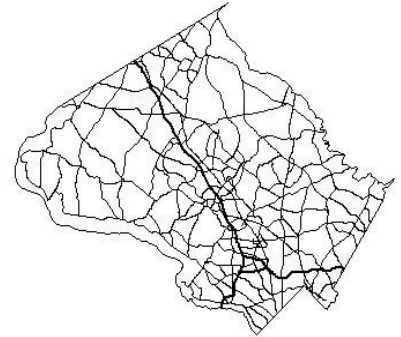




**MONTGOMERY COUNTY PLANNING DEPARTMENT**  
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB**  
**Item # 9**  
**5/5 /11**



**MEMORANDUM**

**DATE:** April 22, 2011

**TO:** Montgomery County Planning Board

**VIA:** John Carter, Chief  
 Planning Area 3 Team

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

**REVIEW TYPE:** Preliminary Plan of Subdivision (Resubdivision)

**APPLYING FOR:** Two lots for two one-family detached dwelling units

**PROJECT NAME:** Willerburn Acres

**CASE #:** 120110110

**REVIEW BASIS:** Chapter 50, Montgomery County Subdivision Regulations

**ZONE:** R-90

**LOCATION:** On the east side of Gainsborough Road, approximately 400 feet southeast of Whistler Court

**MASTER PLAN:** Potomac Subregion

**APPLICANT:** Tamara Corporation

**ENGINEER:** Dewberry

**ATTORNEY:** None

**FILING DATE:** January 6, 2011

**HEARING DATE:** May 5, 2011

Approval signatures

	<i>JAC</i>		
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**RECOMMENDATION:** Approval, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to two lots for two dwelling units.
- 2) 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.
- 3) At the time of final survey and prior to recordation of the plat, Applicant must place an approved Park boundary marker in the northeast corner and southeast corner of the Subject Property.
- 4) The applicant must construct all road improvements within the rights-of-way shown on the approved preliminary plan to the full width mandated by the master plan and to the design standards imposed by all applicable road codes.
- 5) The applicant must satisfy MCDPS requirements prior to recordation of the plat to ensure the construction of a five-foot-wide sidewalk along the property frontage on Gainsborough Road, unless construction is waived by MCDPS.
- 6) The applicant must comply with the conditions of the MCDPS stormwater management approval dated December 14, 2010. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 7) The applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated March 11, 2011. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 8) The applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat.
- 9) Any building permits for one-family residences that are issued pursuant to this preliminary plan must show that the buildings are to be built in substantially the same locations and orientations as shown on the certified preliminary plan.
- 10) The Adequate Public Facility review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.
- 11) The record plat must show necessary easements.

**SITE DESCRIPTION**

The subject property, “Subject Property” or “Property” is identified as Lot 17, Block B, in the Willerburn Acres subdivision. It is 1.01 acres (44,129 sq. ft.) in size and is zoned R-90. The Property is located on the east side of Gainsborough Road approximately midway between the intersections with Seven Lock Road and Fontaine Street and is vacant. It remains as one of the last unbuilt properties along the portion of Gainsborough Road on the east side of Seven Locks Road. The Property is abutted on the north by a small extension of the greater Cabin John Regional Park that contains a storm drain outfall for a large portion of the Willerburn Acres Subdivision. Opposite this small park area and also to the west and south are lots that have developed in the R-90 zone and fronting on to Gainsborough. Some of these lots were developed before public sewer was extended into Willerburn Acres, and for septic purposes these

lots are moderately larger than those developed after public sewerage was extended to the area. The western border (rear) of the Subject Property is bounded by MNCPPC-Park property, notably the Cabin John Branch stream valley within the Cabin John Regional Park.

The Property contains 1.01 acres forest, therefore it is entirely forested. On-site topography includes slopes ranging from gentle to steep (> 25%). The aforementioned stream on the adjacent Park property flows generally north to south and a portion of the regulatory stream valley buffer for this stream extends on to a very small, 0.01 acre portion of the Subject Property. There are no wetlands and none of the steep slopes are associated with the small area of stream buffer. The Cabin John Creek watershed is a Use I-P watershed; the Countywide Stream Protection Strategy (CSPS) rates this stream in fair condition.



Vicinity and Development Map

## PROJECT DESCRIPTION

The application proposes to divide Lot 17, Block B, Willerburn Acres into two lots for residential use. The Subject Property, at 44,129 square feet, would be split into two lots; one with 24,011 square feet and the other with 20,118 square feet. Because this is a resubdivision, the application contains the required resubdivision analysis under Section 50-29(b)(2) of the Subdivision Regulations so that Staff and the Planning Board can evaluate the lots for purposes of character.

No right-of-way dedication is required of this Application because it was already provided for when the lot was recorded by the existing plat. Access to the two lots would be by individual driveways to Gainsborough Road. All public utilities exist for the lots and they can all be provided from the existing utility lines in Gainsborough Road.

Because of the sloped nature of the Property, the submitted preliminary plan drawing shows the use of retaining walls to minimize grading on the Property to adhere to limits of disturbance shown on the final forest conservation plan (FFCP). The limits of disturbance have been established to protect a small forest on the lots from impacts associated with the construction of the homes, however; the FFCP will not show protection of this forest with perpetual easements.



**Preliminary Plan – Lot Detail**



## ANALYSIS AND FINDINGS

### **Conformance to the Master Plan**

The Property is located within the area covered by the 2002 Potomac Subregion Master Plan. The Master Plan does not have a specific recommendation for the Property, but provides general guidance regarding an area that encompasses the property stating:

*“Since residential development is dispersed through the area, this Plan recommends infill development of the remaining vacant properties with residential development essentially similar to what is now there...” (p. 41).*

The preliminary plan shows development on a vacant property that is being resubdivided in conformance with the R-90 zoning recommended in the Master Plan. While this section of the Staff Report makes no analysis of the resubdivision aspects of the review, the requested subdivision and subsequent development for two homes is consistent with the land use and zoning recommendations shown on the Existing and Proposed Zoning map and the Land Use, Parks, and Community Facilities map within the Master Plan. Therefore, Staff finds the proposed Willerburn Acres preliminary plan (120110110) to be consistent with the 2002 Potomac Subregion Master Plan.

### **Public Facilities**

#### **Roads and Transportation Facilities**

The proposed 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 and it meets the de minimus provision of the Policy Area Mobility Review (PAMR) and is, therefore; not subject to PAMR. Right-of-way dedication is not required since all appropriate dedications have already been made for the Property and the road is built to County standards. Sidewalks are required by the Montgomery County Department of Permitting Services but the Applicant has expressed interest in pursuing a waiver of this requirement from MCDPS. This report offers no recommendation on the potential for a waiver but Staff does believe that pedestrian access can safely be accommodated on the pavement edge of Gainsborough since it is a relatively low-traffic volume road. Staff finds that vehicular access and circulation as well as pedestrian circulation is adequate for the proposed lots.

#### **Other Public Facilities and Services**

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. The Property /is not within a school moratorium area; and/is not subject to payment of School Facilities Payment. The application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles. All other public facilities and services are available and will be adequate to serve the proposed dwelling units. All local utilities and services, including water

and sewer, telecommunications, electric and natural gas, have reviewed the Application and find that their respective utility or service is available and adequate to serve the two proposed lots. Staff finds that the two lots can be adequately served by all public facilities and services.

## **Environment**

### **Environmental Guidelines**

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420092110 for this Property was approved on November 29, 2010. The NRI/FSD identifies the environmental constraints and forest resources on the Subject Property. The site's topography includes slopes ranging from gentle to steep but the individual areas of steep slopes are not associated with any stream or its buffer. In any event, the slopes and soil types on the Property give strong indication that much of the topography on the Property is man-made and likely resulted from grading for Gainsborough Road and development of adjacent properties. There are streams on the adjacent Park property to the northeast and northwest and the regulatory stream buffer associated with the stream encompasses 0.01 acres of the Property. There are no wetlands or champion trees on the Property; as such the only environmentally sensitive feature is the small area of environmental buffer which is shown to remain undisturbed. Staff finds that the plan meets all applicable requirements for protection of environmentally sensitive areas pursuant to Section 50-32 of the Montgomery County Subdivision Regulations.

### **Forest Conservation**

**Applicant's Position** - The Applicant submitted a combined Preliminary and Final Forest Conservation Plan (FFCP) that proposes to preserve 0.28 acres of the 1.01 acres of existing forest on the Property. Development for the two homes will require that 0.79 acres of forest will be cleared for a total of 1.07 acres of forest. The additional 0.06 acres of forest is included in the total forest because a portion of the Applicant's required off-site improvement area has forest on it. The amount of forest clearing is above the break-even point of 0.68 acres of allowable forest clearing that can occur without mitigation, therefore, a planting requirement is generated. The 0.79 acres of proposed clearing generates a 0.14 acre planting requirement. The applicant proposes to meet the planting requirement through an off-site forest conservation bank.

