.13 ac.
Falconhurst	5 / 3	2.06 ac.	square	275 ft.	corner	275 ft.	1.01 ac.
Bradley Farms	3 / 3	3.56 ac.	irregular	290 ft.	corner	270 ft.	2.31 ac.
Bradley Farms	5 / 4	3.95 ac.	irregular	298 ft.	Perpendicular	310 ft.	2.76 ac.
Bradley Farms	7 / 3	2.63 ac.	irregular	303 ft.	perpendicular	303 ft.	1.71 ac.
NEHA Estates	Lot 1	2.31 ac.	triangular	305 ft.	perpendicular	335 ft.	1.50 ac.
Bradley Farms	13/4	2.69 ac.	irregular	311 ft.	perpendicular	265 ft.	1.75 ac.
Bradley Farms	Lot 1	2.78 ac.	rectangular	336 ft.	perpendicular	336 ft.	1.89 ac.
Bradley Farms	8 / 3	2.00 ac.	irregular	349 ft/	perpendicular	349 ft.	0.98 ac.
NEHA Estates	lot 2	2.19 ac.	triangular	365 ft.	corner	305 ft.	1.21 ac.
Bradley farms	10/3	2.00 ac.	irregular	388 ft.	perpendicular	352 ft.	0.88 ac.
Bradley Farms	N885	4.87 ac.	Irregular	412 ft.	perpendicular	412 ft.	3.65 ac.
Bradley Farms	4 / 4	4.67 ac.	rectangular	487 ft.	corner	487 ft.	3.27 ac.
Bradley Farms	2 / 4	6.25 ac.	irregular	415 ft.	perpendicular	415 ft.	5.01 ac.
Bradley Farms	1 / 4	5.17 ac.	irregular	760 ft.	perpendicular	725 ft.	3.88 ac.
Bradley Farms	3 / 4	7.05 ac.	rectangular	790 ft.	perpendicular	780 ft.	5.64 ac.

9490 River Road

120090370 Re-subdivision Analysis

NEIGHBORHOOD DATA TABLE

Neighborhood Rank by Lot Size

<u>Subdivision</u>	<u>Lot/Blk</u>	<u>Lot Size</u>	<u>Shape</u>	<u>Frontage</u>	<u>Alignment</u>	<u>Width @ BRL</u>	<u>Buildable Area</u>
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Falconhurst	4 / 3	2.00 ac.	rectangular	274 ft.	perpendicular	274 ft.	1.10 ac.
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9490 River Road

120090370 Re-subdivision Analysis

NEIGHBORHOOD DATA TABLE

Neighborhood Rank by Width at BRL

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Bradley Farms	Lot 1	2.78 ac.	rectangular	336 ft.	perpendicular	336 ft.	1.89 ac.
Bradley Farms	8 / 3	2.00 ac.	irregular	349 ft./	perpendicular	349 ft.	0.98 ac.
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Attachment "B"

ABRAMS & WEST, P.C.

ATTORNEYS AT LAW

SUITE 760N

4550 MONTGOMERY AVENUE

BETHESDA, MARYLAND 20814-3304

(301) 951-1550

FAX: (301) 951-1543

JAMES L. PARSONS, JR.
OF COUNSEL

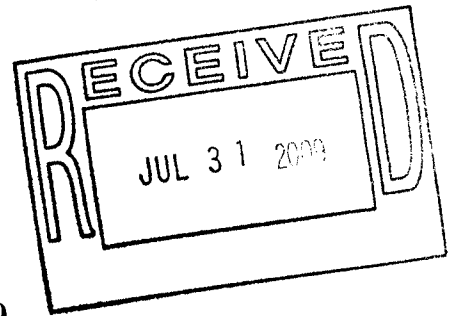
KENNETH R. WEST
STANLEY D. ABRAMS
KEITH J. ROSA

PRACTICING IN MARYLAND AND
DISTRICT OF COLUMBIA

WRITER'S DIRECT NUMBER
(301) 951-1540
EMAIL: "sabrams@awslaw.com"

July 28, 2009

Ms. Cathy Conlon
Development Review Division
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910



**RE: Preliminary Plan No. 120090370
9490 River Road**

Dear Ms. Conlon:

I represent Mr. Rafic Bizri who resides at 9700 Logan Drive, Potomac, MD (Lot 6, Block 4, Bradley Farms Subdivision) which adjoins the subject property to the rear (west), Mr. Bizri opposes the proposed plan because the plan is a resubdivision and does not comply with Section 50-29(b)(2) of the Subdivision Regulations as the proposed lots are not of the same character as to street frontage, alignment, shape and width as other lots within the existing block, neighborhood or subdivision. This position is also supported by Mr. William Slover, owner and resident at 9420 River Road, Potomac, Maryland which is the ten (10) acre parcel abutting the proposed lots to the south.

The applicant's attorney in his Justification Letter of July 10, 2009 in footnote 1 appears to contend that the property identified as N158 has never been formally subdivided and therefore that this plan creating two lots should be treated as an original subdivision and not subject to the resubdivision standards. This is incorrect. The County Tax Map reflects that N158 is "Pt., Blk 4" (See Exhibit "A").

In January, 1937 a street dedication plat was filed for "Bradley Farms" which included "Parcel 4" creating Logan Drive and Bronson Drive (See Exhibit "B") and that was designated as "Plat 764".

