

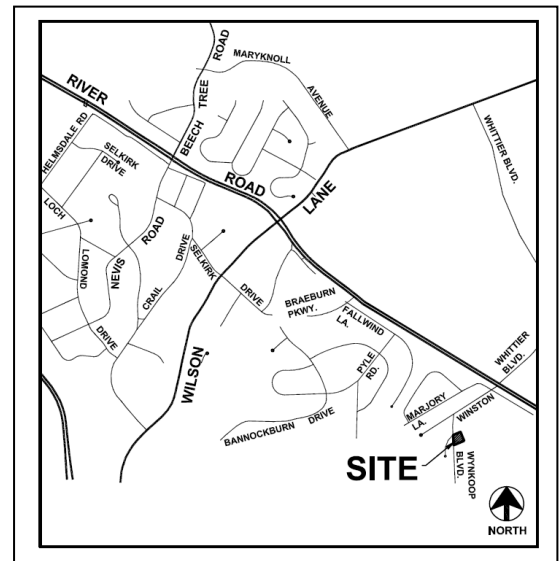
Country Club Village, Preliminary Plan of Subdivision 120110260

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Description

Staff Report Date: 4/27/12

- Location: 6311 Wynkoop Blvd, Bethesda
- Zone: R-60
- Master Plan: Bethesda- Chevy Chase (1990)
- Size: 21,511 sq. ft.
- Request: Subdivide part of Parcel C into two lots
- Applicant/Contract Purchaser: Ulrike Berger
- Filing Date: June 9, 2011



Summary

- Staff recommendation: **Denial** of submitted preliminary plan of subdivision and request for a tree variance.
- Applicant's position: Requests resubdivision of 1 recorded parcel into 2 lots given a belief that the two proposed lots can be accommodated on the site without substantial impact to environmentally sensitive areas.
- Staff's position: Site contains environmentally sensitive areas such as steep slopes, forest, and erodible soils. Given the extent of the environmentally sensitive areas, the property is better suited to be subdivided into only a single lot. The submittal is not in conformance with the Bethesda- Chevy Chase Master Plan or the Subdivision Regulations.

RECOMMENDATION: DENIAL Staff recommends Denial of the submitted preliminary plan based on Sect. 50-33 (b) (c) and (d) of the Subdivision Regulations for “Environmentally Sensitive Areas” and because the plan is not in substantial conformance with the recommendations contained in the Bethesda Chevy Chase Master Plan

SITE DESCRIPTION

The subject property is located on the east side of Wynkoop Boulevard, approximately 350 feet south of its intersection with Winston Lane. The property is rectangular in shape, with approximately 154 feet of frontage along Wynkoop Boulevard. The property contains 21,511 square feet and is zoned R-60. It is vacant, completely forested and contains slopes of 15% to greater than 25% throughout the site.

The site is relatively flat along its street frontage and for approximately 20 feet into the site. The terrain then begins to sharply ascend across the entire property into steep slopes of over 25%. The majority of the site, approximately 98%, contains Brinklow-Blocktown Channery Silt Loam, a highly erodible soil. An existing Washington Suburban Sanitary Commission (WSSC) easement, approximately 6 feet in width, is located along the entire length of the northern property line. The subject property is located in the Potomac River watershed.

The site is identified as part of Parcel C which was subdivided in 1940 (Plat 1204). The surrounding properties to the east, south, and west are zoned R-60 and developed with one family detached dwelling units. The lots directly north are zoned R-60 and vacant. On 1/19/11, the Planning Board approved Preliminary Plan (120080330) for a 2 lot resubdivision directly east and abutting the subject site; that property has not yet been recorded.



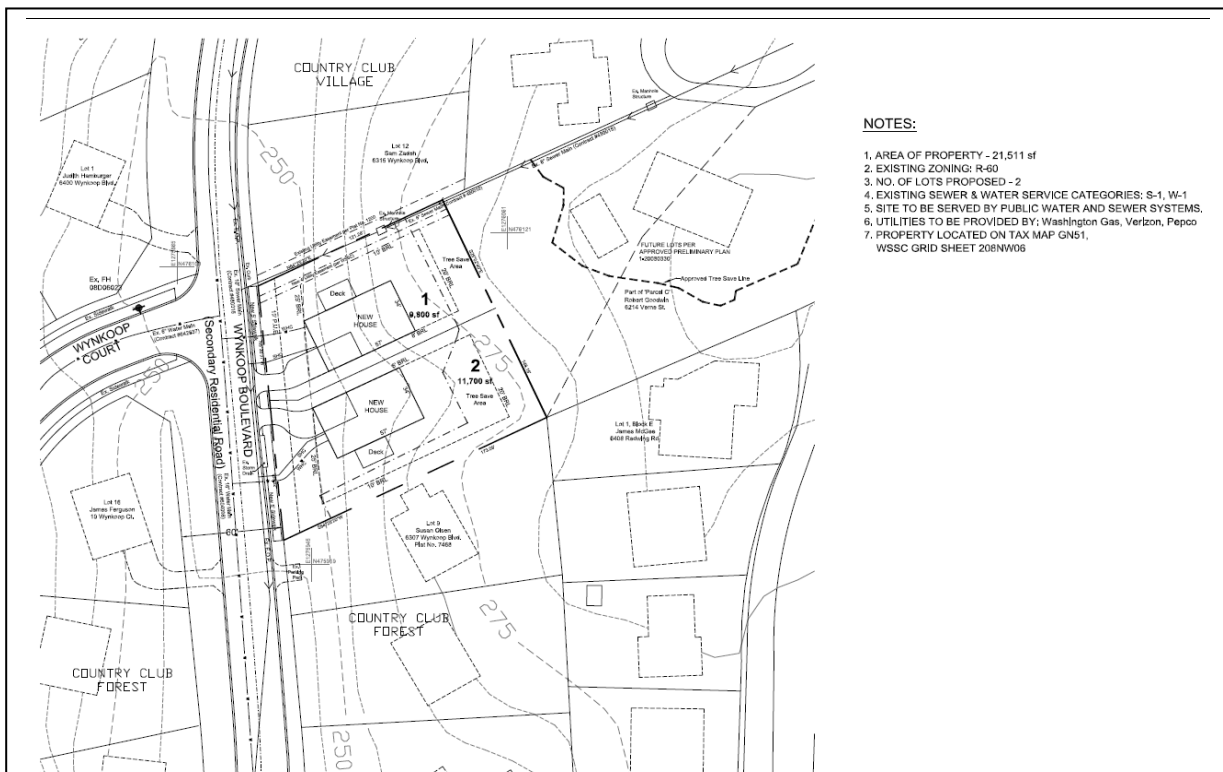
Vicinity Map

PROJECT DESCRIPTION

The applicant is requesting to resubdivide part of Parcel C into two lots. Proposed Lot 1 will consist of 9,800 square feet and Proposed Lot 2 will consist of 11,700 square feet. Access to each lot will be from individual driveways off of Wynkoop Boulevard, a public street. The driveway for Lot 1 will have a slope of 12%, while the driveway for Lot 2 will have a slope of 8%. The existing water and sewer easement will be increased in width by another 4 feet per a request of WSSC.

BACKGROUND

The initial submission of this application proposed two lots, with driveways via Wynkoop Boulevard. Staff met with the applicant to discuss the submittal and raised concerns about the existing, on-site environmentally sensitive features including steep slopes (ranging from 15% to over 25%), highly erodible soils covering roughly 98% of the property and the onsite forest. Staff conveyed to the applicant that, given these features, the site would be better developed if only one lot were proposed, thereby creating less impact to the slopes and existing forest. The applicant submitted a revised preliminary plan addressing some of staff's concerns, but the revision still depicted two dwelling units on two lots which both contain slopes in excess of 25%. These slopes are considered environmentally sensitive areas according to Sections 50-32 (b) and (c) of the Subdivision Ordinance.



Proposed Preliminary Plan

ANALYSIS AND FINDINGS

Master Plan

Under Section 50-35 (l) of the Subdivision Regulations entitled "Relation to Master Plan", the Planning Board must find that the submitted plan is in substantial conformance with the recommendations of the master plan. The site is covered by the Bethesda Chevy Chase Master Plan (1990) ("the Master Plan") and lies within the area defined as the Potomac Palisades. "The entire Planning area lies in the Piedmont Region. This land is characterized by rolling and hilly topography. Some areas have moderately steep (15 to 25 percent grade) to extremely steep (over 25 percent) slopes." (p. 137). "A community land use goal of the Master Plan is to protect the environment, character, and cultural resources of the Palisades area" (p 29). Another major goal is to protect the natural resources and environmental features which are important to the quality of life for Bethesda-Chevy Chase. The following citations from the master plan outline objectives of natural resource protection for this area.

"The Plan recommends preserving the Potomac Palisades' unique environmental features of steeply wooded slopes and vistas and the perpetuation of the open space character established in the area". (pg.64)

"The established pattern of development in the Palisades has resulted from average lot sizes larger than the minimum 6,000 square feet required for the R-60 Zone. These larger lots have allowed for less intrusion on the steeply sloped and wooded topography characteristic of this area" (p.69).