**Staff's Position** - While the proposed forest conservation plan shows the retention of 0.28 acres of forest on-site, staff believes the applicant should count this area as cleared in the forest conservation worksheet and take the entire planting requirement off-site. To retain this 0.28 acre of forest on-site, the area would need to be placed into a Category I conservation easement. It is staff's belief that the creation of conservation easements on small lots is not in the best interest of either the future homeowners or the Commission. Both of the proposed lots are approximately 0.50 acres in size and the 0.14 acre conservation easement on each lot would restrict the use and enjoyment of the backyard areas and create a situation where the potential for violations in the easement are increased given the pressures of accommodating typical residential amenities in rear yards. The plan as proposed would encumber approximately 28% of each 0.50 acre lot with Category I conservation easements.

Although the Applicant's proposal meets the letter of the Forest Conservation Law and the easement would abut existing forest in the adjacent M-NCPPC Park, it is the relatively small size of the lot that persuades staff to make the recommendation that this forest not be counted as saved, and that the Category I easement not be placed upon it. The 0.28 acre area of forest that staff is requesting to not be protected in a Category I conservation easement would need to be shown as "cleared" only on the forest conservation worksheet and this would increase the applicants off-site requirement from 0.14 acres to 0.65 acres. Under no circumstance does staff advocate for the physical removal of this small forested area, rather, the limits of disturbance shown on the current FFCP show that the forest will remain undisturbed only while the two homes are built and complete. The long-term protection of this forest and the individual trees within it would be at the discretion of each future homeowner of each lot.

### Tree Variance

Section 22A-12(b)(3) of the County code requires applicants to identify certain trees, shrubs, plants, and specific areas as priority for retention and protection. This section of the code requires those areas to be left in an undisturbed condition unless the applicant obtains a Tree Variance in accordance with Chapter 22A-21 of the County code. Pursuant to this Chapter the vegetation to remain undisturbed includes:

- A. Trees, shrubs, or plants determined to be rare, threatened, or endangered under:
  - (1) The federal Endangered Species Act of 1973,
  - (2) The Maryland Nongame and Endangered Species Conservation Act, Natural Resources Article, §§10-2A-01—10-2A-09, Annotated Code of Maryland, and
  - (3) COMAR 08.03.08;
  
- B. Trees that:
  - (1) Are part of an historic site,
  - (2) Are associated with an historic structure, or
  - (3) Have been designated by the State or the Department as a national, State, or county champion tree; and
  
- C. Any tree having a diameter measured at 4.5 feet above the ground of:
  - (1) 30 inches or more, or
  - (2) 75 percent or more of the diameter, measured at 4.5 feet above the ground, of the current State champion tree of that species as designated by the Department of Natural Resources.

Since development of this project will impact two trees, 30 inches and greater DBH, staff determined that a Tree Variance is required. Under Chapter 22A-21 of the County Code an individual may request a Tree Variance in writing from this Chapter if it can be demonstrated that enforcement would result in unwarranted hardship. The applicant for a Tree Variance must:

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) Describe how enforcement of these rules will deprive the landowner of rights

- commonly enjoyed by others in similar areas;
- (3) Verify that State water quality standards will not be avoided or that a measurable degradation in water quality will not occur as a result of the granting of the variance; and
  - (4) Provide any other information appropriate to support the request.

**a. County Arborist's Recommendation**

In accordance with Montgomery County Code, Section 22A-21(c) the Planning Department is required to refer a copy of the Tree Variance to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. This particular request was forwarded to the County Arborist who responded with a favorable recommendation on March 7, 2011, but included recommendations to mitigate the impacts.

**b. Tree Variance Findings**

Chapter 22A-21 requires that the Planning Board make findings that the applicant has met all requirements before granting a Tree Variance. Staff has made the following findings and recommends that the Board approve the Tree Variance:

1. *The Tree Variance will not confer on the applicant a special privilege that would be denied to other applicants;*

Granting the Tree Variance will not confer a special privilege as the disturbance of the specimen trees noted above are the minimum necessary in order to develop the property as illustrated on the plan provided. Based on the topography of the site and the proposed house locations, the applicant has devised a plan that does not remove any trees requiring a Tree Variance and has only minor impacts to two trees.

2. *The Tree Variance is not based on conditions or circumstances which are the result of the actions by the applicant;*

The requested Tree Variance is not based on conditions or circumstances which are the result of actions of the applicant. The variance is based on the topography of the site and the proposed house locations, the applicant has devised a plan that does not remove any trees requiring a Tree Variance and has only minor impacts to two trees.

3. *The Tree Variance is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property*

The requested Tree Variance is not a result of land or building use on a neighboring property.

4. *The Tree Variance will not violate State water quality standards or cause measurable degradation in water quality.*



The requested Tree Variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen trees being disturbed are not within a stream buffer, wetland, or a special protection area. A Stormwater Management Concept Plan has been approved by the Montgomery County Department of Permitting Services.

**c. Forest Conservation Variance mitigation**

While there will only be some disturbance within the critical root zone (CRZ) of two specimen trees on-site, they are excellent candidates for safe retention. Therefore, staff recommends no mitigation for the trees that are impacted but retained. The Applicant proposes tree preservation measures to help ensure the trees with proposed impacts survive construction. The final method of tree protection measures will be addressed by the final version of the FFCP. With the conditions imposed by this Staff Report which require that all forest be shown as “cleared” and require that the Applicant mitigate off-site, Staff finds that the preliminary plan complies with Chapter 22A, the Montgomery County Forest Conservation Law.

**Stormwater Management**

Staff finds that 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 that the Stormwater Management Concept Plan approved December 14, 2010, meets MCDPS’ standards. The stormwater management concept uses Environmental Site Design techniques that include drywells for rooftop runoff and disconnects for non-rooftop runoff.

**Compliance with the Subdivision Regulations and Zoning Ordinance**

**Subdivision Regulations**

Staff finds that the preliminary plan complies with all other requirements of the Montgomery County Subdivision Regulations. This finding is based on a determination that the size, shape, width and orientation of each of the proposed lots is appropriate for their location within the Willerburn Acres Subdivision having also taken into account any pertinent recommendations in the Potomac Master Plan. Staff analyzed the location of the proposed subdivision within the greater Willerburn Acres Subdivision specifically for those lots fronting on Gainsborough Road between Seven Locks and Fontaine Street. Staff believes that the location of the two proposed lots is at the transition area where lots that were originally platted on septic, abut lots that were platted after sewer was extended. Or, put another way, it is where lots that tend to be larger (septic) transition to smaller sized lots (sewer) as they approach Fontaine Street. The dimensions of each proposed lot appears to be substantially consistent with respect to the size, shape, width and orientation of nearby lots and they also appear to be “fit” into this section of the Subdivision. Staff finds that the proposed lots’ size, shape, width and orientation are appropriate at this location.

## Conformance with Section 50-29(b)(2) (Resubdivision Criteria)

### 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 the Applicant and Staff, consists of 54 lots (Attachment A). The Neighborhood includes all lots with frontage on Gainsborough Road between Seven Locks Road and Fontaine Street. This Neighborhood is consistent with the Neighborhoods accepted by the Planning Board for two other resubdivision application reviews on the same segment of Gainsborough. Only whole, recorded lots are included in the Neighborhood analysis, one part of a lot (Pt.13B) was excluded since it was created by deed and was not approved by a plat. The designated neighborhood provides an adequate sample of the lot and development pattern of the area. Tabular summaries of the proposed lots and Neighborhood based on the resubdivision criteria are included in Attachment B.

### 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. The proposed lots are of the same character with respect to the resubdivision criteria as other lots within the defined neighborhood. Therefore, the proposed resubdivision complies with the criteria of Section 50-29(b)(2). As set forth below, the attached tabular summary and graphical documentation support this conclusion:

#### **Frontage:** (Width at street line)

The proposed lots will be of the same character as existing lots in the neighborhood with respect to lot frontage. The proposed lots have frontages of 101 feet and 96 feet for proposed lots 60 and 61, respectively. There is a wide range of frontage widths for the existing lots in the Neighborhood from 25 feet to 204 feet. The proposed lots fit into the middle of this range.

**Alignment:** (To the street line)

The proposed lots are of the same character as existing lots with respect to the alignment criterion. All Neighborhood lots that front on a straight segment of Gainsborough Road align in a perpendicular manner; all lots that front to a curved segment of Gainsborough align in a radial manner. Corner lots tend to align perpendicularly to the two streets on which they front. The proposed lots front on a straight section of Gainsborough Road and align in a perpendicular manner that is of the same character as other lots.