In May, 1939 a Plat (Plat No. 1040) entitled "Plat of Conveyances of Part of Bradley Farms" which in reality was a plat of resubdivision created a legally subdivided lot which forms part of the proposed resubdivision (See Exhibit "C"). In support of this position are

the following:

- (1) This plat and Plat No. 764 were approved and signed by the chairman of the M-NCPPC and the chief engineer of the WSSC. If these plats were merely to show the lots conveyed it would not require these signatures and approvals. Only a subdivision record plat requires this to be reflected on a plat.
- (2) The Lots, including the subject lot identified as N158 by the applicant and tax map were subdivided out of "Parcel 4" as shown on this Plat No. 1040. This is further referenced in the Engineer's Certificate.
- (3) Plat No. 1040 within the Engineer's Certificate specifically states "***that it is a subdivision...***"
- (4) Plat No. 1301 (Exhibit "D") reflects that it is a plat of Blocks 3, 4 and 5 and is a "Resubdividing Part of parcel 3, 4 and 5." This plat also notes that lots along River Road were "Previously Recorded."
- (5) A plat (Plat No. 4020) creating my clients lot (Lot 6) and some other lots within Block 4 of Bradley Farms in April, 1955 refers in the Engineer's Certificate that it is a "***Resubdivision of Part of Block 4 on a Plat "Bradley Farms" recorded in Plat Book 21, Plat 1301 . .*** (See Exhibit "E").

The evidence clearly reflects that what has been filed in the pending preliminary plan is a resubdivision. The street frontage of proposed lot 2 is smaller than the street frontage and width of any of the lots on the west side of River Road between Logan Drive and Bronson Drive. There are no lots with a five (5) or six (6) sided shape and alignment in this same block neighborhood or subdivision similar to proposed Lot 2. Consequently, the proposed preliminary plan does not comply with the resubdivision requirements.

Even under the unlikely conclusion that this is an original subdivision, the proposed two (2) lot plan does not meet the Lot Design Requirements of Section 50-29(a) of the Subdivision Regulations. That section requires that the lot width, shape and orientation must be appropriate for the location of the subdivision. The proposed Lot 2 is an irregular shaped 5 or 6 sided lot which is gerrymandered to meet the 150' front building line which in turn, creates an irregular shaped proposed Lot 1 that is currently of a standard rectangular shape. There are no other lots near the shape of the proposed lots anywhere in the community.

Whether this is a resubdivision, which we believe it to be, or an original subdivision, the proposed plan does not meet the requirements of the subdivision regulations. Please

direct this submission to whomever on staff will be reviewing Preliminary Plan No. 120090370. Also, please inform me of the date and time of the DRC meeting on this plan.

Sincerely,



Stanley D. Abrams

SDA:dw
Enclosures

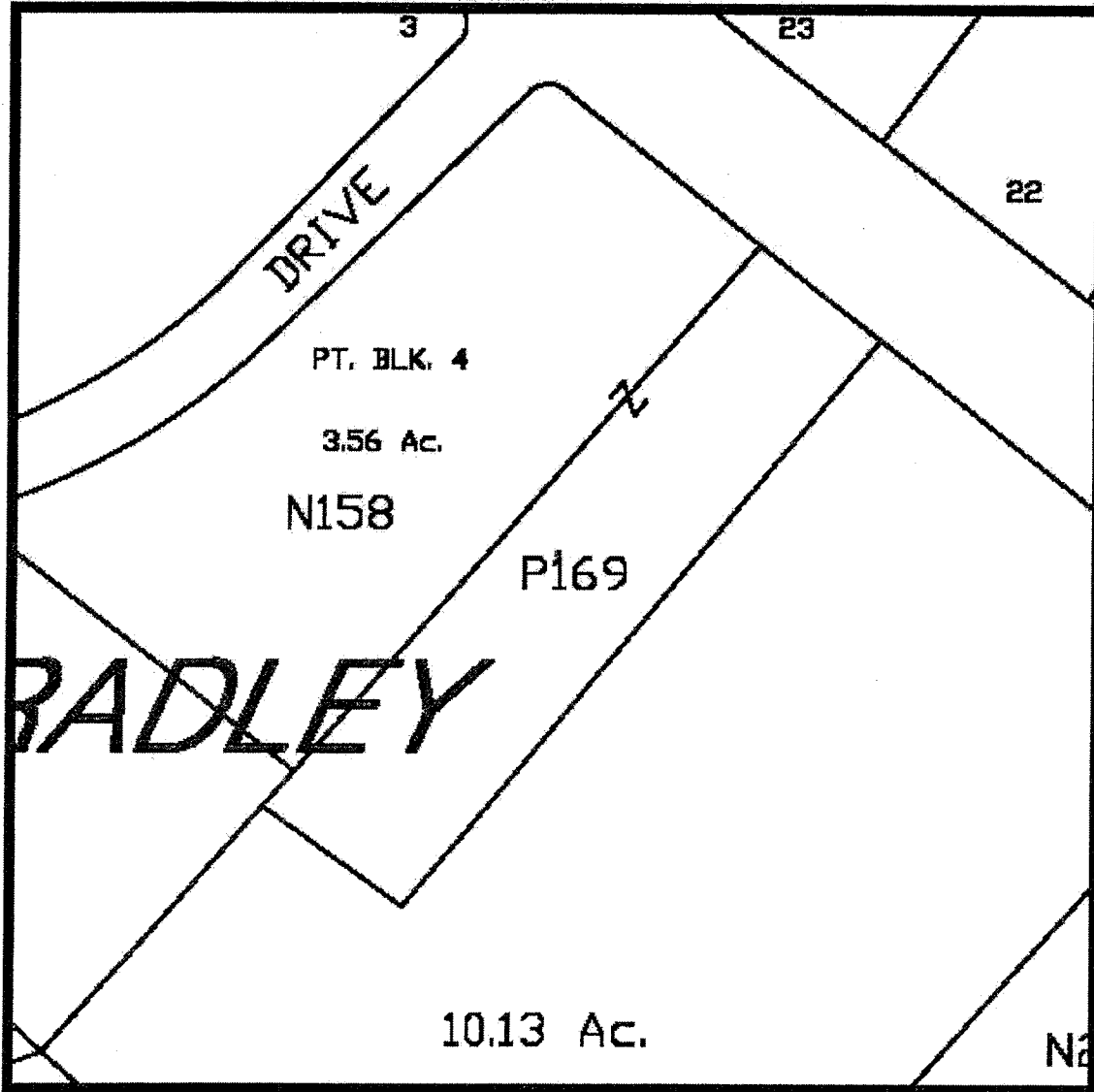
cc: William Slover
Rafic Bizri



Maryland Department of Assessments and Taxation
MONTGOMERY COUNTY
Real Property Data Search