The Master Plan also recommends the "preservation of steeply sloped areas of 25 percent and greater by strict adherence to the criteria established in the "Staff Guidelines for the Protection of Slopes and Stream Valleys," prepared by the Montgomery County Planning Department (April 1983). (p.69) "Due to the sensitive topography in the Palisades, it is critical to protect the steep slopes from disturbance. With development pressure mounting slopes which were once considered "unbuildable" are now being developed. In many instances, these slopes are being cleared of vegetation and excavated, leading to further erosion and runoff. To minimize this destruction these guidelines should be strictly applied to preliminary plans of subdivision for this area. Where areas of steep slopes and mature trees exist a conservation easement may be placed to ensure the preservation of these environmentally sensitive areas in an undisturbed state. The placement of conservation easements should be done on case-by-case basis." (p. 69)

The Master Plan also discusses natural features in an effort to avoid erosive conditions and protect the steep slopes of this area. It recommends “the preservation, whenever possible, of wetlands and steeply sloped areas (25 percent and greater slopes) that may lie outside floodplains or stream buffers”. (pg 137)

The language applicable from the Montgomery County Planning Board Environmental Guidelines, January, 2000 (“Environmental Guidelines”) entitled “Recommended Guidelines for Steep Slopes Outside the Stream Buffers (Hydraulically Remote) states:

“To the extent possible, hydraulically remote steep slope areas should be incorporated into the site’s open space and/or remain undisturbed. However, development of these areas may be approved on a case-by-case basis, where the developer can demonstrate that safety, County road standards, storm drainage/stormwater management, erosion and sediment controls, engineering, tree preservation, soil stabilization, design and planning issues are satisfactorily addressed.” (p.20)

Furthermore, the Environmental Guidelines under Section III, Natural Resources Inventory state:

(F) “Unsafe and Unsuitable Land (Soils). In the past, there have been instances where failure to recognize existing soils constraints have resulted in buildings that experience severe flooding, wetness problems and/or, over the long run, structural problems.” ... “Soils with severe limitations for development are those that have one or more of the following characteristics as identified in the most recent version of the Soil Survey of Montgomery County, Maryland...

- Excessive slopes
- High susceptibility to erosion “ (p.11)

D. Unsafe and Unsuitable Land Protection

(1) “Development should avoid areas of the site that contain soils with severe limitations. In some cases, development may be prohibited or restricted in these areas as a condition of plan approval. Restrictions can include the requirement for implementation of engineered solutions, the use of building restriction lines, restriction of housing types (such as prohibiting basements), and relocation or deletion of lots.” (Underlining added) (p.23))

The subject site has slopes exceeding 15 percent with nearly half of the site on slopes greater than 25 percent. Additionally, the soils are highly susceptible to erosion as classified in the 1995 Soil Survey of Montgomery County. These steep slopes with erodible soil add development constraints to this site.

Subdividing this site into 2 lots would significantly increase the chances for erosion and run off issues associated with its steep slopes. Although the master plan recommends conservation easements as a

measure to protect steep slopes, staff would not support a conservation easement on this site as it is not appropriate for enforcement reasons, however, in this application, a larger than normal building restriction line would be appropriate on the property. The Environmental Guidelines outline a variety of restrictions that may be required including the deletion of lots and the establishment of a building restriction line to protect the slopes and forest. Staff is recommending protection of the steepest areas of the site during construction and significant reduction in the proposed limit of disturbance. In staff's opinion, this can only be accomplished by limiting subdivision of this property to the creation of only one lot.

The two proposed lots do not substantially conform to the recommendations of the master plan as indicated by the following:

- The proposed two lots do not preserve any of the onsite forest or steep slopes.
- Two lots disrupt the green character of the street front as established by the existing constructed lots; one lot on the proposed site would permit some green vista from the street.
- Two lots do not minimize but instead disrupt too much of the site by creating a need for a high retaining wall and resulting in newly graded steep slopes which may be prone to erosion and difficult to reestablish .
- The driveway design for proposed Lot 1 is excessively steep (12%).

The submitted preliminary plan does not satisfactorily address design and planning issues related to the existing steep slopes. Therefore, the subject application is not consistent or in substantial conformance with the master plan recommendations of natural resource protection and the retention of the existing environmental qualities which are important to the quality of life highlighted in the Master Plan.

Subdivision Regulations

Section 50-32 of the Subdivision Regulations "Special Controls for Environmentally Sensitive Areas" offers guidance to the Board with respect to the environmental issues. Sections 50-32 (b) (c) and (d) are of importance to the subject application. Section 50-32 (c) states:

Trees, Forests, and Environmentally Sensitive Areas. The board may restrict the subdivision of land to achieve the objectives of Chapter 22A relating to conservation of tree and forest resources and to protect environmentally sensitive areas. For purposes of this subsection, environmentally sensitive areas are limited to critical habitats for wildlife or plant species, slopes over 25% or over 15% with highly erodible soils, wetlands, perennial and intermittent streams,

and stream buffers. Specific measures also may be required to protect any rare, threatened or endangered plants or animals.

Section 50-32 (d) "Restrictions general" states:

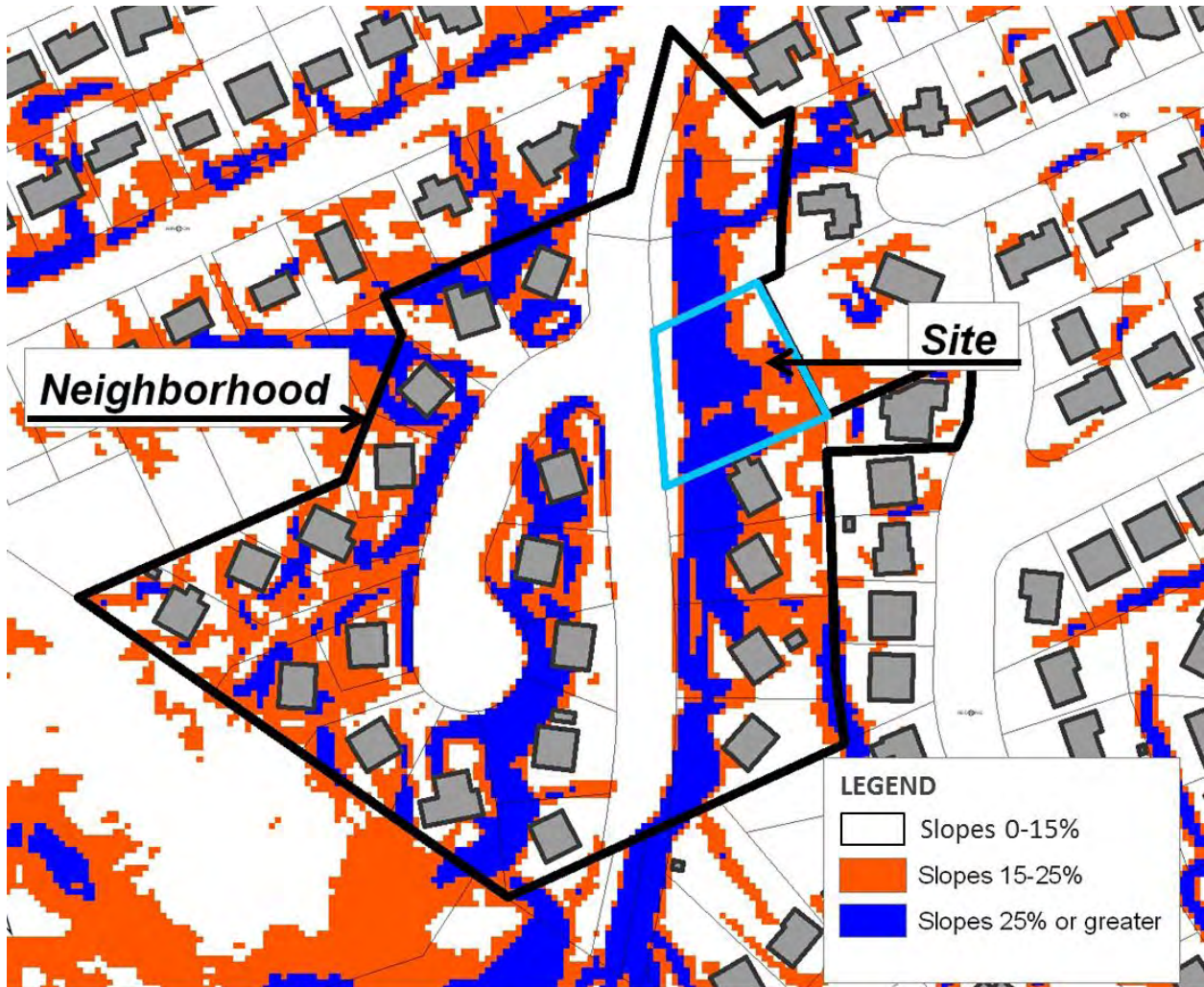
- (1) In addition to any requirement imposed under Chapter 22A, the proposed subdivision may be restricted under this Section by:
 - a) deletion of or rearrangement of proposed lots, roads, utilities, and other facilities;
 - b) the establishment of building restriction and land disturbance limit lines, and other protective measures or conditions;
 - c) requiring conservation easements, deed restrictions, or covenants over portions of lots or parcels to be recorded.
- (2) The deletion of proposed lots under subsection (c) should occur only if the board finds that other measures authorized by law are inadequate to provide reasonably appropriate short or long-term natural resource protection or to satisfy the requirements of Chapter 22A.

Section 50-32 (e) Building restriction and land disturbance limit lines.

- (1) Building restriction line. A building restriction line is a line designating an area in which development or building is restricted under this Section. A building restriction line must be used to designate floodplain, and other environmentally sensitive or unsafe building areas if the area is not shown on the plat as a right-of-way or easement in accordance with this Chapter

The property is within the Minnehaha Branch watershed. All runoff from the site feeds into the Minnehaha Tributary, a designated Use I waterway (suitable for recreation) that drains into the Potomac River. The tributary is deemed a restoration area by the Montgomery County Department of Environmental Protection (MCDEP). A restoration area is identified when poor water quality and deep stream erosion are observed. There are no onsite streams, wetlands, floodplains, or associated environmental buffers located on the subject site.

The majority of the site is Brinklow-Blocktown Channery silt loam; a highly erodible soil. The property's topography is severe. Approximately 48 percent of the site has slopes steeper than 25 percent. Another 22 percent of the site has slopes ranging from 15-25 percent, and the remaining 30 percent of site has slopes less than 15 percent.