**Size:** (Gross lot size)

The proposed lot sizes are in character with the size of existing lots in the neighborhood. The range of Neighborhood lot sizes are from 9,783 square feet to 54,763 square feet. The proposed lots are at 24,011 square feet for Lot 60 and 20,118 square feet for Lot 61 and within the range of all lot sizes.

**Shape:**

The shapes of the proposed lots will be in character with shapes of the existing lots. There is a wide variety of lot shapes in the Neighborhood with many standard shapes and irregular shapes. The two proposed lots are best described as standard rectangles and similar to many other lots in the Neighborhood.

**Width:** (At the front building line)

The proposed lots will be in character with existing lots in the neighborhood with respect to width. The two lots will be subject to an established building line (EBL) at the time of building permit. The Applicant has calculated the proposed EBL and measured the lot width at that point. The width of Lot 60 will be 108 feet and the width of Lot 61 will be 99 feet. The lot widths in the Neighborhood range from 82 feet to 203 feet. The proposed lots are within the range of overall lot widths.

**Area:** (Within the building envelope)

The proposed lots will be of the same character as other lots in the neighborhood with respect to buildable area. The building envelope “area” for the lots in the Neighborhood range from 3,437 square feet to 38,736 square feet. As recommended by Staff, Lot 60 and 61 will have buildable areas of 9,454 and 7,604 respectively without the establishment of the forest conservation easements as supported by the Applicant. Staff notes that if the lots are reviewed with forest conservation easements as supported by the applicant, the area within the building envelope will be decreased by approximately 6,000 square feet for each lot or leaving roughly 6,000 square feet of buildable area for Lot 60 and 7,000 square feet for Lot 61. While these buildable areas continue to be in the range for the overall Neighborhood, Staff has provided a rationale as to why it would be imprudent to absolutely restrict these backyards with perpetual easements.

**Suitability for Residential Use:** The existing and the proposed lots are zoned residential and the land is suitable for residential use.

## **Zoning Ordinance**

The MCDPS - Zoning staff have reviewed the two proposed lots and find that each lot complies with the minimum standards established for the R-90 zone in Chapter 59, the Montgomery County Zoning Ordinance. This property will be subject to the infill standards which establish lower building lot coverage limits. A summary of this review is included in attached Table 1.

## **Citizen Correspondence and Issues**

A pre-submission meeting as required under adopted procedures was held at the Chabad Synagogue at the intersection of Seven Locks Road and Gainsborough Road on September 7, 2010 in the evening. According to the minutes of the meeting, eleven interested citizens attended. The minutes suggest that citizens expressed concern that they had not been notified of the pre-submission meeting. The Applicant correctly explained that only adjacent and confronting property owners actually are required to receive a notice of the pre-submission meeting and that others must rely on the sign that was posted on the Property to learn of the meeting. One individual who lives next to the Subject Property expressed concerns over the density, small frontage and the change in the neighborhood that would result from the two lots. Another concern was raised that because the properties may not be developed by this Applicant, it was unclear as to what "actual house" may be constructed on the lots and how close they may be to adjoining properties. The minutes indicate that most of the others at the meeting joined this individual in their opposition to the proposal. One individual who represented the Regency Estates HOA said that in his neighborhood, homes were being torn down and were being replaced by mansions and that he sympathized with the opposition.

The minutes do not indicate that any response to these concerns was provided by the Applicant at the meeting. From staff's perspective, the meeting was properly noticed to adjacent and confronting residents and other individuals either saw the posted sign advertising the meeting or were otherwise alerted to the meeting by word of mouth as one might expect in an established neighborhood. With respect to density, small frontage and the change in the neighborhood concerns, staff responds at this time with the following:

Density is established by the Zoning Ordinance and is determined in part, by certain dimensional standards for the R-90 zoned lots. While the two proposed lots are in conformance with R-90 standards that carries a 9,000 square foot minimum size, that is most likely not the "density" that the citizen(s) has issue with. The citizens likely were concerned about the massing of two homes on a property that currently has the potential for one home and how that might look and affect the neighborhood. What was perhaps not explained to them was that under the new infill development standards imposed by the County Council. These lots will be restricted to a lot coverage of 20% rather than the standard R-90 zone 30% maximum. The 20% coverage includes all rooftops, including garages, carports and other accessory structures. This determination was confirmed through conversation with MCDPS staff and accepted by the Applicant who has verified that the building footprints shown on the plan can meet the 20% limitation. While the more restrictive 20% infill standards seeks to minimize the massing of large

homes on small lots in some cases, the new standard has no real impact on the two lots proposed by this application because of the generous size of these half acre lots in an R-90 zone. The footprints of the two “typical” homes shown on the plan at 3,000 square feet are well below the 20% coverage limitation. Aside from the 20% coverage limitation, the lots are constrained by the aforementioned established building line, side yard setbacks and the limits of disturbance established to the rear of the new homes. Staff believes that the homes will meet the

Regarding the issue of frontage expressed by one or more citizen; staff has evaluated frontage as part of the resubdivision analysis and finds that the lot frontages, at 100 feet and 97 feet, are of the same character as those lots in the resubdivision Neighborhood. The minimum lot frontage for lots in the R-90 zone is otherwise 25 feet and the minimum width at the building line is 75 feet for each lot. Both proposed lots exceed these minimums and are supported by the resubdivision analysis that staff has performed.

With respect to “change” in the neighborhood, staff concludes that two homes or perhaps even one home is change that local residents may have never expected or desired on the Property. But, staff advises that as a single lot recorded by a record plat in 1955, it would not be an infill lot and could be developed with a home that covers 30% of the entire lot which equates to a home with a footprint at just under 13,000 square feet and not necessarily subject to any forest conservation or tree protection measures. If approved, this plan would result in what one could consider two more modest homes with an attempt to minimize grading and protect trees/forest from the initial construction.

Subsequent to the pre-submission meeting the application for the preliminary plan was submitted, noticed, and distributed in accordance with adopted procedures. Staff and the Planning Board received one letter from Mr. Albert Arking, dated March 25, 2011, written in opposition to the plan. The letter contains 12 other signatories who align themselves with the letter’s position. The letter cites the character of the neighborhood, density, old trees, shrubs and space between homes as qualities that define the neighborhood. It discusses the Applicant’s previous resubdivision approvals and how they believe it changed the neighborhood. It goes on to express surprise that the application was submitted given the opposition at previous meetings with the local residents and dismay that the Applicant believes there is a shortage of housing in this neighborhood. The letter also identifies a neighborhood on which the author analyzes the resubdivision. The neighborhood differs from the Neighborhood proposed by staff. The result of Mr. Arking’s resubdivision analyses is that the proposed lots would fail the resubdivision test.

Staff has met with Mr. Arking and had what would be considered a productive meeting. Staff respectfully disagreed with the neighborhood proposed in the letter by Mr. Arking and explained that the Neighborhood used for this resubdivision review was also used for other resubdivision in the Willerburn Acres. Given the location of this proposal, halfway between Seven Locks and Fontaine Street on Gainsborough Road, staff did not see a reason to modify it for this particular application. But, as staff learned, the greatest concern expressed by Mr. Arking is that the approval of this application would create two lots that are below the median with respect to frontage and width with respect to the rest of the neighborhood and that it would make it easier for other resubdivisions to be approved because the median for lot frontage, width, size and area is being lowered in the range. Staff understands this concern and does not disagree

that the proposed lots are just on the smaller side of the median. But as staff explained, there are seven resubdivision criteria and all seven must be met for a successful resubdivision and it is not just the dimensional characteristics of a lot but also shape, alignment and suitability. Staff offered an opinion that it is becoming very difficult to find lots in this same Neighborhood that have resubdivision potential.

Staff also had telephone conversations with Mr. Arking and learned that the Applicant has sent him the most recent version of the plan as a courtesy. Staff believes that they have made an attempt to respond to all neighborhood concerns and that all noticing procedures have been met.

## **CONCLUSION**

Section 50-29(b)(2) of the Subdivision Regulations specifies seven criteria with which resubdivided lots must comply. They are street frontage, alignment, size, shape, width, area and suitability for residential use within the existing block, neighborhood or subdivision. As set forth above, the two proposed lots are of the same character as the existing lots in the defined neighborhood with respect to each of the resubdivision criteria, and therefore, comply with Section 50-29(b)(2) of the Subdivision Regulations. The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conform to the recommendations of the Potomac Subregion Master Plan. Access and public facilities will be adequate to serve the proposed lots, 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.