[Go Back](#)
[View Map](#)
[New Search](#)

District - 10 Account Number - 01659735



Property maps provided courtesy of the Maryland Department of Planning ©2004.
For more information on electronic mapping applications, visit the Maryland Department of Planning web site
at www.mdp.state.md.us/webcom/index.html



Exhibit A

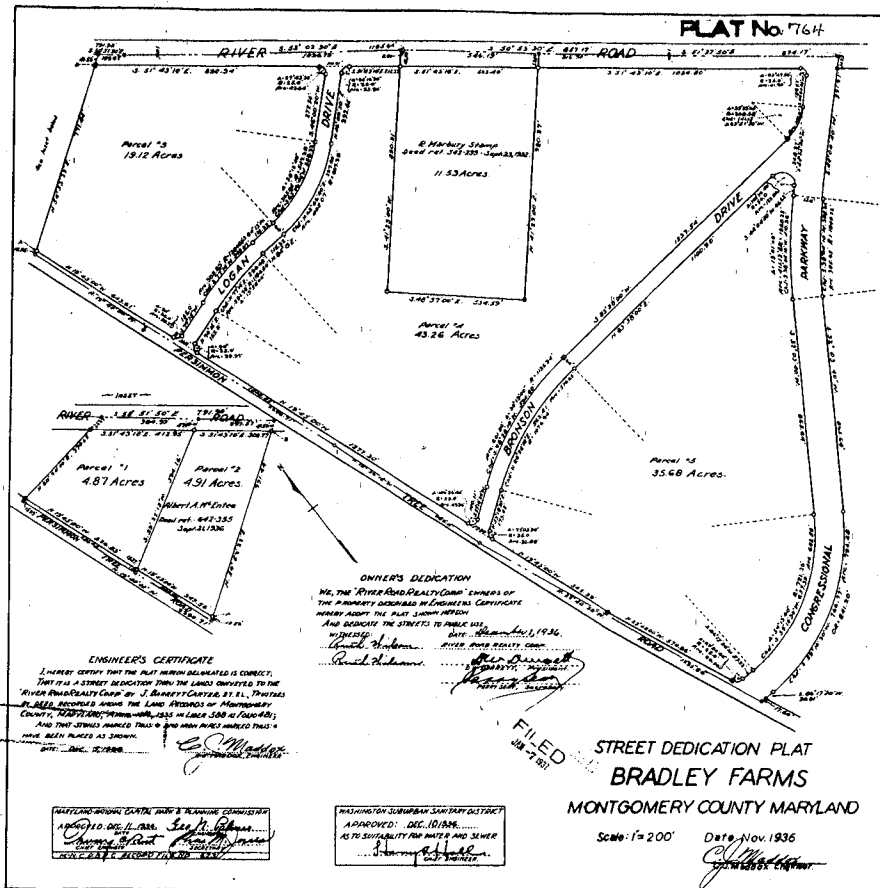


Exhibit B

PLAT No. 1040

PLAT OF CONVEYANCES

OF PART OF

BRADLEY FARMS

MONTGOMERY COUNTY, MARYLAND

SCALE: 1" = 200'

C. J. MADDOX
COUNTY SURVEYOR

ENGINEER'S CERTIFICATE

I hereby certify that the plan shown hereon is correct; that it is a subdivision of part of the lands conveyed to the River Road Realty Corp. by J. Borrell Carter, et al. Trustees by deed recorded among the Land Records of Montgomery County, Maryland, April 10, 1935 in Liber 588 of Page 481; being a part of Parcels 3 and 4 as shown on a plat of Bradley Farms, recorded among the aforementioned Land Records in Plat Book 11, plat No. 764; and that pipes shown thus — are in place as indicated.