Existing Slope Map for Neighborhood

The entire site totals approximately 21,500 square feet. The lots sizes proposed are 9,800 square feet for Lot 1 and 11,700 square feet for Lot 2. The subject site contains steep slopes ranging from 15% grade to more than 25% and erodible soils.

Under this application, the property will be subdivided, the steep slopes graded and forest removed. The intensive grading and clearing proposed will permanently alter the topography. In addition to habitat and forest loss, grading of slopes greater than 25 percent with highly erodible soils can lead to severe erosion and siltation and slope instability. There will also be considerable impacts to the critical root zones (CRZ) of trees on the adjacent properties.

The site has likely remained undeveloped because of the existing steep slopes on erodible soils and the potential for post-construction erosion. A topographic overlay of the development reveals that other dwellings in the surrounding neighborhood were carefully sited and tucked into the site to protect the slope and community character. (See previous figure - Existing Slope Map for Neighborhood) Lots to the south of the site were successfully developed through the careful placement of houses that averted cutting and removing steep, forested slopes and by sharing a private access easement located at the rear of these lots which provides vehicular access. The plan as submitted does not follow this careful placement as indicated by the retaining wall proposed for Lot 1.

Staff believes the application as submitted did not adequately address the unique natural features present on this site or propose specific measures that would protect the site's environmentally sensitive areas including slopes over 25%, forest and specimen trees and erodible soils. Staff believes the applicant could develop this property with one lot that would place a single dwelling unit in an area of the site that would have less impact on the existing environmentally sensitive areas. One lot on the site would limit the amount of disturbance to the steep slopes and existing trees.

As discussed under the master plan section, this submittal fails to address and adequately protect the natural resources and environmental quality of the Palisades. This preliminary plan does not encourage the type of environmentally sensitive development envisioned by the master plan. As submitted, the Preliminary Forest Conservation Plan (PFCP) shows a retaining wall 6 feet high and 60 feet long to the rear of proposed lot 1. This retaining wall will require significant maintenance costs and has the potential to impact the CRZ of existing trees on and off site.

Additionally, measures to protect the erodible land and steep slopes have not been proposed. The master plan emphasizes the protection of the Palisades unique environmental features of steeply wooded slopes. The plan notes that the existing trees in the area are not only critical assets but contribute to the overall quality of life and character of this area. Thus, the submitted preliminary plan does not meet the recommendations of the applicable master plan and Sections 50-35 (b) (c) and (d) of the Subdivision Regulations.

Environment

As discussed above, the submitted application does not comply with the requirements of the Environmental Guidelines and the Subdivision Regulations for “Special controls for environmentally sensitive areas”.

A Preliminary Plan of Subdivision, PFCP, and Tree Variance for the subject application were submitted and reviewed. Based on an analysis of existing conditions and proposed actions to occur under this application, staff recommends denial of the requested Tree Variance and, therefore, cannot support the PFCP as submitted. Attachment A includes the PFCP.

Forest Conservation Law

A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) #420111250 was approved on 4/13/11. The NRI/FSD concluded that the entire 0.49 acres met the definition of a forest. A PFCP and Tree Variance were submitted for review on 12/2/11. Attachment B contains environmental staff comments.

The site is comprised of a high priority forest mix that includes trees, shrubs, and herbaceous species. The tree canopy extends beyond the property to the north where the adjacent property is similarly sloped and remains undeveloped. Tree cover expands to the south and east, adding to the forest size and quality. The forest contains 13-specimen trees¹. 6-specimen trees are onsite; 7-specimen trees are offsite, and numerous trees varying in size exist throughout the property.

The submitted PFCP proposed to retain none of the forest on the 0.49 acre tract. The applicant is proposing to meet all reforestation/afforestation requirements (0.29 acres) offsite or through a fee-in-lieu payment.

¹ A specimen tree is defined as a tree that is a particularly impressive or unusual example of a species due to its size, shape, age, or any other trait that epitomizes the character of the species.

The Code of Montgomery County Regulations, Section 22A (2)(b)(20) states, “Forest Conservation Plan means a plan which outlines the strategies and specific plans proposed for *retaining, protecting, and reforesting or afforesting areas on a site.*” (Italics added for emphasis)

The applicant has not demonstrated an effort to retain, protect, and reforest/afforest trees onsite based on their request to be allowed to meet all reforestation/afforestation requirements off site.

Additionally, Section 22A-12 (b) (1) and (2) of the Forest Conservation Law on retention, afforestation, and reforestation requirements states:

(b) Retention.

- (1) The primary objective of the forest conservation plan should be to retain existing forest and trees and avoid reforestation in accordance with this Chapter. The forest conservation plan must retain certain vegetation and specific areas in an undisturbed condition unless the Planning Director finds that:
 - (A) “The development would make maximum use of any available planning and zoning options that would result in the greatest possible forest retention;
 - (B) reasonable efforts have been made to protect the specific areas and vegetation listed in the plan;
 - (C) The development proposal cannot be reasonably altered.
- (2) In general, areas protected under this subsection include:
 - (A) floodplains, stream buffers, steep slopes, and critical habitats; (underlining added)
 - (B) “contiguous forests;

The application, as submitted, does not utilize planning methods for forest or tree protection. The applicant has made no effort to protect either the forest or vegetation. The steepest part of the site and associated vegetation should be protected as part of development on this site. Reducing the number of lots on this site from two lots to one lot and utilizing a creative site design and layout would significantly reduce the impacts to these steep slopes and vegetation.

Forest Conservation Variance - Section 22A-12(b) (3) of County Code provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of a subject tree or disturbance within a tree’s CRZ, requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impacts to trees that: measure 30 inches or greater, DBH; are part of a historic site or designated with a historic structure; are designated as a national, State, or County champion trees; are at least 75 percent of the diameter of the

current State champion tree of that species or to trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species unless a variance has been granted.

The variance submitted by the applicant requested the removal of 4 specimen trees and impacts to the CRZ of 4 additional specimen trees 30 inches or greater in DBH. A copy of the applicant's tree variance request is included in Attachment C. In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was initially forwarded to the County Arborist on 3/5/2012. The County Arborist reviewed the variance request on 3/12/2012 and recommended that the applicant qualify for a variance conditioned upon mitigation for the loss of the resources due to removal.

The Board must make four findings before granting approval of a tree variance. The applicant's comments with respect to these findings and staff's response appear below:

(1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;

Applicant's comment: "The property is located in the R-60 zone which permits lots as small as 6,000 square feet. *The proposed lots are significantly larger than the minimum permitted by the zone* but are still small relative to the critical root zone coverage of the specimen trees located on or near the site. It is not possible to develop the site without impacting the root zones of some of the specimen trees. This circumstance is not related to the slope of the property. The impact of development on existing specimen trees would occur on any property with R-60 type lots where trees are present. As shown on plans for the property, there are a total of 12 trees which are large enough to require consideration for variances. The entire site is encompassed by the critical root zones of these trees. Without approval of the requested variance, this site cannot be developed."

Staff response: Staff does not believe that the applicant's statement that the "proposed lots are significantly larger than the minimum permitted by the zone" is justification for an additional lot approval. The Master Plan recommends larger lots with the specific intention of preserving steep slopes and wooded topography. It also states "larger lots have allowed for less intrusion on the steeply sloped and wooded topography characteristic of this area."(pg. 69) As proposed in this application, a larger lot

size is not alleviating the impact to the CRZ. Staff believes that one larger lot on this property is preferable and lessens the impacts to the CRZ.

(2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;

Applicant's comment: This project has been designed to meet or exceed all development standards for the R-60 zone. No waivers of any subdivision or zoning standard have been requested. The proposed subdivision meets all of the requirements for subdivision in the R-60 zone but the property cannot be developed as shown on submitted plans without approval of the variance due to the presence of specimen trees. Again, the entire property is encompassed by the critical root zones of specimen trees. If the variance is not approved, the property owner will be deprived of the right to reasonable development of R-60 zoned property.”

Staff response: As noted previously under the Master Plan text, staff believes larger lots in the R-60 zone of the Palisades area are for natural resource protection. Staff agrees with the applicant that environmental features of the site make development difficult. However, staff is willing to support one lot so that the property owner is not deprived of the right to reasonable development.

(3) Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance;

Applicant comment: “There are no streams, stream buffers, wetlands, floodplain, or other sensitive areas located on or near this site. The project has been planned to provide environmental site design (ESD) practices in accordance with the latest State and County requirements for stormwater management. *Furthermore, the project has been planned to minimize site disturbance, impervious areas, and stormwater runoff as much as possible by sensitive house placement, reduced house footprints, and shorter driveways.*”(Italics added)

Staff response: Staff does not support this justification. Although stormwater management will be provided, the erodible soils and grade of the slopes may result in sloughing. The retaining wall proposed is excessive and atypical for a residential lot since it appears to be over 6 feet high and 60 feet in length.

Staff does not agree that disturbance has been minimized, that sensitive house placement was considered, or that the shorter driveways proposed significantly reduce impacts to the erodible slopes. When comparing the proposed lot layout with the layouts found in the rest of the community, it is apparent that other house designs and layouts worked to avoid the steep slopes to protect the integrity of the local ecology and geology.

Moreover, on Wynkoop Boulevard, south of the subject site, the slopes on developed lots remain intact. None of the existing driveways were constructed within the slopes. Access to these dwellings is located behind the houses on a shared private access road. For example, a parking pad serves the property south of and abutting the subject site. This parking pad is located where the grades are less than a 15 percent slope. The house is reached by a long, steep set of stairs gently placed along the slope.