## **Attachments**

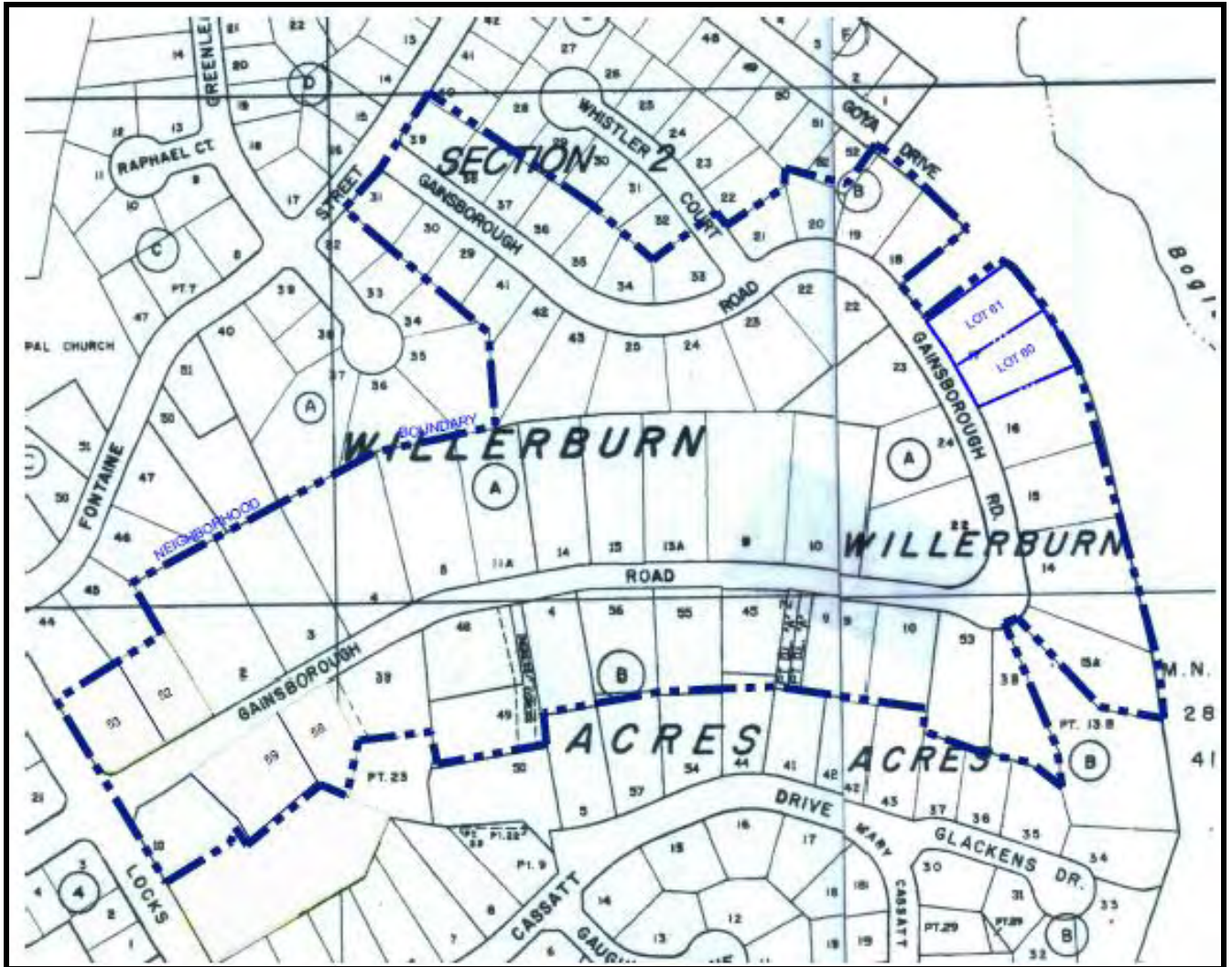
Attachment A – Resubdivision Neighborhood  
Attachment B – Tabular Summaries  
Attachment C - Correspondence  
Attachment D – Surveyor Letter



Table 1: Preliminary Plan Data Table and Checklist

<b>Plan Name: Willerburn Acres</b>				
<b>Plan Number: 1201100110</b>				
<b>Zoning: R-90</b>				
<b># of Lots: 2</b>				
<b># of Outlots: None</b>				
<b>Dev. Type: Residential, detached</b>				
<b>PLAN DATA</b>	<b>Zoning Ordinance Development Standard</b>	<b>Proposed for Approval by the Preliminary Plan</b>	<b>Verified</b>	<b>Date</b>
Minimum Lot Area	9,000 sq. ft.	20,118 sq. ft. minimum	RW	4/7/11
Lot Width	75 ft.	94 ft. minimum	RW	4/7/11
Lot Frontage	25 ft.	97 ft. minimum	RW	4/7/11
Setbacks				
Front	30 ft. Min.	Must meet minimum <sup>1</sup>	RW	4/7/11
Side	8 ft. Min./ 25 ft. total	Must meet minimum <sup>1</sup>	RW	4/7/11
Rear	25 ft. Min.	Must meet minimum <sup>1</sup>	RW	4/7/11
Height	35 ft. Max.	May not exceed maximum <sup>1</sup>	RW	4/7/11
Max Resid'l d.u. per Zoning	4	2	RW	4/7/11
MPDUs	No		RW	4/7/11
TDRs	No		RW	4/7/11
Site Plan Req'd?	No		RW	4/7/11
<b>FINDINGS</b>				
<i>SUBDIVISION</i>				
Lot frontage on Public Street		Yes	RW	4/7/11
Road dedication and frontage improvements		Yes	Agency letter	
Environmental Guidelines		Yes	RW	4/7/11
Forest Conservation		Yes	RW	4/7/11
Master Plan Compliance		Yes	RW	4/7/11
Other (i.e., parks, historic preservation)				
<i>ADEQUATE PUBLIC FACILITIES</i>				
Stormwater Management		Yes	Agency letter	3/11/11
Water and Sewer (WSSC)		Yes	Agency comments	1/6/11
10-yr Water and Sewer Plan Compliance		Yes	Agency comments	1/6/11
Well and Septic		N/a	RW	4/7/11
Local Area Traffic Review		N/a	RW	4/7/11
Policy Area Mobility Review		N/a	RW	4/7/11
Transportation Management Agreement		No	RW	4/7/11
School Cluster in Moratorium?		No	RW	4/7/11
School Facilities Payment		Yes or No	RW	4/7/11
Fire and Rescue		Yes	Agency letter	12/10/10
Other (i.e., schools)				

<sup>1</sup> As determined by MCDPS at the time of building permit.