April 14, 1939

C. J. Maddox
C. J. MADDOX, ENGINEER

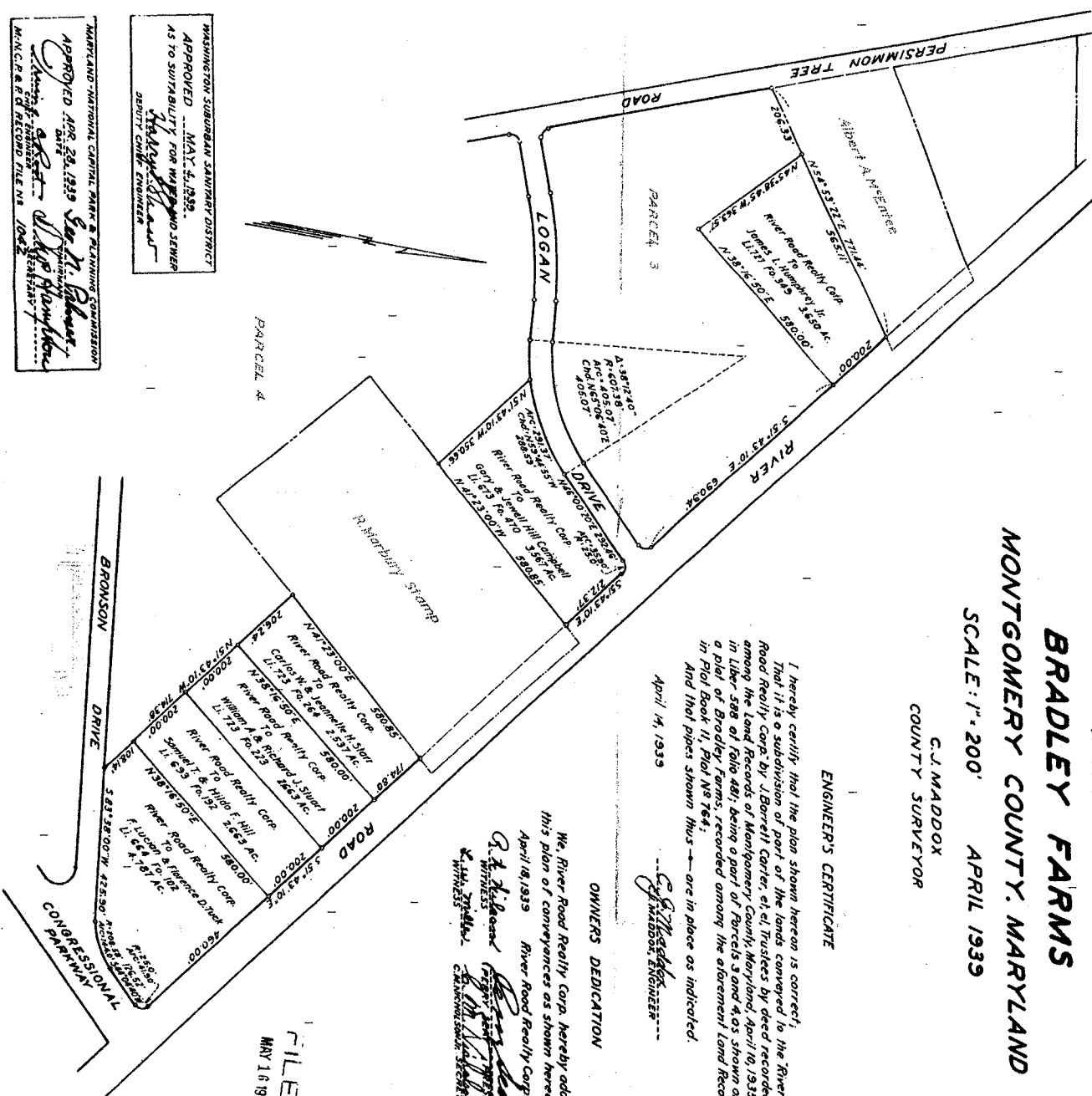
OWNERS DEDICATION

We, River Road Realty Corp. hereby adopt this plan of conveyances as shown hereon.

April 18, 1939 River Road Realty Corp.

R. H. Wilson
R. H. WILSON, President
Wm. J. Wilson
Wm. J. WILSON, Secretary

FILED
MAY 16 1939



WASHINGTON SUBURBAN SANITARY DISTRICT
APPROVED MAY 4, 1939.
AS TO SUITABILITY FOR THE PROPOSED SEWER
Walter D. Adams
DEPUTY CIVIL ENGINEER

MARYLAND NATIONAL CAPITAL PARK & PLANNING COMMISSION
APPROVED APR. 28, 1939 See H. Adams
Walter D. Adams
DEPUTY CIVIL ENGINEER
M-C-P-R-E-D RECORD FILE NO. 1043