4) *Provide any other information appropriate to support the request.*

In addition, Section 22A-21(d) of the Forest Conservation Law, indicates that a variance must not be granted if granting the request:

1. Will confer on the applicant a special privilege that would be denied to other applicants;

Applicant's comment: The subject property is zoned for residential use and is planned to meet or exceed all development standards of the R-60 zone. Approval of a variance to permit subdivision in accordance with all zoning and subdivision standards does not confer a special privilege to the applicant.

Staff response: As noted above, staff believes the recommendations in the Master Plan for larger lots are not intended to increase neighborhood density but for protection of natural features such as steep slopes and trees.

2. Is based on conditions or circumstances which are the result of the actions by the applicant;

Applicant's Comment: The applicant has prepared and submitted plans which meet all applicable development standards and requirements. The variance request is based upon plans which meet all requirements but result in impacts to certain specimen trees. The variance request is not based upon any actions by the applicant.

Staff response: Staff believes that the applicant can undertake further tree and slope protection measures and that this is necessary to meet the requirements of the Forest Conservation Law, the Master Plan, and the Environmental Guidelines.

3. Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property;

Applicant's Comment: The adjacent properties that are zoned for residential use are not a contributing factor for the variance request.

Staff Response: Staff agrees that the need to remove trees on this site is not caused by conditions or actions that have taken place on the neighboring properties.

Thus, after review and analysis of the submitted variance information, staff recommends that the variance be denied.

Community Correspondence

The applicant conducted a pre-submission community meeting with affected residents on 2/22/11. Several members of the community attended the Development Review Committee meeting on 7/25/11 to hear comments from M-NCPPC staff and the other agencies on the submitted application. Letters from residents have been received in opposition to this subdivision. Issues raised by the residents focused on onsite tree retention, storm water run-off and drainage issues, and a preference for 1 rather than 2 lots on the subject property. Copies of residents' correspondence received to date are included in Attachment D.

D. CONCLUSION

Staff recommends that the Planning Board deny this application for a two subdivision lot based on Sect. 59-32 (c) of the Subdivision Regulations that allows the Board to restrict the subdivision of land in order to achieve of the objectives of Chapter 22A as it relates to the conservation of tree and forest resources and the protection of environmentally sensitive areas and on Sect. 50-35(l) as it relates to substantial non-conformance to the Bethesda Chevy Chase Master Plan. However, if the Planning Board is inclined to approve this submitted preliminary plan and tree variance as presented by the applicant, staff would request that the record for this application remain open to allow staff the time to make the appropriate findings on master plan, public facilities, environment, and compliance with the subdivision regulations and zoning ordinance.

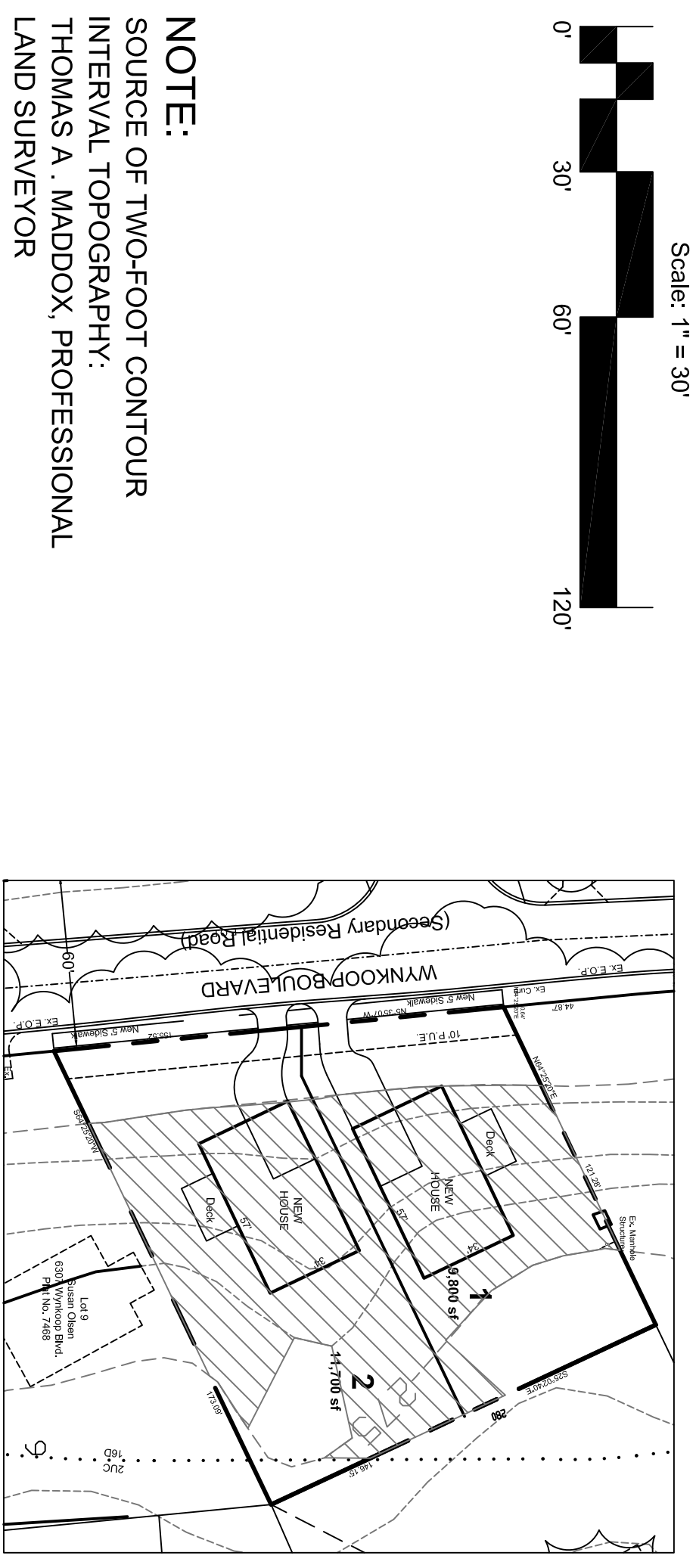
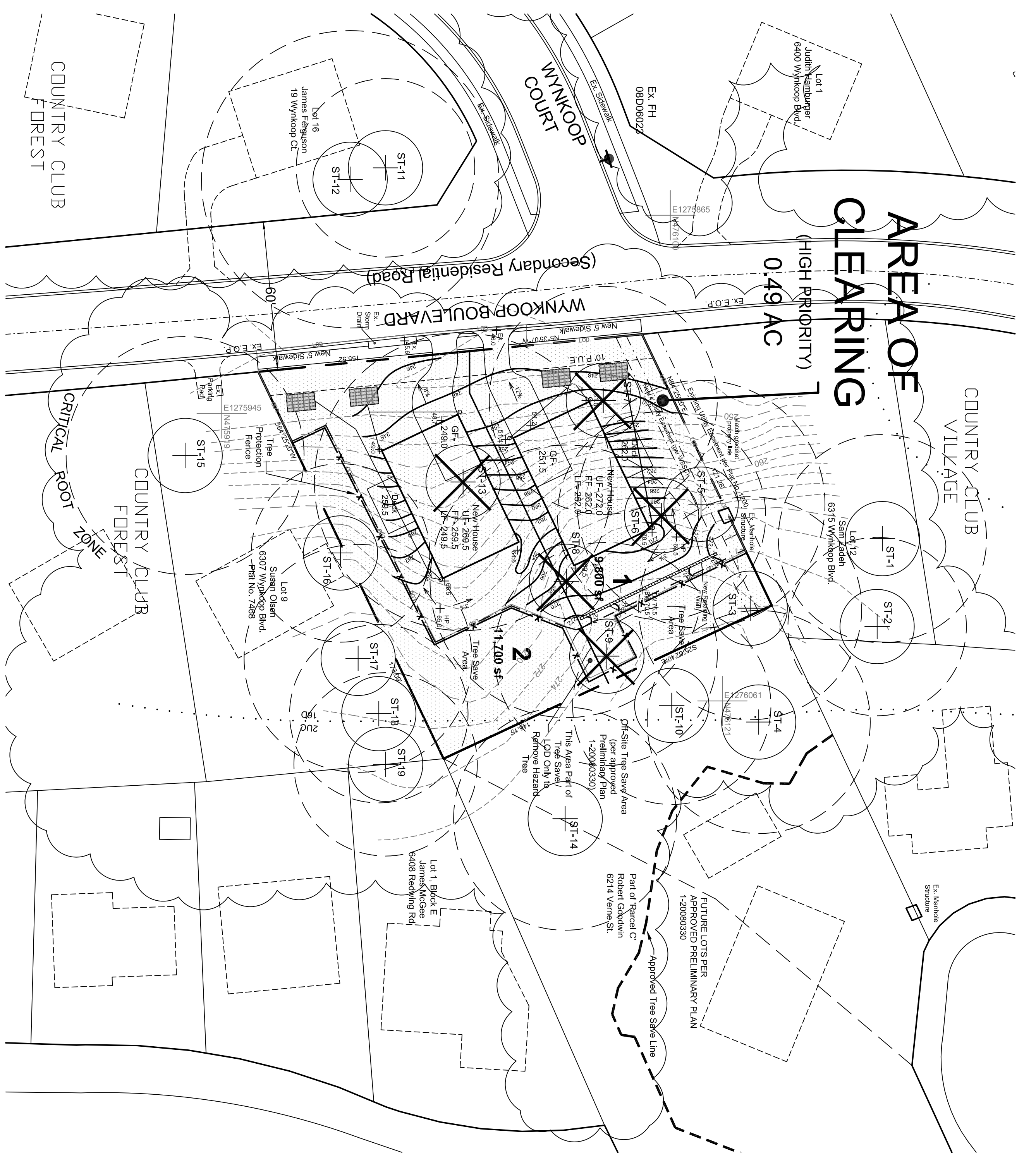
Attachments