Neighborhood for Resubdivision: Lot 17 B, Willerburn Acres							
Comparable Lot Data Table				March 2011			
Ranked By Lot Number							
Lot #	Block	Frontage (ft.)	Alignment	Lot Size (sq. ft.)	Shape	Width (ft.) at Bldg. Line	Buildable Area (sq. ft.)
2	A	166	Perpendicular	52,871	Rectangular	168	26,713
3	A	146	Perpendicular	43,800	Rectangular	146	29,645
4	A	145	Perpendicular	54,763	Trapezoid	170	38,736
4	B	115	Perpendicular	26,191	Rectangular	115	13,961
5	A	140	Perpendicular	44,127	Rectangular	146	26,140
9	A	148	Perpendicular	47,929	Trapezoid	150	34,392
9	B	120	Perpendicular	24,000	Rectangular	120	13,874
10	A	148	Perpendicular	45,908	Trapezoid	149	31,556
10	B	120	Perpendicular	24,000	Rectangular	120	13,271
10	C	123	Corner	24,486	Trapezoid	125	13,191
11A	A	118	Perpendicular	36,235	Rectangular	122	24,304
13A	A	127	Perpendicular	37,470	Rectangular	127	24,046
13A	B	35	Radial	30,028	Irregular Polygon	95	19,350
14	A	105	Perpendicular	33,312	Rectangular	108	22,099
14	B	138	Perpendicular	43,560	Trapezoid	152	28,714
15	A	105	Radial	33,516	Rectangular	108	22,065
15	B	130	Perpendicular	29,019	Trapezoid	132	16,618
16	B	130	Radial	30,270	Trapezoid	132	18,780
17	B	196	Radial	43,064	Trapezoid	203	28,345
18	B	80	Radial	16,523	Irregular Rectangle	85	7,695
19	B	74	Radial	17,599	Irregular Polygon	82	10,373
20	B	80	Radial	11,513	Irregular Rectangle	85	4,041
21	B	76	Corner	11,925	Irregular Rectangle	95	3,126
22	A	185	Corner	24,018	Irregular Polygon	240	11,051
22	A	204	Corner	41,089	Irregular Polygon	185	23,422
23	A	115	Radial	29,573	Irregular Rectangle	120	18,394
23	A	199	Radial	36,063	Irregular Polygon	190	23,422
24	A	115	Radial	25,829	Irregular Rectangle	118	13,044
24	A	152	Radial	26,009	Trapezoid	151	13,917
25	A	110	Radial	23,455	Irregular Rectangle	115	12,236
29	A	84	Perpendicular	10,984	Rectangular	84	4,144
30	A	90	Perpendicular	10,463	Rectangular	90	3,816
31	A	85	Corner	12,450	Rectangular	95	3,682
33	B	100	Corner	13,451	Irregular Rectangle	115	4,005
34	B	115	Radial	10,776	Irregular Rectangle	106	3,348
35	B	106	Radial	11,764	Rectangular	101	4,587
36	B	91	Perpendicular	12,001	Rectangular	93	5,107
37	B	82	Perpendicular	9,783	Rectangular	82	3,437
38	B	90	Perpendicular	10,351	Rectangular	90	4,240
38	B	25	Radial	23,110	Irregular Polygon	78	12,695
39	B	85	Corner	12,589	Rectangular	95	4,020
39	B	197	Perpendicular	26,680	Irregular Rectangle	173	14,061
41	A	97	Perpendicular	12,720	Rectangular	97	4,822
42	A	75	Radial	18,191	Irregular Rectangle	85	8,385
43	A	95	Radial	27,807	Irregular Rectangle	105	14,847
45	B	134	Perpendicular	20,006	Trapezoid	128	9,824
48	B	166	Perpendicular	28,034	Rectangular	185	14,957
52	A	116	Perpendicular	21,780	Rectangular	116	12,071
53	A	128	Corner	24,186	Rectangular	132	12,304
53	B	112	Perpendicular	28,693	Irregular Polygon	117	17,071
55	B	111	Perpendicular	27,136	Rectangular	135	15,935
56	B	153	Perpendicular	28,592	Trapezoid	140	16,616
58	B	133	Perpendicular	22,898	Irregular Pentagon	130	11,059
59	B	182	Perpendicular	30,905	Trapezoid	176	13,729
60	B	101	Perpendicular	24,011	Rectangular	108	9,454
61	B	96	Perpendicular	20,118	Rectangular	99	7,604

Shading indicates new lots



Neighborhood for  
Resubdivision: Lot 17 B, Willerburn Acres

2 of 5

Comparable Lot Data Table

March 2011

Ranked By Width at Building Line

Lot #	Block	Frontage (ft.)	Alignment	Lot Size (sq. ft.)	Shape	Width (ft.) at Building Line	Buildable Area (sq. ft.)
38	B	25	Radial	23,110	Irregular Polygon	78	12,695
19	B	74	Radial	17,599	Irregular Polygon	82	10,373
37	B	82	Perpendicular	9,783	Rectangular	82	3,437
29	A	84	Perpendicular	10,984	Rectangular	84	4,144
42	A	75	Radial	18,191	Irregular Rectangle	85	8,385
20	B	80	Radial	11,513	Irregular Rectangle	85	4,041
18	B	80	Radial	16,523	Irregular Rectangle	85	7,695
38	B	90	Perpendicular	10,351	Rectangular	90	4,240
30	A	90	Perpendicular	10,463	Rectangular	90	3,816
36	B	91	Perpendicular	12,001	Rectangular	93	5,107
13A	B	35	Radial	30,028	Irregular Polygon	95	19,350
21	B	76	Corner	11,925	Irregular Rectangle	95	3,126
31	A	85	Corner	12,450	Rectangular	95	3,682
39	B	85	Corner	12,589	Rectangular	95	4,020
41	A	97	Perpendicular	12,720	Rectangular	97	4,822
61	B	96	Perpendicular	20,118	Rectangular	99	7,604
35	B	106	Radial	11,764	Rectangular	101	4,587
43	A	95	Radial	27,807	Irregular Rectangle	105	14,847
34	B	115	Radial	10,776	Irregular Rectangle	106	3,348
60	B	101	Perpendicular	24,011	Rectangular	108	9,454
14	A	105	Perpendicular	33,312	Rectangular	108	22,099
15	A	105	Radial	33,516	Rectangular	108	22,065
33	B	100	Corner	13,451	Irregular Rectangle	115	4,005
25	A	110	Radial	23,455	Irregular Rectangle	115	12,236
4	B	115	Perpendicular	26,191	Rectangular	115	13,961
52	A	116	Perpendicular	21,780	Rectangular	116	12,071
53	B	112	Perpendicular	28,693	Irregular Polygon	117	17,071
24	A	115	Radial	25,829	Irregular Rectangle	118	13,044
23	A	115	Radial	29,573	Irregular Rectangle	120	18,394
10	B	120	Perpendicular	24,000	Rectangular	120	13,271
9	B	120	Perpendicular	24,000	Rectangular	120	13,874
11A	A	118	Perpendicular	36,235	Rectangular	122	24,304
10	C	123	Corner	24,486	Trapezoid	125	13,191
13A	A	127	Perpendicular	37,470	Rectangular	127	24,046
45	B	134	Perpendicular	20,006	Trapezoid	128	9,824
58	B	133	Perpendicular	22,898	Irregular Pentagon	130	11,059
53	A	128	Corner	24,186	Rectangular	132	12,304
15	B	130	Perpendicular	29,019	Trapezoid	132	16,618
16	B	130	Radial	30,270	Trapezoid	132	18,780
55	B	111	Perpendicular	27,136	Rectangular	135	15,935
56	B	153	Perpendicular	28,592	Trapezoid	140	16,616
5	A	140	Perpendicular	44,127	Rectangular	146	26,140
3	A	146	Perpendicular	43,800	Rectangular	146	29,645
10	A	148	Perpendicular	45,908	Trapezoid	149	31,556
9	A	148	Perpendicular	47,929	Trapezoid	150	34,392
24	A	152	Radial	26,009	Trapezoid	151	13,917
14	B	138	Perpendicular	43,560	Trapezoid	152	28,714
2	A	166	Perpendicular	52,871	Rectangular	168	26,713
4	A	145	Perpendicular	54,763	Trapezoid	170	38,736
39	B	197	Perpendicular	26,680	Irregular Rectangle	173	14,061
59	B	182	Perpendicular	30,905	Trapezoid	176	13,729
48	B	166	Perpendicular	28,034	Rectangular	185	14,957
22	A	204	Corner	41,089	Irregular Polygon	185	23,422
23	A	199	Radial	36,063	Irregular Polygon	190	23,422
17	B	196	Radial	43,064	Trapezoid	203	28,345
22	A	185	Corner	24,018	Irregular Polygon	240	11,051