Exhibit C

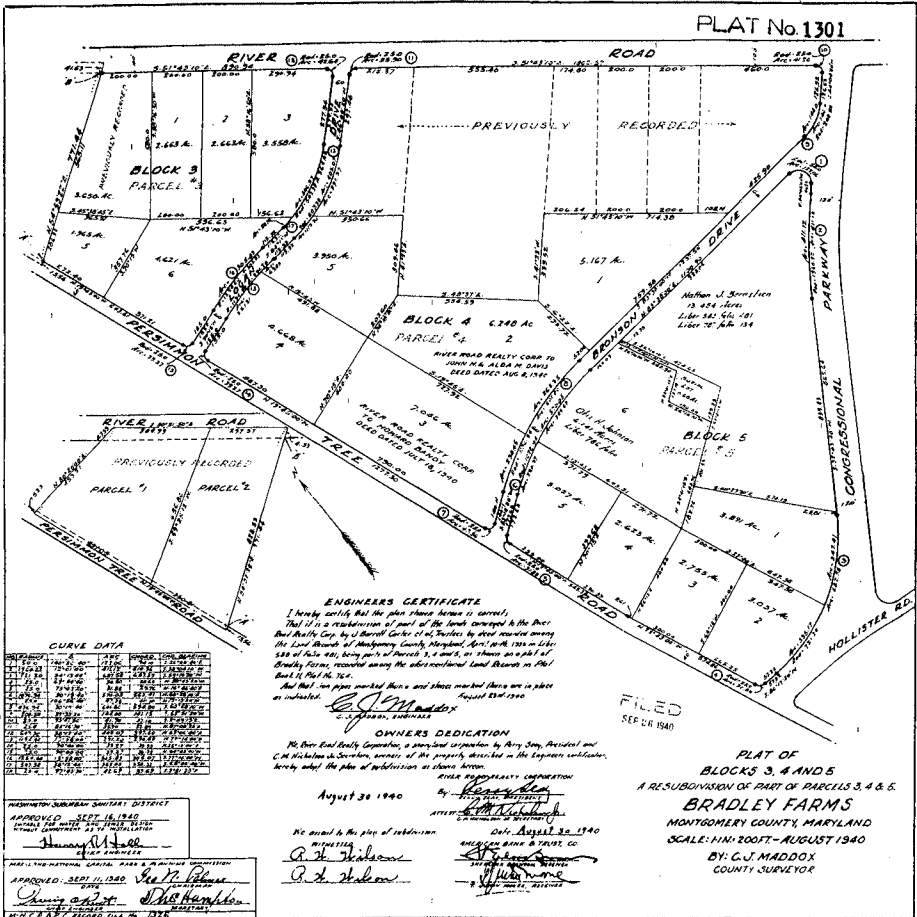


Exhibit D

PLAT No 4020

ENGINEER'S CERTIFICATE

THE ENGINEER CERTIFY THAT THE PLAN SHOWN HEREON IS CORRECT; THAT IT IS A SUBDIVISION OF ALL OF THE LAND COVERED IN THE FOLLOWING FOUR DEEDS: 1. BY GEORGE W. DE RIVERDUNN ET UX, TO THOMAS A. DAVIS BY DEED DATED AUGUST 9, 1841 AND RECORDED IN LIBER 518 AT FOLIO 83; 2. BY THOMAS A. DAVIS ET UX, TO JOHN N. DAVIS ET UX, BY DEED DATED AUGUST 6, 1840 AND RECORDED IN LIBER 755 AT FOLIO 46 AND BY AN OTHER DEED DATED OCTOBER 24, 1840 AND RECORDED IN LIBER 808 AT FOLIO 339; 3. BY WILLIAM A. STEWART ET UX, TO JOHN HENRY ET UX, BY DEED DATED AUGUST 4, 1841; 4. BY JOHN HENRY ET UX, TO JOHN HENRY ET UX, BY DEED DATED AUGUST 4, 1841. AND ALSO A SUBDIVISION OF PART OF SECTION 36, TOWNSHIP 37 NORTH, RANGE 2 WEST, MONTGOMERY COUNTY, MARYLAND AND THAT THE LOTS HEREON SHOWN WERE MARKED THEIR 0 ARE IN PLACE WHERE SHOWN DATE: NOV. 30, 1885.

John H. Hopkins
 JOHN H. HOPKINS
 REGISTERED LAND SURVEYOR
 4232

OWNER'S DEDICATION

WE, JOHN H. DAVIS AND MARY A. DAVIS HIS WIFE, OWNERS OF THE PROPERTY SHOWN AND DESIGNATED HEREON, HEREBY ADMIT THIS PLAN OF SUBDIVISION AND ESTABLISH THE HENKINSON BUILDING RESTRICTION LINES. THERE ARE NO SUITS OF ACTION, LIENS, CLAIMS OR TRUSTS ON THE PROPERTY SHOWN IN THIS PLAN OF SUBDIVISION. DATE: NOV. 30, 1885.

John H. Davis
 JOHN H. DAVIS
 MARY A. DAVIS
 WIVES

NOTE FOR STREET DEDICATION SEE PLAT BOOK 21 - PLAT 1301
 APR 6 1885

**PART OF BLOCK 4
 BRADLEY FARMS
 MONTGOMERY COUNTY, MARYLAND
 NOVEMBER, 1884**

HADDOK & HOPKINS
 CIVIL ENGINEERS
 SILVER SPRING, MD.

NO.	NUMBER	ACRES	AREA	Q. AREA	Q. AREA	Q. AREA	Q. AREA	Q. AREA
1	1736.54	34.15	18° 18' 30"	18° 18' 30"	18° 18' 30"	18° 18' 30"	18° 18' 30"	18° 18' 30"
2	25.00	38.87	30° 00' 00"	30° 00' 00"	30° 00' 00"	30° 00' 00"	30° 00' 00"	30° 00' 00"
3	1256.60	391.20	13° 58' 00"	13° 58' 00"	13° 58' 00"	13° 58' 00"	13° 58' 00"	13° 58' 00"
4	607.38	113.70	10° 43' 38"	10° 43' 38"	10° 43' 38"	10° 43' 38"	10° 43' 38"	10° 43' 38"

THE MARYLAND NATIONAL CAPITAL PARK & PLANNING COMMISSION
 APPROVED MARCH 24, 1935
Charles P. Jones
 CHARLES P. JONES
 SECRETARY TREASURER
 M. N. C. & P. C. RECORD FILE NO. 150-6

SLOVER FARMS

Office:
9460 River Road
Potomac, Maryland 20854
(301) 299-4353



Farm Locations:
Maryland Route 190 and
Maryland Route 28

September 3, 2009

Ms. Catherine Conlon
Development Review
The Maryland-National Capital Park and Planning Commission
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: PRELIMINARY PLAN NO. 120090370

Dear Ms. Conlon:

Attached please find a short memorandum which we have prepared as part of our opposition to the above-referenced proposal.

We look forward to meeting with you personally at 10:00am on Friday, September 4th in your offices.

Sincerely,

A handwritten signature in cursive script that reads "Katherine and William Slover".

Katherine and William Slover

WLS:kfm
Enclosures

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MEMORANDUM

TO: CATHERINE CONLON
FROM: WILLIAM AND KATHERINE SLOVER
RE: PRELIMINARY PLAN NO. 120090370
DATE: SEPTEMBER 3, 2009

INTRODUCTION

This memorandum has been prepared by William and Katherine Slover to provide the Development Review Division with certain background facts and information germane to the above-referenced proposed re-subdivision now pending before the Park and Planning Commission.

KATHERINE AND WILLIAM SLOVER (Opponents)

Katherine and William Slover are long-time Montgomery County residents who live on a small (10+acre) farm at 9460 River Road. Their farm abuts one of the parcels implicated in Preliminary Plan No. 120090370. They vigorously oppose the Preliminary Plan.

APPLICANT'S PROPOSAL

Preliminary Plan No. 120090370 proposes to take two (2) parcels of land in the 9400 block of River Road near the village of Potomac, Maryland and transform them from their present status as a recorded building lot of 3.5 acres (N158, Part of Block 4) and a 1.8 acre tract of land (Parcel 169) into two (2) separate recorded building lots of 2+ acres each.

The centerpiece of the Proposal is the 1.8 acres making up Parcel 169.

Applicant seeks to transform that currently undersized parcel of land into a buildable lot by carving *circa* one-half acre from its adjoining lot No. N158 and attaching it to Parcel N 169 so that Parcel N169 complies with the two-acre minimum acreage of the R-2 zone in which it is located.