Attachment A – Preliminary Forest Conservation Plan

Attachment B – Environmental staff comments

Attachment C – Applicant’s Variance Request

Attachment D - Letters from the Community



NOTE:
SOURCE OF TWO-FOOT CONTOUR INTERVAL TOPOGRAPHY: THOMAS A. MADDOX, PROFESSIONAL LAND SURVEYOR
8933 SHADY GROVE CT
GAITHERSBURG, MD 20877
301-984-5804

PRELIMINARY FOREST CONSERVATION PLAN

ACREAGE OF TRACT REMAINING IN AGRICULTURE USE	ACREAGE OF ROAD AND UTILITY R.O.W. NOT IMPROVED	ACREAGE OF EXISTING FOREST	ACREAGE OF TOTAL FOREST RETENTION	LAND USE CATEGORY	CONSERVATION THRESHOLD	AFFORESTATION THRESHOLD	FOREST WITHIN WETLANDS TO BE RETAINED	FOREST WITHIN WETLANDS TO BE CLEARED	FOREST WITHIN WETLANDS TO BE PLANTED	FOREST WITHIN 100-YEAR FLOODPLAIN TO BE RETAINED	FOREST WITHIN 100-YEAR FLOODPLAIN TO BE CLEARED	FOREST WITHIN 100-YEAR FLOODPLAIN TO BE PLANTED	FOREST WITHIN STREAM BUFFER TO BE RETAINED	FOREST WITHIN STREAM BUFFER TO BE CLEARED	FOREST WITHIN STREAM BUFFER TO BE PLANTED	FOREST WITHIN PRIORITY AREAS TO BE RETAINED	FOREST WITHIN PRIORITY AREAS TO BE CLEARED	FOREST WITHIN PRIORITY AREAS TO BE PLANTED	STREAM BUFFER-AVERAGE WIDTH	STREAM BUFFER-AVERAGE WIDTH
0.49 AC	0.00 AC	0.00 AC	0.49 AC	0.00 AC	HIGH DENSITY RESIDENTIAL	20% = 0.10 AC	15% = 0.07 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	0'	0'

TREE TABLE

TREE NUMBER	BOTANICAL NAME	COMMON NAME	SIZE (D.B.H.)	TREE CONDITION	COMMENTS	STATUS
ST-1*	Liriodendron tulipifera	Tulip Poplar	31"	Moderate	CH-44a, (size per ANCPFC S&M) CH-44b, (size and location per approved NRP) low and/or over an existing house/size per ANCPFC S&M	CH-44a
ST-2	Quercus alba	White Oak	26"	Poor/Decadent	Multi-stemmed, multiple compartmentalized tree wounds, sap rot, defects w/in decay	CH-44b
ST-3*	Quercus coccoloba	Scarlet Oak	30"	Moderate	CH-44a, size and location per approved NRP	To be retained
ST-4*	Quercus rubra	Northern Red Oak	31"	Good	420072300	CH-44a
ST-5*	Quercus alba	White Oak	33"	Moderate	Small cavity in base of trunk, galls on trunk, terminal decay, reactionary growth in English ivy and Eucalyptus growth on trunk, broken scaffold limbs, lean, compartmentalized vertical cracks	To be retained
ST-6	Quercus alba	White Oak	28"	Moderate-Poor	Large internal cavity, reactionary growth in English ivy, compartmentalized vertical cracks	To be removed
ST-7*	Quercus alba	White Oak	31"	Moderate	Severe decay in upper scaffold limbs, defects w/in decay, reactionary growth in possible internal cavity	To be removed
ST-8*	Liriodendron tulipifera	Tulip Poplar	37"	Moderate	Large internal cavity, defects w/in decay, sap rot	To be removed
ST-9*	Quercus coccoloba	Scarlet Oak	30"	Poor/Decadent	CH-44a, size and location per approved NRP	To be removed
ST-10*	Quercus alba	White Oak	32"	Moderate	CH-44a, size and location per approved NRP	CH-44a
ST-11	Fagus grandifolia	American Beech	24"	Good	CH-44a	CH-44a
ST-12*	Liriodendron tulipifera	Tulip Poplar	40"	Moderate	CH-44a	CH-44a
ST-13*	Quercus alba	White Oak	39"	Moderate	Co-dominant leaders, defects w/in decay, English ivy growth on trunk, broken scaffold limbs	To be removed
ST-14*	Quercus coccoloba	Scarlet Oak	36"	Moderate	CH-44a, size and location per approved NRP	CH-44a
ST-15*	Quercus alba	White Oak	32"	Moderate	CH-44a	CH-44a
ST-16	Quercus alba	White Oak	28"	Moderate	CH-44a, (size per ANCPFC S&M)	CH-44a
ST-17*	Quercus coccoloba	Scarlet Oak	31"	Moderate	CH-44a, (size and location per approved NRP)	CH-44a
ST-18	Liriodendron tulipifera	Tulip Poplar	24"	Moderate	CH-44a, (size and location per approved NRP)	CH-44a
ST-19	Liriodendron tulipifera	Tulip Poplar	25"	Moderate	CH-44a, (size and location per approved NRP)	CH-44a

* Indicates trees that are specimens for the species

NETTRACT AREA:
FOREST CONSERVATION WORKSHEET
COUNTRY CLUB VILLAGE

A. Total tract area ... 0.49
B. Land dedication to parks, county facility, etc. ... 0.00
C. Land dedication for roads or utilities (not being constructed by this plan) ... 0.00
D. Area to remain in commercial agricultural production/use ... 0.00
E. Other deductions (specify) ... 0.00
F. Net Tract Area ... 0.49

LAND USE CATEGORY: (from *Trees Technical Manual*)
Input the number "1" under the appropriate land use, limit to only one entry.
AAA MDR DA HDR MDD CA
0.00 0.00 0.00 1.00 0.00 0.00
G. Afforestation Threshold ... 0.15 x F = 0.07
H. Conservation Threshold ... 0.20 x F = 0.10

EXISTING FOREST COVER:
L Existing forest cover ... 0.49
J Area of forest above afforestation threshold ... 0.42
K Area of forest above conservation threshold ... 0.39

BREAK EVEN POINT:
L Forest retention above threshold with no mitigation ... 0.18
M Clearing permitted without mitigation ... 0.31

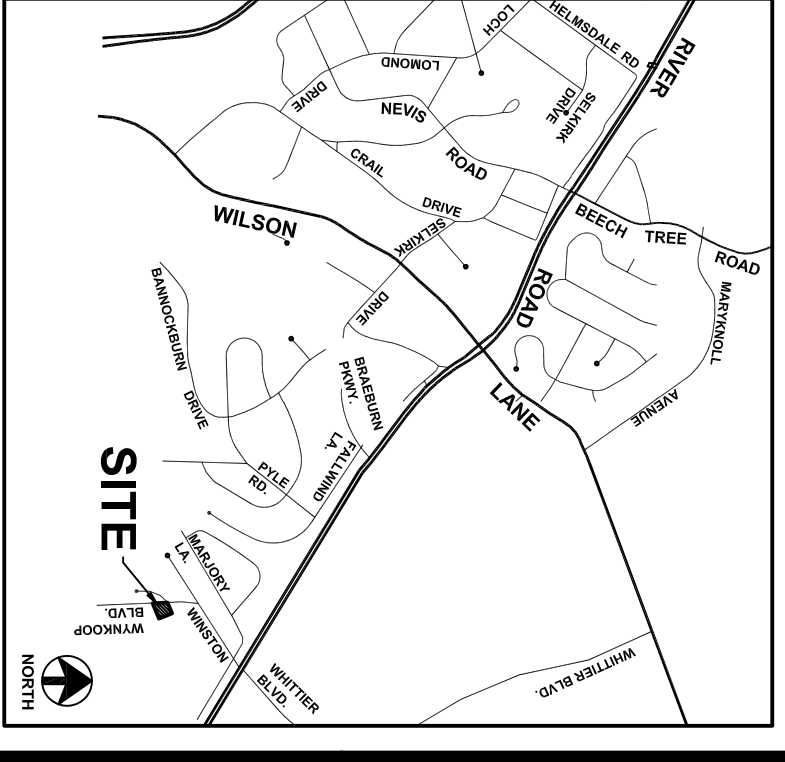
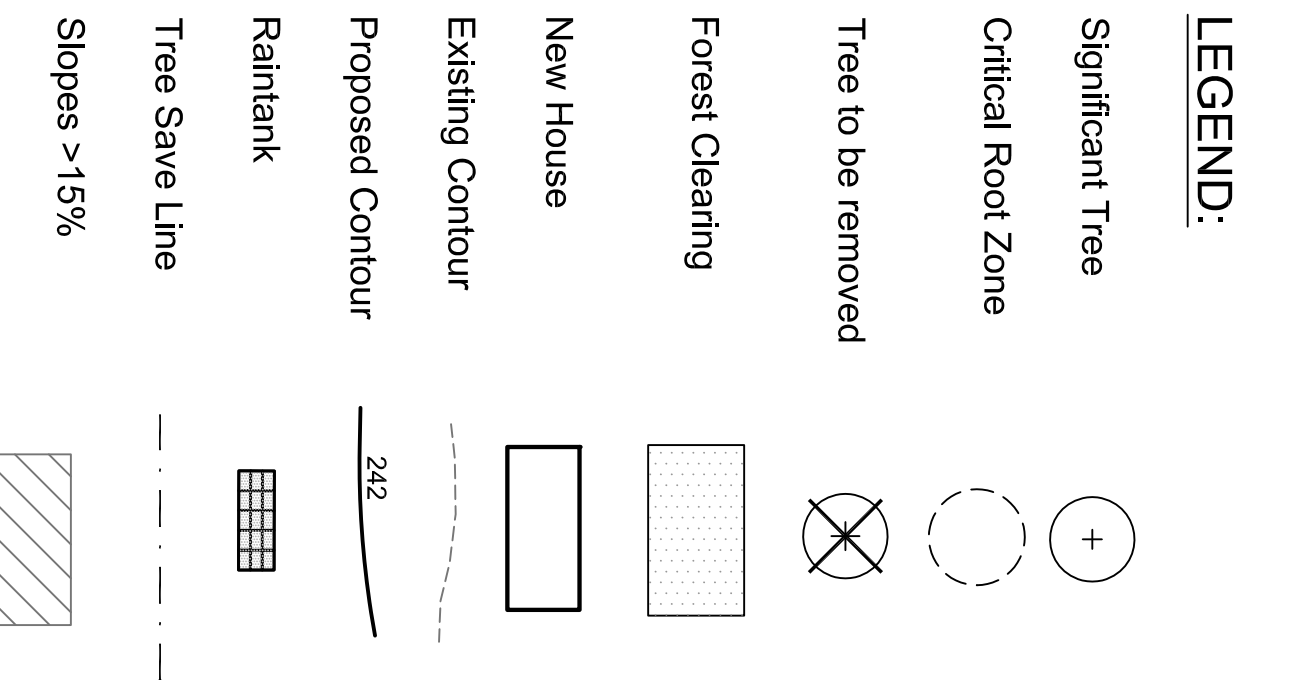
PROPOSED FOREST CLEARING:
N Total area of forest to be cleared ... 0.49
O Total area of forest to be retained ... 0.00