Shading indicates new lots

Neighborhood for Resubdivision: Lot 17 B, Willerburn Acres							
Comparable Lot Data Table			Ranked By Lot Size			March 2011	
Lot #	Block	Frontage (ft.)	Alignment	Lot Size (sq. ft.)	Shape	Width (ft.) at Bldg. Line	Buildable Area (sq. ft.)
37	B	82	Perpendicular	9,783	Rectangular	82	3,437
38	B	90	Perpendicular	10,351	Rectangular	90	4,240
30	A	90	Perpendicular	10,463	Rectangular	90	3,816
34	B	115	Radial	10,776	Irregular Rectangle	106	3,348
29	A	84	Perpendicular	10,984	Rectangular	84	4,144
20	B	80	Radial	11,513	Irregular Rectangle	85	4,041
35	B	106	Radial	11,764	Rectangular	101	4,587
21	B	76	Corner	11,925	Irregular Rectangle	95	3,126
36	B	91	Perpendicular	12,001	Rectangular	93	5,107
31	A	85	Corner	12,450	Rectangular	95	3,682
39	B	85	Corner	12,589	Rectangular	95	4,020
41	A	97	Perpendicular	12,720	Rectangular	97	4,822
33	B	100	Corner	13,451	Irregular Rectangle	115	4,005
18	B	80	Radial	16,523	Irregular Rectangle	85	7,695
19	B	74	Radial	17,599	Irregular Polygon	82	10,373
42	A	75	Radial	18,191	Irregular Rectangle	85	8,385
45	B	134	Perpendicular	20,006	Trapezoid	128	9,824
61	B	96	Perpendicular	20,118	Rectangular	99	7,604
52	A	116	Perpendicular	21,780	Rectangular	116	12,071
58	B	133	Perpendicular	22,898	Irregular Pentagon	130	11,059
38	B	25	Radial	23,110	Irregular Polygon	78	12,695
25	A	110	Radial	23,455	Irregular Rectangle	115	12,236
10	B	120	Perpendicular	24,000	Rectangular	120	13,271
9	B	120	Perpendicular	24,000	Rectangular	120	13,874
60	B	101	Perpendicular	24,011	Rectangular	108	9,454
22	A	185	Corner	24,018	Irregular Polygon	240	11,051
53	A	128	Corner	24,186	Rectangular	132	12,304
10	C	123	Corner	24,486	Trapezoid	125	13,191
24	A	115	Radial	25,829	Irregular Rectangle	118	13,044
24	A	152	Radial	26,009	Trapazoid	151	13,917
4	B	115	Perpendicular	26,191	Rectangular	115	13,961
39	B	197	Perpendicular	26,680	Irregular Rectangle	173	14,061
55	B	111	Perpendicular	27,136	Rectangular	135	15,935
43	A	95	Radial	27,807	Irregular Rectangle	105	14,847
48	B	166	Perpendicular	28,034	Rectangular	185	14,957
56	B	153	Perpendicular	28,592	Trapezoid	140	16,616
53	B	112	Perpendicular	28,693	Irregular Polygon	117	17,071
15	B	130	Perpendicular	29,019	Trapazoid	132	16,618
23	A	115	Radial	29,573	Irregular Rectangle	120	18,394
13A	B	35	Radial	30,028	Irregular Polygon	95	19,350
16	B	130	Radial	30,270	Trapazoid	132	18,780
59	B	182	Perpendicular	30,905	Trapezoid	176	13,729
14	A	105	Perpendicular	33,312	Rectangular	108	22,099
15	A	105	Radial	33,516	Rectangular	108	22,065
23	A	199	Radial	36,063	Irregular Polygon	190	23,422
11A	A	118	Perpendicular	36,235	Rectangular	122	24,304
13A	A	127	Perpendicular	37,470	Rectangular	127	24,046
22	A	204	Corner	41,089	Irregular Polygon	185	23,422
17	B	196	Radial	43,064	Trapazoid	203	28,345
14	B	138	Perpendicular	43,560	Trapazoid	152	28,714
3	A	146	Perpendicular	43,800	Rectangular	146	29,645
5	A	140	Perpendicular	44,127	Rectangular	146	26,140
10	A	148	Perpendicular	45,908	Trapazoid	149	31,556
9	A	148	Perpendicular	47,929	Trapazoid	150	34,392
2	A	166	Perpendicular	52,871	Rectangular	168	26,713
4	A	145	Perpendicular	54,763	Trapazoid	170	38,736

Shading indicates new lots



Neighborhood for Resubdivision: Lot 17 B, Willerburn Acres Comparable Lot Data Table								March 2011
Ranked By Buildable Area								
Lot #	Block	Frontage (ft.)	Alignment	Lot Size (sq. ft.)	Shape	Width (ft.) at Bldg. Line	Buildable Area (sq. ft.)	
21	B	76	Corner	11,925	Irregular Rectangle	95	3,126	
34	B	115	Radial	10,776	Irregular Rectangle	106	3,348	
37	B	82	Perpendicular	9,783	Rectangular	82	3,437	
31	A	85	Corner	12,450	Rectangular	95	3,682	
30	A	90	Perpendicular	10,463	Rectangular	90	3,816	
33	B	100	Corner	13,451	Irregular Rectangle	115	4,005	
39	B	85	Corner	12,589	Rectangular	95	4,020	
20	B	80	Radial	11,513	Irregular Rectangle	85	4,041	
29	A	84	Perpendicular	10,984	Rectangular	84	4,144	
38	B	90	Perpendicular	10,351	Rectangular	90	4,240	
35	B	106	Radial	11,764	Rectangular	101	4,587	
41	A	97	Perpendicular	12,720	Rectangular	97	4,822	
36	B	91	Perpendicular	12,001	Rectangular	93	5,107	
61	B	96	Perpendicular	20,118	Rectangular	99	7,604	
18	B	80	Radial	16,523	Irregular Rectangle	85	7,695	
42	A	75	Radial	18,191	Irregular Rectangle	85	8,385	
60	B	101	Perpendicular	24,011	Rectangular	108	9,454	
45	B	134	Perpendicular	20,006	Trapezoid	128	9,824	
19	B	74	Radial	17,599	Irregular Polygon	82	10,373	
22	A	185	Corner	24,018	Irregular Polygon	240	11,051	
58	B	133	Perpendicular	22,898	Irregular Pentagon	130	11,059	
52	A	116	Perpendicular	21,780	Rectangular	116	12,071	
25	A	110	Radial	23,455	Irregular Rectangle	115	12,236	
53	A	128	Corner	24,186	Rectangular	132	12,304	
38	B	25	Radial	23,110	Irregular Polygon	78	12,695	
24	A	115	Radial	25,829	Irregular Rectangle	118	13,044	
10	C	123	Corner	24,486	Trapezoid	125	13,191	
10	B	120	Perpendicular	24,000	Rectangular	120	13,271	
59	B	182	Perpendicular	30,905	Trapezoid	176	13,729	
9	B	120	Perpendicular	24,000	Rectangular	120	13,874	
24	A	152	Radial	26,009	Trapazoid	151	13,917	
4	B	115	Perpendicular	26,191	Rectangular	115	13,961	
39	B	197	Perpendicular	26,680	Irregular Rectangle	173	14,061	
43	A	95	Radial	27,807	Irregular Rectangle	105	14,847	
48	B	166	Perpendicular	28,034	Rectangular	185	14,957	
55	B	111	Perpendicular	27,136	Rectangular	135	15,935	
56	B	153	Perpendicular	28,592	Trapezoid	140	16,616	
15	B	130	Perpendicular	29,019	Trapazoid	132	16,618	
53	B	112	Perpendicular	28,693	Irregular Polygon	117	17,071	
23	A	115	Radial	29,573	Irregular Rectangle	120	18,394	
16	B	130	Radial	30,270	Trapazoid	132	18,780	
13A	B	35	Radial	30,028	Irregular Polygon	95	19,350	
15	A	105	Radial	33,516	Rectangular	108	22,065	
14	A	105	Perpendicular	33,312	Rectangular	108	22,099	
23	A	199	Radial	36,063	Irregular Polygon	190	23,422	
22	A	204	Corner	41,089	Irregular Polygon	185	23,422	
13A	A	127	Perpendicular	37,470	Rectangular	127	24,046	
11A	A	118	Perpendicular	36,235	Rectangular	122	24,304	
5	A	140	Perpendicular	44,127	Rectangular	146	26,140	
2	A	166	Perpendicular	52,871	Rectangular	168	26,713	
17	B	196	Radial	43,064	Trapazoid	203	28,345	
14	B	138	Perpendicular	43,560	Trapazoid	152	28,714	
3	A	146	Perpendicular	43,800	Rectangular	146	29,645	
10	A	148	Perpendicular	45,908	Trapazoid	149	31,556	
9	A	148	Perpendicular	47,929	Trapazoid	150	34,392	
4	A	145	Perpendicular	54,763	Trapazoid	170	38,736	