HISTORY OF PARCEL N169

Prior to 1974, Parcel N169 did not exist separately but rather it was an undivided part of a small farm now owned by William and Katherine Slover. In 1974, the Slovers' predecessor (J. Fort) agreed to detach what is now Parcel 169 from his 12+ acre tract and sell it to Applicant's predecessor (M. Thompson) exclusively for use as a septic field. At the time, the Thompson's septic system had irreparably failed and their only feasible option was to construct a new field on land adjacent to their lot (Parcel N158) which land, at the time, belonged to Fort. Fort was understandably reluctant to sell an integral part of his farm, but at the same time, he was sympathetic to his neighbor's plight. To help the Thompsons out of their sewage problem, while at the same time not diminishing the value of his own remaining property, Fort agreed to sell Thompson a parcel of less than two acres for use as a septic field. In this way, Thompson could construct a new septic system, but at less than two acres, the parcel could not be improved (or so Fort thought) so as to change the character of the neighborhood or compromise

Fort's retained acreage (Attachment No. 1).¹ The origin of Parcel N169 is therefore strikingly similar to the origins of deeded tracts of land discussed in the examples in the Commission's subdivision literature which examples explain the difference between a "deeded property" and a "recorded lot" (Attachment No. 2).

Applicant utilized Parcel N169 as a septic field for many years until the public sewer reached his property in 2001. The Slovers notified Applicant in 2002, in writing, that they would vigorously oppose any attempt by Applicant to transform the former septic area into a recorded building lot now that it was no longer being used as a septic field (Attachment No. 3).

RECENT DEVELOPMENTS

At a meeting with Applicant on August 24, 2009, the Planning Commission Staff, with good cause in the opinion of the Slovers, offered its preliminary view that Applicant's was proposing a re-subdivision and that the proposed new lot which was largely made up from Parcel N169 was not of the same character of the other lots in Block 4 of Bradley Farms.

After offering its negative view of Applicant's proposal as filed, the Commission Staff engaged in a lengthy discussion of an alternative re-subdivision whereunder Applicant would create a new building lot which was more-or-less

¹ None of the foregoing was reduced to writing.

symmetrical (unlike the proposed new lot) and which would be accessed from Logan Drive instead of River Road.

LOGAN DRIVE

As it now exists, Logan Drive terminates as a semi-improved street a few yards south of Applicant's property (Attachment No. 4). For many years, the unimproved portion of Logan existed as a semi-swampy, heavily-wooded corridor of land. It was used frequently by public transit patrons to reach a bus stop on River Road as well as by horseback riders going to and from equestrian trails which abutted the improved portions of Logan Drive.

In the late 1990s, Applicant took it upon itself to enter onto the county's Logan Drive right-of-way; remove trees, move earth, clear land, take down fences and plant grass so as to make the land falling within the right-of-way appear as if it were part of Applicant's Lot N158. Applicant also told citizens that they could no longer traverse the right-of-way to reach the bus on River Road. Finally, Applicant erected a fence across the right-of-way at its boundary with River Road. Upon complaints, the County ordered Applicant to remove the new fence. Applicant complied, in part, by taking down only a portion of the fence. Applicant made no attempt to restore the many trees which it had removed.

At or about this same time in Pre-Preliminary Plan No. 7-00009, Applicant sought to add the 0.85 acres constituting the unimproved portion of the Logan right-of-

way to its lot N158 thereby expanding it from 3.5+ acres to 4.4+ acres (Attachment No. 5). Applicant failed to pursue its proposal to abandon the Logan Drive right-of-way and annex it to its lot N158.

THE SLOVERS OPPOSE ANY LOGAN DRIVE ALTERNATIVE

If Applicant were to revise its Proposal so as to use its Parcel N169 to form a new lot facing Logan Drive, the Slovers would oppose such a revised proposal as it would still permit a large house to be constructed in what was formerly part of their front yard. The only difference in such a revision is that presumably the house would face Logan instead of River (Attachment No. 6). Bradley Farms is a unique neighborhood of large lots with established homes which do not obstruct one another. If Applicant is permitted to create a lot by cobbling together part of an existing lot and a lot created for a septic field, any improvement on said lot would not be in harmony with the existing character of the neighborhood.

CONCLUSION

Applicant is attempting to transform a deeded parcel of land intended for use as a septic field (N169) into a lot suitable for a home. Because parcel N169 was designed so as NOT to become a recordable lot, Applicant's current efforts to secure the Commission's approval must fail. We appreciate this opportunity to offer our opposition to Proposal 120090370.

(Rev)



HURON
CONSULTING

NOV 20 2009

November 19, 2009

Catherine Conlon
MNCPPC
8787 Georgia Ave.
Silver Spring, MD

Re: Preliminary Plan 120090370
9490 River Road

Dear Ms. Conlon,

We have been retained by neighbors who live in the vicinity of the above referenced property. We have been provided a copy of a Preliminary Plan by Site Solutions, Inc dated September 10, 2009 that has been prepared to address the comments raised at the August 24, 2009 DRC meeting. In particular the revised plan indicates "Remainder of Logan Drive Right of Way to be abandoned." However, the delineation or metes and bounds description of the portion of the right of way to be abandoned is not provided. We cannot respond fully without the limits of the abandonment being specified.

The abandonment "proposal" raises a number of unresolved issues. It is our understanding that the existing right of way is currently used, and has been used, as a pedestrian access to the bus stop on River Road at the intersection of the Logan Dr right of way and the River Road right of way. There are overhead utilities in the Logan Drive right of way. The public use of the right of way requires the abandonment to be decided by the County Council. The Council authority is stated in Section 49-62 (a) "...right of way used at any time by the public, including use by pedestrians and bicyclists." The abandonment cannot be granted by the M-NCPPC Planning Board. Since the preliminary plan is relying on the abandonment of the road, the abandonment of the road must be approved by the County Council prior to recordation of the plats. Since the Record Plat must conform to the Preliminary Plan, a Preliminary Plan that does not accurately provide the abandonment information and any conditions that may be included, if the Council were to approve, should not proceed through the subdivision process. It is similar to a Preliminary Plan / Site Plan that relies on a Special Exception approval by the Board of Appeals. Those plans are not presented to the Planning Board until after Board of Appeals approval.