PLANTING REQUIREMENTS:
P Restoration for clearing above conservation threshold ... 0.10
Q Restoration for clearing below conservation threshold ... 0.20
R Credit for retention above conservation threshold ... 0.00
S Total afforestation required ... 0.29
T Total afforestation required ... 0.00
U Credit for landscaping (may not exceed 20% of "S") ... 0.00
V Total reforestation and afforestation required ... 0.29

AREA OF TREE SAVE IS NOT BEING COUNTED AS FOREST RETENTION.
REFORESTATION REQUIREMENT OF 0.29 AC TO BE MET WITH FEE-IN-LIEU PAYMENT OR OFF-SITE CREDITS.

NOTES:

1. AREA OF PROPERTY - 21,511 sf
2. EXISTING ZONING- R-60
3. NO. OF LOTS PROPOSED - 2
4. EXISTING SEWER & WATER SERVICE CATEGORIES: S-1, W-1
5. SITE TO BE SERVED BY PUBLIC WATER AND SEWER SYSTEMS.
6. UTILITIES TO BE PROVIDED BY: Washington Gas, Verizon, Pepco
7. PROPERTY LOCATED ON TAX MAP GN51, WSSC GRID SHEET 208WN06

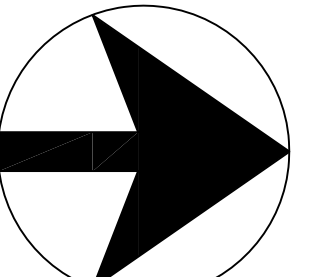


PREPARED FOR:
MS. ULRIKE BERGER
7821 CAYUGA AVE.
BETHESDA, MD 20816
301-229-1303

**PRELIMINARY FOREST CONSERVATION PLAN
COUNTRY CLUB VILLAGE
(Resubdivision of Part of "Parcel C")
Montgomery County, Maryland**

B&A Benning & Associates, Inc.
Land Planning Consultants
8933 Shady Grove Court
Gaithersburg, MD 20877
(301)948-0240

date: 06/09/11
scale: 1" = 30'



Sheet 1 of 1
Revisions
Rev. 12/01/11
Rev. 04/19/12



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

MEMORANDUM

TO: Kathleen A. Reilly, Planner Coordinator, kathy.reilly@montgomeryplanning.org,
(301) 495-4614

VIA: Rose Kransow, Supervisor, rose.kransow@montgomeryplanning.org
(301) 495-4591
Robert Kronenberg, Supervisor, robert.kronenberg@montgomeryplanning.org
(301) 495-2187

FROM: Tina Schneider, Senior Planner, Area 1

DATE: March 28, 2012

Subject: Site Plan, Preliminary Forest Conservation Plan: Country Club Village
120110260

RECOMMENDATIONS

Staff has reviewed a Preliminary Subdivision Plan, Preliminary Forest Conservation Plan, and Tree Variance for the Country Club Village subdivision. Staff recommends **denial** of the Preliminary Subdivision Plan, Preliminary Forest Conservation Plan (PFCP), and Tree Variance since the plan does not comply with the following requirements and County goals found in the following citations:

1. Sec. 22A-12 of the Forest Conservation Law. Retention, afforestation, and reforestation requirements.
 - (b) Retention.
 - (1) The primary objective of the forest conservation plan should be to retain existing forest and trees and avoid reforestation in accordance with this Chapter.
 - (2)(f) Areas designated as priority save areas in a master plan or functional plan.
2. Bethesda-Chevy Chase Master Plan. A major goal of Plan is to protect the natural resources and environmental qualities which are important to the quality of life for Bethesda-Chevy Chase. Throughout the plan, as elaborated in section on Analysis and Findings, there are many references made to inculcate the objective of natural resource protection.

3. 50-32 of the Montgomery County Code. Special controls for environmentally sensitive areas (c) states:
 - (c) Trees, Forests, and Environmentally Sensitive Areas. The board may restrict the subdivision of land to achieve the objectives of Chapter 22A relating to conservation of tree and forest land to achieve the objectives of Chapter 22A relating to conservation of tree and forest resources and to protect environmentally sensitive areas. For purposes of this subsection, environmentally sensitive areas are limited to critical habitats for wildlife or plant species, slopes over 25% or over 15% with highly erodible soils, wetlands, perennial and intermittent streams, and stream buffers, etc.
4. 50-35 (l) Montgomery County Code. Relation to Master Plan. "...A preliminary plan must substantially conform to the applicable master plan, sector plan, or urban renewal plan, including maps and text, unless the Planning Board finds that events have occurred to render the relevant master plan, sector plan, or urban renewal plan recommendation no longer appropriate.
5. Montgomery County Planning Board Environmental Guidelines. 2000.

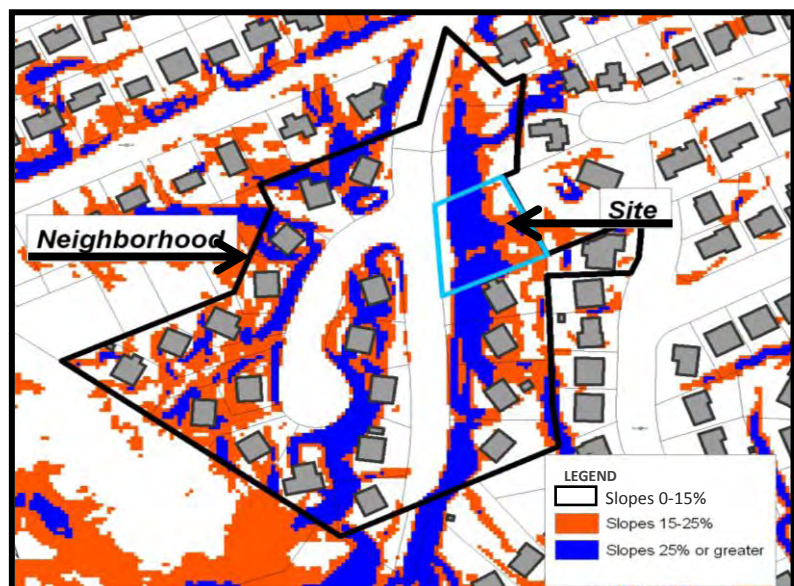
DISCUSSION

The Preliminary Forest Conservation Plan submitted on December 2nd, 2012, proposed the clearing and grading of the total tract area (0.49 acres) that includes a steeply sloped topography, a high quality forest, and erodible soils. The clearing of the lot is inconsistent with the environmental recommendations in the Forest Conservation Law, Bethesda-Chevy Chase Master Plan, Environmental Guidelines, Chapter 50-32 of the Montgomery County Code, and noteworthy historical efforts taken to protect the existing geography and ecological neighborhood character.

It is highly likely that the site remained undeveloped today because of the existing natural resources, steep slopes on erodible soils, and possible post construction erosion. A topographic overlay of the development reveals that other dwellings within the neighborhood were carefully sited and tucked into the site to protect the slope and community character.

There are atypical setbacks and the neighbors south of the site along Wynkoop Boulevard park their vehicles behind their houses instead of in front of them in a successful effort to avert cutting and removing the steep, forested slopes.

The PFCP proposed for Country Club Village shows no effort taken to honor the integrity of the Forest Conservation Law to protect the existing forest, individual trees, and the severe slopes.



EXISTING SITE CONDITIONS

The 0.49-acre property on 6311 Wynkoop Boulevard, is known as Part of Parcel 'C' of the Country Club Village subdivision. The subdivision lot is zoned R-60, within the limits of the Bethesda/Chevy Chase Master Plan, and within the Minnehaha Branch watershed. All runoff from the site feeds into the Minnehaha Tributary, a designated Use I waterway (suitable for recreation) that drains into the Potomac River. The tributary is deemed a restoration area by the Department of Environmental Protection. A restoration area is identified when poor water quality and stream incisement is observed. There are no onsite streams, wetlands, floodplains, or associated environmental buffers located on the subject lot. The majority of the site is Brinklow-Blocktown Channery silt loam; a *highly erodible soil*.

The topography is severe. Approximately 48 percent of the site has slopes steeper than 25 percent. Another 22 percent of the site has slopes ranging from 15-25 percent, and approximately 30 percent of the site has slopes less than 15 percent.