Shading indicates new lots



Neighborhood for Resubdivision: Lot 17 B, Willerburn Acres							
Comparable Lot Data Table				March 2011			
Ranked By Lot Frontage							
Lot #	Block	Frontage (ft.)	Alignment	Lot Size (sq. ft.)	Shape	Width (ft.) at Bldg. Line	Buildable Area (sq. ft.)
38	B	25	Radial	23,110	Irregular Polygon	78	12,695
13A	B	35	Radial	30,028	Irregular Polygon	95	19,350
19	B	74	Radial	17,599	Irregular Polygon	82	10,373
42	A	75	Radial	18,191	Irregular Rectangle	85	8,385
21	B	76	Corner	11,925	Irregular Rectangle	95	3,126
20	B	80	Radial	11,513	Irregular Rectangle	85	4,041
18	B	80	Radial	16,523	Irregular Rectangle	85	7,695
37	B	82	Perpendicular	9,783	Rectangular	82	3,437
29	A	84	Perpendicular	10,984	Rectangular	84	4,144
31	A	85	Corner	12,450	Rectangular	95	3,682
39	B	85	Corner	12,589	Rectangular	95	4,020
38	B	90	Perpendicular	10,351	Rectangular	90	4,240
30	A	90	Perpendicular	10,463	Rectangular	90	3,816
36	B	91	Perpendicular	12,001	Rectangular	93	5,107
43	A	95	Radial	27,807	Irregular Rectangle	105	14,847
61	B	96	Perpendicular	20,118	Rectangular	99	7,604
41	A	97	Perpendicular	12,720	Rectangular	97	4,822
33	B	100	Corner	13,451	Irregular Rectangle	115	4,005
60	B	101	Perpendicular	24,011	Rectangular	108	9,454
14	A	105	Perpendicular	33,312	Rectangular	108	22,099
15	A	105	Radial	33,516	Rectangular	108	22,065
35	B	106	Radial	11,764	Rectangular	101	4,587
25	A	110	Radial	23,455	Irregular Rectangle	115	12,236
55	B	111	Perpendicular	27,136	Rectangular	135	15,935
53	B	112	Perpendicular	28,693	Irregular Polygon	117	17,071
34	B	115	Radial	10,776	Irregular Rectangle	106	3,348
24	A	115	Radial	25,829	Irregular Rectangle	118	13,044
4	B	115	Perpendicular	26,191	Rectangular	115	13,961
23	A	115	Radial	29,573	Irregular Rectangle	120	18,394
52	A	116	Perpendicular	21,780	Rectangular	116	12,071
11A	A	118	Perpendicular	36,235	Rectangular	122	24,304
10	B	120	Perpendicular	24,000	Rectangular	120	13,271
9	B	120	Perpendicular	24,000	Rectangular	120	13,874
10	C	123	Corner	24,486	Trapezoid	125	13,191
13A	A	127	Perpendicular	37,470	Rectangular	127	24,046
53	A	128	Corner	24,186	Rectangular	132	12,304
15	B	130	Perpendicular	29,019	Trapezoid	132	16,618
16	B	130	Radial	30,270	Trapezoid	132	18,780
58	B	133	Perpendicular	22,898	Irregular Pentagon	130	11,059
45	B	134	Perpendicular	20,006	Trapezoid	128	9,824
14	B	138	Perpendicular	43,560	Trapezoid	152	28,714
5	A	140	Perpendicular	44,127	Rectangular	146	26,140
4	A	145	Perpendicular	54,763	Trapezoid	170	38,736
3	A	146	Perpendicular	43,800	Rectangular	146	29,645
10	A	148	Perpendicular	45,908	Trapezoid	149	31,556
9	A	148	Perpendicular	47,929	Trapezoid	150	34,392
24	A	152	Radial	26,009	Trapezoid	151	13,917
56	B	153	Perpendicular	28,592	Trapezoid	140	16,616
48	B	166	Perpendicular	28,034	Rectangular	185	14,957
2	A	166	Perpendicular	52,871	Rectangular	168	26,713
59	B	182	Perpendicular	30,905	Trapezoid	176	13,729
22	A	185	Corner	24,018	Irregular Polygon	240	11,051
17	B	196	Radial	43,064	Trapezoid	203	28,345
39	B	197	Perpendicular	26,680	Irregular Rectangle	173	14,061
23	A	199	Radial	36,063	Irregular Polygon	190	23,422
22	A	204	Corner	41,089	Irregular Polygon	185	23,422

Shading indicates new lots

# ALBERT ARKING

copy for Richard Weaver

11810 Gainsborough Road  
Potomac, Maryland 20854

Attachment C  
March 25, 2011

1 of 4

Ms. Françoise Carrier, Chair  
Montgomery County Planning Board  
Maryland-National Capital Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Dear Ms. Carrier:

We wish to express our strong objection to a proposal to divide the lot that is across from our home on Gainsborough Rd (Willerburn Acres, Lot 17, Block B) into two lots. Approval of the proposal would seriously impair the unique character of our neighborhood, which has been our home for the last 30 years. The neighborhood to which we refer is a part of Gainsborough that extends for about 0.4 miles east of Seven Locks Rd. It differs from the surrounding area by its low population density, old trees and shrubs that fill the space between well separated homes, and an asphalt pavement, with no curb or sidewalk, that accommodates the few cars that pass through. It is an oasis of tranquility, where people from within and outside the neighborhood enjoy walking, often with children and pet dogs.

The person who submitted the application for resubdivision, Joav Steinbach, did the same thing in 2004. At that time, he purchased the largest lot in our neighborhood (1.5 acres), tore down the existing house, divided the parcel into two, and sold each of them unimproved. There are now houses on those lots, but their frontages are now the smallest of all the lots in our neighborhood. If Mr. Steinbach succeeds in obtaining approval for his current application, he will produce two lots that have even smaller frontages. We are very much concerned about this encroachment on our neighborhood, and we hope you will protect us from these attempts to change its character.

Frankly, the homeowners in this neighborhood are quite surprised that the application was submitted. Mr. Steinbach held a pre-application meeting with the homeowners on Sep 7, 2010 to present his plan, and everyone of the dozen or so homeowners who attended expressed his/her objection. He told us that his business is resubdivision, not building houses, and that he would be selling the lots once his resubdivision plan was approved. He made it clear that his primary interest is to "make a profit".

In the letter accompanying his application, addressed to Ms. Catherine Conlon and dated Dec 20, 2010, Mr. Steinbach refers to the need for resubdivision due to a "shortage of housing in the neighborhood." That is obviously not true. There is no housing shortage. The subject property was on the market for 4 years before he purchased it for his client last October, which indicates the demand for property in this neighborhood is rather weak. More recently, another property in the same section (11743 Gainsborough Rd) was on the market for six months before it was sold last month. Clearly, there is no shortage. The demand is low because the properties, with or without houses, are expensive. On the part of Gainsborough Rd that extends west of Seven Locks Rd, where the density is higher, property sales are much quicker because the prices are lower; but even there, there is no shortage.

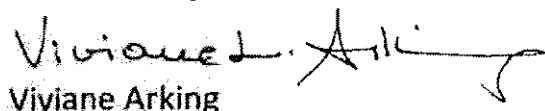
To show the specific effect of Mr. Steinbach's plan, we prepared a list (attached) of the properties along the 0.4 mile stretch of Gainsborough that has the unique character we wish to preserve. The properties are ordered according to frontage, from widest to narrowest. Of the 35 lots, 5 are omitted because the houses are not visible from the street—they are set far back, either behind the house that fronts on the street (Lots 49 and 50, Block B) or deep within a large area that is accessed from an inside corner via a common driveway (Lots 13A, 13B, and 38, Block B). The lot which is the subject of the application to resubdivide (Lot 17, Block B) and its proposed resubdivision are shown in red. The frontage of the lot, undivided, is the fifth largest, 196 ft. If divided into two, each lot would have a frontage of 98 ft, which is 7 ft narrower than the two lots that resulted from the resubdivision in 2004, which are now the narrowest of all the lots, and 13 ft narrower than the narrowest prior to 2004. They would also be the smallest of all the lots. There is thus a clear danger of a progression, in which property is purchased and resubdivided without regard to the effect on the neighborhood.

We urge the Board to put a stop to increasing the density in this established neighborhood. Within a radius of one mile of our neighborhood, there are developments that have unsold homes and there are plenty of open areas where new communities can be developed.

Sincerely,



Albert Arking



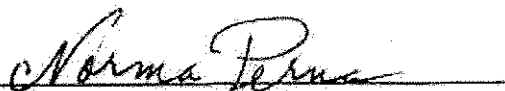
Viviane Arking

Contact Info

TEL: 301-299-2478

E-M: aa@arking.net

We are homeowners who live on Gainsborough Rd within 0.4 miles of Lot 17, Block B, for which a proposal for resubdivision is under consideration by the Montgomery County Planning Board. We endorse the above letter by the Arkings and urge the Planning Board to reject the proposal.



Norma Perna  
11820 Gainsborough Rd



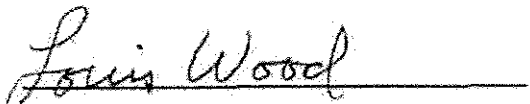
Mark Arking  
11815 Gainsborough Rd




Hing Lew  
11807 Gainsborough Rd



Thomas Lewis  
11801 Gainsborough Rd



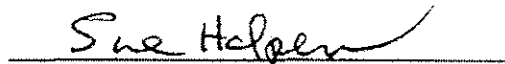
Louis Wood  
11800 Gainsborough Rd



Solomon Sobel  
11769 Gainsborough Rd



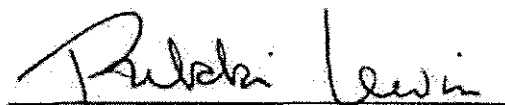
Halver Jout  
11748 Gainsborough Rd



Sue Halpern  
11747 Gainsborough Rd



Euriel Rodolfo  
11733 Gainsborough Rd



Rikki Lewin  
11723 Gainsborough Rd



Stanley Miller  
11712 Gainsborough Rd



Susan Gallagher  
11706 Gainsborough Rd

List of properties along a half-mile stretch of Gainsborough Rd that has a unique character the homeowners wish to preserve, ordered according to frontage, from widest to narrowest. Of the 35 lots, 5 are omitted because the houses are not visible from the street—they are set far back, either behind the house that fronts on the street (Lots 49 and 50, Block B) or deep within a large area that is accessed from an inside corner via a common driveway (Lots 13A, 13B, and 38, Block B).