If the right of way is to be abandoned, Montgomery County DOT standard policy is to provide a cul-de-sac at the end of the right of way. A cul-de-sac is not proposed on the plans at this time.

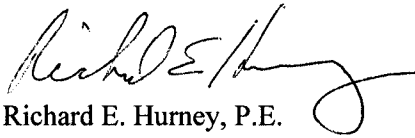
Preliminary Plan #120070530, Jackson's Acres, Board Hearing on March 6, 2009 had a very similar right of way issue. In that project the applicant could not provide a cul-de-sac. A condition of approval was for

the denial of access from Morningside Lane. We would argue the same condition should apply to Logan Drive if the cul-de-sac is not provided.

Without an approved right of way abandonment with an acceptable cul-de-sac, we do not feel that this subdivision plan should proceed through the subdivision process.

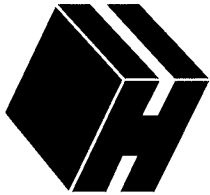
We reserve the right to provide further comments based on future submissions.

Sincerely,

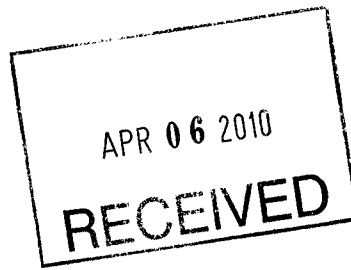
A handwritten signature in cursive script, appearing to read "Richard E. Hurney". The signature is written in black ink and is positioned above the printed name.

Richard E. Hurney, P.E.

Cc: Slover, Bizri, Gilbert
David Adams - DOT
Mike Cassidy - DOT



HURON
CONSULTING



April 2, 2010

Richard Weaver
MNCPPC
8787 Georgia Ave.
Silver Spring, MD 20910

Re: Preliminary Plan 120090370
9490 River Road

Dear Mr. Weaver,

We represent the neighbors and concerned citizens who oppose this application. We are awaiting the review comments from Montgomery County DOT regarding Logan Drive. In the interim we would like to make the following comments.

There is currently 35 foot setback (rear yard) on the existing lot adjacent to Lot 4. By creating a new lot (Lot 2), the Proposed Lot 2 /Lot 4 property line is indicated as a proposed 18 foot setback (side yard). The creation of the new lot should not adversely affect Lot 4. Therefore, the setback should remain at 35 feet.

According to the setback requirements for the RE-2 zone the setback from a street must be 50 feet. ~~Unless~~, "In the case of a corner lot, if the adjoining lot on one of the streets either does not front on that street or is in a nonresidential zone, the setback from that street line must be at least: 20 feet."

The applicant, by creating Lot 2 and fronting Lot 2 on Logan Drive, is establishing the building restriction line for Lot 1 as 50 feet along Logan Dr. The building restriction line for Proposed Lot 1 should be indicated as a 50 foot setback from the Logan Dr. right of way.

The existing house on Lot 1 will be over the building restriction line along Logan Dr. We do not believe Lot 1 should be approved and recorded in violation of the building setbacks.

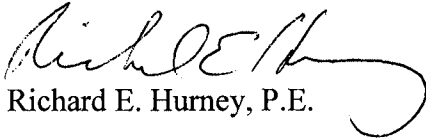
Please note that the barn on Proposed Lot 1 is also over the Building Restriction line and needs a variance or removal of the structure.

The storm water management concept plan that was approved was for a different lot configuration and more than likely different impervious areas. The storm water concept plan will need to be revised for the new layout.

There is a note on the plans, "remainder of Logan Drive to be abandoned". The abandonment must either be approved by the County Council prior to Preliminary Plan approval, or the abandonment issue should not be a part of the preliminary plan process.

We believe these issues need to be addressed prior to bringing the preliminary plan before the Planning Board.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard E. Hurney". The signature is fluid and cursive, with a long, sweeping tail that loops back under the name.

Richard E. Hurney, P.E.

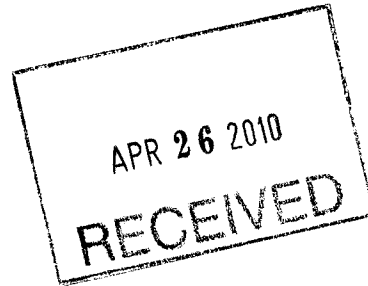
Cc: Slover, Bizri, Gilbert
Patrick O'Neil



HURON
CONSULTING

April 23, 2010

Richard Weaver
MNCPPC
8787 Georgia Ave.
Silver Spring, MD 20901



Re: Preliminary Plan 120090370
9490 River Road

Dear Mr. Weaver,

Montgomery County Department of Transportation has provided their comments regarding Logan Drive abandonment and the design of the turnaround. It is our understanding that the applicant is not pursuing the abandonment of the public use right of way through the County Council. In addition to the DOT requirements the Preliminary Plan must also meet the requirements of Chapter 50. We would like to highlight that Section 50-26 (b) states:

*“The Board may approve the installation of cul-de-sacs or turnarounds when their use would produce an improved street layout because of the unusual shape, size or topography of the subdivision. **The Board must not approve any other cul-de-sac or turnaround.** A cul-de-sac or a street that would end in a turnaround must not be longer than 500 feet, measured on its centerline, unless, because of property shape, size, topography, large lot size, or improved street alignment, the Board approves a greater length.”*

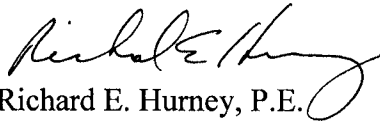
The applicant must prove that the turnaround use is “...an improved street layout because of the unusual shape, size or topography of the subdivision.” All of the lots created by Plat No 1301, which established Logan Drive in 1940, have public right of way access. There is nothing unusual about the size or shape of the subdivision. The existing topography indicates an average slope of between 2-4% along Logan Drive.