The site is comprised of a high priority forest matrix that includes trees, shrubs, and herbaceous species. The forest extends beyond the property to the north where the adjacent property is similarly sloped and remains undeveloped. Tree cover expands to the south and east adding to the forest size and quality. There are no buildings on the existing site.

The forest contains 13-specimen trees, 6-specimen trees are onsite, 7-specimen trees are offsite, and numerous trees varying in size throughout the property. Tree species in the forest include White oak, Scarlet oak, Tulip poplar, Red maple, American beech, Pignut hickory, American elm, Northern red oak, and White oak. The understory consists of spicebush, American holly, Bush honeysuckle, Red maple, and other native and exotic species.

PROJECT DESCRIPTION

As part of the Preliminary Site Plan, and in compliance with the Forest Conservation Law, a Preliminary Forest Conservation Plan and Tree Variance was submitted for review on December 2, 2011. The applicant proposes to subdivide the property, grade the steep slopes and remove the forest from the site for the construction of two dwellings. Intensive grading and clearing is proposed which will permanently alter the topography. In addition to habitat and forest loss, grading slopes greater than 25 percent with highly erodible soils can lead severe erosion and siltation and slope instability.



There will be considerable impacts to the critical root zones of trees on the adjacent properties.

ANALYSIS AND FINDINGS

The Plan is inconsistent with the recommendations in the Bethesda-Chevy Chase Master Plan, the Forest Conservation Law, Chapter 50-32 of the Montgomery County Code, and Montgomery County Environmental Guidelines. Although the plan meets the submittal requirements for the Montgomery County Forest Conservation Law and Tree Variance, it does not comply with the intent of the law for tree and forest protection. Outlined below are multiple citations from various county documents protecting the resources within this area including steep slopes, trees, and erodible soils, and the local character.

1. Forest Conservation Law

A. Natural Resources Inventory/Forest Stand Delineation (NRI/FSD)

An NRI/FSD (#420111250) was approved on April 13, 2011. The NRI/FSD concluded that the entire 0.49 acres of the property met the definition of a forest. Being a forest, the plan is subject to the requirements set forth in the forest conservation law.

B. Forest Conservation Plan

As required by the County Forest Conservation Law (Section 22A of the County code), a Preliminary Forest Conservation Plan (PFCP) for the project was submitted with the preliminary subdivision plan. The PFCP proposes to retain 0.0 acres of the total 0.49 acres forest tract. The applicant proposes to meet all reforestation/afforestation requirements (0.29 acres) offsite or through a fee-in-lieu payment.

Staff believes this PFCP does not meet the intent of the Forest Conservation Law.

Section 22A. 00.010.03 Transition Provision. B. Terms Defined. (2)(b)(20) "Forest Conservation Plan means a plan which outlines the strategies and specific plans proposed for *retaining, protecting, and reforesting or afforesting areas on a site.*" The applicant has not demonstrated an effort to retain, protect, and reforest/afforest trees onsite.

Section 22A-12. Retention, afforestation, and reforestation requirements.

(b) "Retention.

(1) The primary objective of the forest conservation plan should be to retain existing forest and trees and avoid reforestation in accordance with this Chapter. The forest conservation plan must retain certain vegetation and specific areas in an undisturbed condition unless the Planning Director finds that:"

(A) "The development would make maximum use of any available planning and zoning options that would result in the greatest possible forest retention;"

The Plan as submitted does utilize any planning or zoning methods for forest or tree protection.

(B) "reasonable efforts have been made to protect the specific areas and vegetation listed in the plan;"

The Plan has made no effort to protect either the forest or vegetation.

(C) "The development proposal cannot be reasonably altered".

There are many design options that could be considered that would protect a great deal of the forest, slopes, and soils.

(2) "In general, areas protected under this subsection include:"

(A) floodplains, stream buffers, steep slopes, and critical habitats;"

This site contains steep slopes which should be protected under this law.

(B) "contiguous forests;"

This site contains a contiguous forest expanding beyond the property limits.

2. Montgomery County Environmental Guidelines

Montgomery County Environmental Guidelines, 2000, set forth description and protection mechanisms for natural resource protection. It is intend to bring uniformity and consistency to protecting water and air quality through the protection of resources including forests, steep slopes, and erodible soils. The Guidelines outline multiple strategies and criteria for development to protect the county's ecosystems. Three citations are pertinent to Country Club Village:

III. Natural Resources Inventory.

(F) "Unsafe and Unsuitable Land (Soils). In the past, there have been instances where failure to recognize existing soils constraints have resulted in buildings that experience severe flooding, wetness problems and/or, over the long run, structural problems."... "Soils with severe limitations for development are those that have one or more of the following characteristics as identified in the most recent version of the Soil Survey of Montgomery County, Maryland"...

- Excessive slopes
- High susceptibility to erosion

Country Club Village has slopes exceeding 15 percent with nearly half of the site on slopes greater than 25 percent. Additionally, the soils are highly susceptible to erosion as classified in the 1995 Soil Survey of Montgomery County."

V. Guidelines for Development

(2) Recommended Guidelines for Steep Slopes Outside the Stream Buffers
(Hydraulically Remote)

(b) To the extent possible, hydraulically remote steep slope areas should be incorporated into the site's open space and/or remain undisturbed..."

The protection of steep slopes is possible on this site. Reducing the houses on this site from two to one in addition to creative site design and layout would significantly reduce impacts to the steep slope.

D. Unsafe and Unsuitable Land Protection

(1) "Development should avoid areas of the site that contain soils with severe limitations. In some cases, development may be prohibited or restricted in these areas as a condition of

plan approval. Restrictions can include the requirement for implementation of engineered solutions, the use of building restriction lines, restriction of housing types (such as prohibiting basements), and relocation or deletion of lots.”

These steep slopes with erodible soil add development constraints to this site. However, subdividing this site into 2 lots would significantly increase the chances for erosion and run off.

3. Bethesda-Chevy Chase Master Plan, 1990

The Master Plan area is characterized by rolling topography. Many regions have moderately steep (15 to 25 percent grade) to extremely steep topography (over 25 percent grade). Country Club Village has both, including erodible soils subject to erosion during construction.

The Master plan specifically calls for protecting the Potomac “Palisades”. As defined in the Plan, the “Palisades” consist of the portion of the Planning Area bounded on the north by River Road, on the south by the Potomac River, on the east by the District of Columbia, and on the west by I-495. Country Club Village lies within the Palisades.

3.41 Area-wide Plan:

The Plan recommends preserving the Potomac Palisades’ unique environmental features of steeply wooded slopes and vistas and the perpetuation of the open space character established in the area”. (pg.64)

The pattern of development in the Palisades for R-60 zones has been an increase in lot sized above the minimum 6,000 square feet. As written in the Master Plan, “these larger lots have allowed for less intrusion on the steeply sloped and wooded topography characteristic of this area”. The lot size of Country Club Village is approximately 21,344 square feet. This larger lot size, as outlined in the Plan, “...thus allow for greater sensitivity to the erosion and run-off issues associated with the steep slopes of the Palisades”. (pg. 69).

The Master Plan recommends the “preservation of steeply sloped areas of 25 percent and greater by strict adherence to the criteria established in the “Staff Guidelines for the Protection of Slopes and Stream Valleys,” prepared by the Montgomery County Planning Department (April 1983). (pg. 69).

5.1 Natural Features: In an effort to avert these erosive conditions the Master Plan recommends “the preservation, whenever possible, of wetlands and steeply sloped areas (25 percent and greater slopes) that may lie outside floodplains or stream buffers”. (pg 137).

4. Forest Conservation Variance

Forest Conservation Variance - Section 22A-12(b) (3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or disturbance within the tree’s critical root zone (CRZ) requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation

Law. The law requires no impact to trees that: measure 30 inches or greater, DBH; are part of a historic site or designated with a historic structure; are designated as a national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

Montgomery County Department of Environment recommended approval of the variance on March 12, 2012. The variance requested the removal of 6 specimen trees 30 inches or greater in DBH.

Trees to be removed and affected:

Tree Number	Botanical Name	Common Name	Size D.B.H.)	Tree Condition	COMMENTS	%CRZ Impacts	Reason for Impacts
ST-3	Quercus coccinea	Scarlet Oak	30"	Moderate	Multi-stemmed, multiple compartmentalized axe wounds, sap rot, dieback with decay	13%	Construction of new retaining wall and grading will impact critical root zone
ST-5	Quercus alba	White Oak	33"	Moderate	Small cavity in base of trunk, gall on trunk, internal decay, reactionary growth, English Ivy and Euonymus growth on trunk, broken scaffold limbs,	39%	Construction of new residence will impact critical root zone
ST-7	Quercus alba	White Oak	31" (Approximate)	Moderate	Extensive Poison Ivy growth on trunk and in canopy, co-dominant leaders, possible internal cavity, canker on trunk, dieback with decay, sap rot	69%	Construction of new residence will impact critical root zone
ST-8	Liriodendron tulipifera	Tulip Poplar	37"	Moderate	Several cavities in upper scaffold limbs, dieback with decay, reactionary growth, possible internal cavity	61%	Construction of new residence will impact critical root zone
ST-9	Quercus coccinea	Scarlet Oak	30"	Poor(Hazard)	Large internal cavity, dieback with decay, sap rot	25%	Construction of new retaining wall and grading will impact critical root zone
ST-13	Quercus alba	White Oak	39"	Moderate	Co-dominant leaders, dieback with decay, English Ivy growth on trunk, broken scaffold limbs	76%	Construction of new residence will impact critical root zone

(1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;

Response: "The property is located in the R-60 zone which permits lots as small as 6,000 square feet. The proposed lots are significantly larger than the minimum permitted by the zone but are still small relative to the critical root zone coverage of the

specimen trees located on or near the site. It is not possible to develop the site without impacting the root zones of some of the specimen trees. This circumstance is not related to the slope of the property. The impact of development on existing specimen trees would occur on any property with R-60 type lots where trees are present. As shown on plans for the property, there are a total of 12 trees which are large enough to require consideration for variances. The entire site is encompassed by the critical root zones of these trees. Without approval of the requested variance, this site cannot be developed.”