House No.	Lot	Plat	Size	Frontage
11800	A22	P4030	41089	444.00
11725	B48	P20283	28034	206.05
11820	A23	P11825	36063	199.36
11723	B39	P10787	53930	197.00
00000	B17	P4030	43064	196.36
11705	B13	P24154	30905	182.52
11706	A2	P2014	52871	165.98
11747	B45	P16391	26006	160.01
11739	B56	P23254	28592	153.02
11810	A24	P11825	26009	152.66
11753	B9	P2626	30000	150.00
11801	B14	P4030	43560	148.88
11748	A9	P3549	47929	148.00
11754	A10	P3549	45908	148.00
11712	A3	P2014	43800	146.00
11718	A4	P2014	54763	145.00
11724	A5	P2014	44127	139.26
11743	B55	P22894	27136	135.00
11700	A17	P24154	24206	133.12
11715	B12	P24154	22876	133.07
11807	B15	P4030	29019	130.00
11815	B16	P4030	30270	130.00
11742	A13A	P11507	37470	127.32
11759	B10	P2626	24000	120.00
11730	A11A	P11507	36235	118.00
11702	A16	P24154	21782	116.41
11733	B4	P2014	26191	115.00
11765	B53	P22675	28693	110.58
11736	A14	P22824	33312	104.94
11740	A15	P22824	33516	104.80
00000	B61	-----	21532	98.18
00000	B60	-----	21532	98.18



321 Ballenger Center Drive  
Suite 101  
Frederick, Maryland 21703

301 663 3158  
301 663 3679 fax  
www.dewberry.com

**REPORT OF SURVEY  
LOT 17, BLOCK B, WILLERBURN ACRES**

The field survey was conducted on August 12, 2010 using a Topcon GTS-603 series total station. Trimble GPS equipment was utilized to establish Maryland State Plane Coordinates for the site.

The primary document describing Lot 17 is a plat of subdivision entitled "Parts of Blocks A & B, Willerburn Acres" prepared by R.K. Maddox, dated March 1955 and recorded as Plat No. 4030 among the Land Records of Montgomery County, Maryland. When the geometry shown on this plat was computed, it was noted that the area of Lot 17 yielded a computed area of approximately 44,125 square feet instead of the 43,064 square feet shown on the plat. While not desirable, it is not uncommon to find errors such as these on plats prepared in the 1950's.

It must be pointed out that, according to the laws governing surveying in the State of Maryland, a plat or deed is evidence of "WHAT" was to be conveyed. However, the courts contend that the actual location, or "WHERE" the conveyed property lies, is determined by the physical location of the corners on the ground. The location of the property on the ground is determined by field evidence, such as corner markers, that can be evaluated in light of the document (plat or deed) which describes the property.

At the time of the survey we found the following evidence of property markers on Lot 17 which were held in position for three of the four corners of Lot 17:

- An iron rod with plastic cap marked "SBA" at the left front corner
- An iron rod with no identification at the right front corner of Lot 17, common with Lot 16
- An iron pipe at the right rear corner of Lot 17, common with Lot 16 and M-NCPPC

The left rear corner of Lot 17 was established holding the distance of 190.00 feet, as shown on Plat No. 4030 for the left side of Lot 17.

It should be noted that there are minor differences in the dimensions between the field located property markers and those shown for Lot 17 on Plat No. 4030. The largest difference between platted and measured dimensions found is less than two (2) inches. It is the professional opinion of this surveyor that these differences do not constitute a problem and are quite reasonable for a retracement survey of a property which is fifty years old. In addition, the resulting boundary of Lot 17, as marked in the field yields an area of 44,129 square feet which, as previously stated, is within four (4) square feet of the boundary computed from the subdivision plat.

The only field marker found which was not held was a concrete monument in the vicinity of the left rear corner of Lot 17. This monument was uncalled for by plat or adjoining deed and its position was outside of the tolerance of the other property markers located.

*Gary F. Crouse*  
Gary F. Crouse  
Property Line Surveyor  
Maryland License No. 271

*04/12/11*  
Date

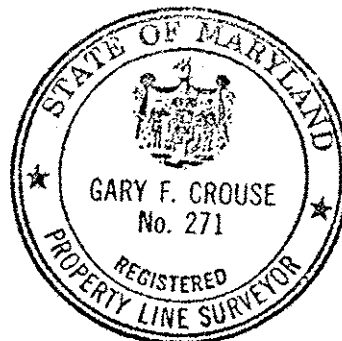
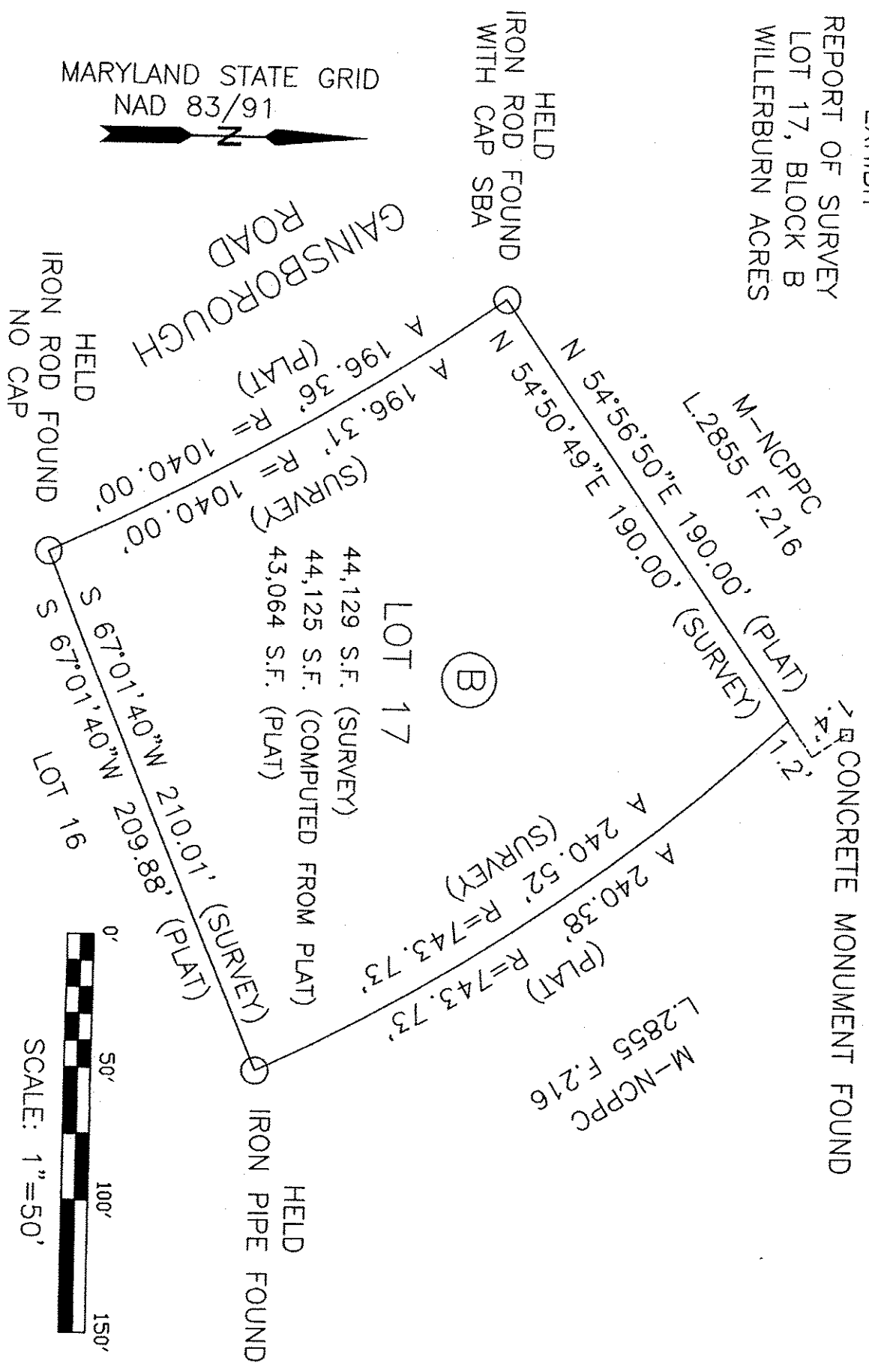




EXHIBIT  
 REPORT OF SURVEY  
 LOT 17, BLOCK B  
 WILLERBURN ACRES



MARYLAND STATE GRID  
 NAD 83/91