We would also point out that the distance of Logan Drive from Persimmon Tree Road to the proposed Lot 2 is over 500 feet. The applicant should also provide reasons why the distance should be increased over the 50-26 (b) limits, especially since Logan Drive is a Dedicated but Unmaintained (DBU) County Road.

We understand that there are environmental constraints that make the extension of Logan Drive costly and problematic. However, Section 50-26 (b) does not provide for environmental concerns as a reason for the Board to approve a turnaround. In fact, the section specifically states that the Board must not approve a turnaround.

If the applicant cannot meet the requirements of Chapter 50, the subdivision should not be approved.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard E. Hurney". The signature is fluid and cursive, with a large loop at the end.

Richard E. Hurney, P.E.

Cc: Slover, Bizri, Gilbert
Patrick O'Neil

SLOYER FARMS

Office:
9460 River Road
Potomac, Maryland 20854
(301) 200-2890

202/347/7170



Farm Locations:
Maryland Route 190 and
Maryland Route 28

April 26, 2010

Ms. Catherine Conlon, Supervisor
Subdivision Section
Development Review Division

Mr. Richard A. Weaver
Subdivision Coordinator
Development Review Division
The Maryland-National Capital Park and Planning Commission
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Preliminary Plan No. 120090370

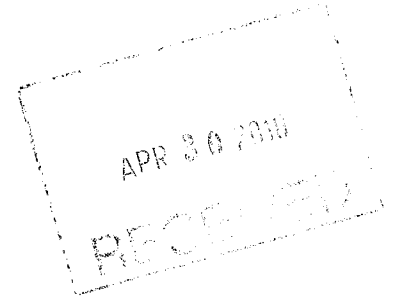
Dear Ms. Conlon and Mr. Weaver:

Please accept this letter as a supplement to our opposition to the above-referenced proposal which opposition we filed with your office on September 3, 2009 and which we discussed with you at our meeting on September 4, 2009.

Applicant's original proposal, dated July 10, 2009, attempted to create two (2) new lots in Section 4 of the Bradley Farms subdivision. At a meeting in your offices on August 24, 2009, numerous fatal deficiencies in its proposal under Code Section 50-29(b) were brought to Applicant's attention. Thereafter (October 1, 2009), Applicant submitted a revised preliminary plan ("revised proposal"). We oppose the revised proposal for some of the reasons that follow.

Applicant has erected signs abutting his property which notify the public that it seeks to "subdivide a 5 acre parcel". While Applicant is not a resident of Montgomery County, it is an experienced real estate developer assisted by qualified experts. Thus, Applicant is well aware that it is NOT subdividing a 5-acre parcel but rather it is attempting to re-subdivide two (2) smaller parcels. Applicant's misdescription of what it is proposing lies at the heart of why both the original proposal and the revised proposal conflict with the requirements of Section 50 of the County Code.

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Instead of “subdividing a 5 acre parcel” as it represents, Applicant is taking a small piece of a platted 3+ acre lot in Section 4 of Bradley Farms and is attempting to graft it onto a small piece of another parcel it owns in Williamsburg so as to form a 2+ acre new parcel which it is trying to shoehorn into the Bradley Farms subdivision.

Because the Bradley Farms subdivision was not designed to accommodate the new Lot No. 2 which Applicant seeks to create, Applicant’s revised proposal also results in violations of Chapter 50. In particular, because Applicant’s proposed new lot was never envisioned by the developers of Bradley Farms it cannot be lawfully accessed. The revised proposal seeks to access proposed new Lot No. 2 by constructing a new turnaround on Logan Drive – which it describes as a “hammerhead”.

Hammerheads are defined in Code Section 50-1 as an end of a cul-de-sac. Section 50-26(b) very clearly provides that the Board “must not” approve hammerheads. While Section 50-26(b) permits a hammerhead in circumstances where it would produce an “improved street layout”, Logan Drive was dedicated over 70 years ago and needs no improvement or changes. It is not Logan Drive which Applicant seeks to improve with its proposed hammerhead. Rather the sole purpose of the proposed hammerhead is to secure access to a proposed lot which was never meant to be. Applicant’s hammerhead is further proscribed by the portion of Section 50-26(b) which forbids the Board from approving a street ending in a hammerhead where the street is more than 500 feet long. Applicant’s proposed hammerhead is well over 500 feet from the intersection of Logan Drive and Persimmon Tree Road.

Finally, as noted to your office by Mr. Richard Hurney, P.E., on April 2, 2009, Applicant’s contrived attempt to expand the Bradley Farms’ subdivision by the creation of new Lots 1 and 2 in the revised proposal results in a situation where new Lot No. 1 also violates Chapter 50. As Applicant’s own engineers disclose in their Preliminary Plan dated October 30, 2009, the minimum setback from the street in Bradley Farms is fifty (50) feet. While Applicant recites that the setback for Lot No. 1 is 75 feet, its own drawing discloses that the “Ex House” on proposed Lot No. 1 violates the RF-2 setback minimum as it is less than 50 feet from Logan Drive.

For the reasons discussed, Applicant’s revised proposal seeks to create two (2) new lots both of which violate provisions of Section 50. For these reasons, we oppose the revised proposal.

Sincerely,

A handwritten signature in cursive script that reads "William and Katherine Slover". The signature is written in black ink and is positioned above the printed name.

William and Katherine Slover