MNCPPC Staff: The variance response “proposed lots are significantly larger than the minimum permitted by the zone” is not justification for an additional dwelling approval. Lots are larger than permitted for the specific intention of preserving steep slopes and wooded topography as noted in the Bethesda-Chevy Chase Master Plan, 1990. The Plan states that the pattern of development in the Palisades for R-60 zones has been an increase in lot sized above the minimum 6,000 square feet. As written in the Master Plan, “these larger lots have allowed for less intrusion on the steeply sloped and wooded topography characteristic of this area”. (pg. 69).

(2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;

Response: “This project has been designed to meet or exceed all development standards for the R-60 zone. No waivers of any subdivision or zoning standard have been requested. The proposed subdivision meets all of the requirements for subdivision in the R-60 zone but the property cannot be developed as shown on submitted plans without approval of the variance due to the presence of specimen trees. Again, the entire property is encompassed by the critical root zones of specimen trees. If the variance is not approved, the property owner will be deprived of the right to reasonable development of R-60 zoned property.”

MNCPPC Staff: As noted above, the larger lots in the R-60 zones within the Palisades are for resource protection rather than increasing density within this area. Additionally, throughout the Master Plan considerable efforts are noted for preserving the unique environmental features and character of the Palisades.

(3) Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance;

Response: “There are no streams, stream buffers, wetlands, floodplain, or other sensitive areas located on or anywhere near this site. The project has been planned to provide environmental site design (ESD) practices in accordance with the latest State and County requirements for stormwater management. *Furthermore, the project has been planned to minimize site disturbance, impervious areas, and stormwater runoff as much as possible by sensitive house placement, reduced house footprints, and shorter driveways.*”

Staff does not support this justification. Although the stormwater management is provided the erodible soils and grade of the slopes may result in sloughing. The retaining wall proposed is excessive and atypical for a residential lot appearing to be over 20-feet.

MNCPPC Staff: Staff does not agree that disturbance was minimized, that sensitive house placement was considered, or that the shorter driveway proposed results in reducing impacts to the erodible slopes. When comparing the proposed layout to the rest of the community, it is apparent that other house design and layout averted the steep slopes (see graphic below) protecting the slope and the integrity of the local ecology and geology.

On the same street (Wynkoop Boulevard), south of the Site, the slopes remain intact. And, no driveways were constructed within the slopes. Accesses to the dwellings are behind the houses on a shared private access road. There is one resident (XXX get address) who constructed a parking pad just outside the right-of-way on their lot where the grades were less than 15 percent slope. A long, steep set of stairs were gently placed along the slope leading to the house.

(4) Provide any other information appropriate to support the request.

In addition, Section 22A-21(d) indicates that a variance must not be granted if granting the request:

1. Will confer on the applicant a special privilege that would be denied to other applicants;

Response: The subject property is zoned for residential use and is planned to meet or exceed all development standards of the R-60 zone. Approval of a variance to permit subdivision in accordance with all zoning and subdivision standards does not confer a special privilege to the applicant.

MNCPPC Staff: The recommendations in the Master Plan for larger lots are not intended for increased neighborhood density but for resource protection.

2. Is based on conditions or circumstances which are the result of the actions by the applicant;

Response: The applicant has prepared and submitted plans which meet all applicable development standards and requirements. The variance request is based upon plans which meet all requirements but result in impacts to certain specimen trees. The variance request is not based upon any actions by the applicant.

MNCPPC Staff: Further tree and slope protection are necessary to meet the requirements of the Forest Conservation Law, the Bethesda-Chevy Chase Master Plan, and the Environmental Guidelines.

3. Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property;

Response: The adjacent properties that are zoned for residential use are not a contributing factor for the variance request.

MNCPPC Staff: Although zoning does not typically factor into a tree variance, if two dwellings were not proposed for this lot, further slope and forest protection could occur.

County Arborist's Recommendation on the Variance - In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was initially forwarded to the County Arborist on 3/5/2012. The County Arborist reviewed the variance request on 3/12/2012 and recommended that the applicant qualify for a variance conditioned upon mitigation for the loss of the resources due to removal.

Variance Recommendation - Staff recommends that the variance be **denied**.

5. Zoning

The proposed subdivision is subject to the requirements outlined in Chapter 50 of the Montgomery County Code. Specific application to this site refer to the protection of steep slopes on highly erodible soils, and the restriction of development on unstable slopes or fill as defined below.

1. Under Montgomery County Code, Chapter 50-32. Special controls for environmentally sensitive areas (b) & (c) states:

(b) Unsafe land. The board must restrict the subdivision of any land which it finds to be unsafe for development because of possible flooding or erosive stream action, soils with structural limitations, unstabilized slope or fill, or similar environmental or topographical conditions.

(c) Trees, Forests, and Environmentally Sensitive Areas. The board may restrict the subdivision of land to achieve the objectives of Chapter 22A relating to conservation of tree and forest land to achieve the objectives of Chapter 22A relating to conservation of tree and forest resources and to protect environmentally sensitive areas. For purposes of this subsection, environmentally sensitive areas are limited to critical habitats for wildlife or plant species, slopes over 25% or over 15% with highly erodible soils, wetlands, perennial and intermittent streams, and stream buffers, etc.

CONCLUSION

The Preliminary Forest Conservation Plan has not met all the applicable requirements. Therefore, staff recommends denial of the Preliminary Forest Conservation Plan and Tree Variance.

Benning & Associates, Inc.

LAND PLANNING CONSULTANTS
8933 Shady Grove Court
Gaithersburg, MD 20877
Phone: 301-948-0240
Fax: 301-948-0241

To: Ms. Rose Krasnow, M-NCPPC Area 1 Chief

From: Joshua O. Maisel

Date: November 30, 2011

Re: Country Club Village (120110260) / Request for Variance

Dear Ms. Krasnow,

In accordance with Chapter 22A-21 of the Montgomery County Code, I am writing to request a variance for the removal of four specimen trees located on the subject property. Four other specimen trees will be impacted by construction activities. Below is a table identifying the trees associated with this variance request.

TREE TABLE

TREE NUMBER	BOTANICAL NAME	COMMON NAME	SIZE(D.B.H.)	TREE CONDITION	COMMENTS	%CRZ IMPACTED	REASON FOR IMPACTS
ST-3	Quercus coccinea	Scarlet Oak	30"	Moderate	Multi-stemmed, multiple compartmentalized axe wounds, sap rot, dieback with decay	13%	Construction of new retaining wall and grading will impact critical root zone
ST-5	Quercus alba	White Oak	33"	Moderate	Small cavity in base of trunk, gall on trunk, internal decay, reactionary growth, English Ivy and Euonymus growth on trunk, broken scaffold limbs,	39%	Construction of new residence will impact critical root zone
ST-7	Quercus alba	White Oak	31" (Approximate)	Moderate	Extensive Poison Ivy growth on trunk and in canopy, co-dominant leaders, possible internal cavity, canker on trunk, dieback with decay, sap rot	69%	Construction of new residence will impact critical root zone
ST-8	Liriodendron tulipifera	Tulip Poplar	37"	Moderate	Several cavities in upper scaffold limbs, dieback with decay, reactionary growth, possible internal cavity	61%	Construction of new residence will impact critical root zone
ST-9	Quercus coccinea	Scarlet Oak	30"	Poor(Hazard)	Large internal cavity, dieback with decay, sap rot	25%	Construction of new retaining wall and grading will impact critical root zone
ST-13	Quercus alba	White Oak	39"	Moderate	Co-dominant leaders, dieback with decay, English Ivy growth on trunk, broken scaffold limbs	76%	Construction of new residence will impact critical root zone
ST-15	Quercus alba	White Oak	32" (Approximate)	Moderate	Off-site	less than 1%	Construction of new raintank will impact critical root zone
ST-17	Quercus coccinea	Scarlet Oak	31" (Approximate)	Moderate	Off-site, dieback, significant amount fill placed over crz	6%	Construction of new residence will impact critical root zone

Project Description

The subject property at 6311 Wynkoop Boulevard is a 21,511 square foot lot known as Part of Parcel 'C' of the Country Club Village subdivision. The property is zoned R-60 and is located within the limits of the Bethesda / Chevy Chase Master Plan.

The contract purchaser of the property, Ulrike Berger, intends to subdivide the property into 2 residential building lots. The property is currently unimproved and is forested. In order for new houses to be built on the property, some forest will be cleared to allow for house placement, stormwater management devices, driveways, and associated site grading.

Located within the area proposed for new construction are four specimen trees that will require a variance for removal. The four trees proposed to be removed are identified on the Preliminary Forest Conservation Plan (PFCP) as ST-7, ST-8, ST-9, and ST-13. ST-7, a 31" White Oak in moderate condition, is located in the northwest portion of the property, in an area where construction activities are proposed. A new residence and stormwater management structure is proposed within 10' of the tree. Construction activities and the associated grading will impact approximately 69% of the critical root zone. ST-8, a 37" Tulip Poplar in moderate condition, is located in the central portion of the property, in an area that is proposed for construction. Two new residences and a retaining wall are proposed within the critical root zone. Construction activities and the associated grading will impact approximately 61% of the critical root zone. ST-9, a 30" Scarlet Oak in poor condition, is located in the rear of the property, within a proposed tree save area. This tree currently has numerous problems associated with it and was classified as a hazard tree on the approved Natural Resources Inventory/ Forest Stand Delineation Plan prepared for the property. This tree is a risk to public health, safety, and welfare and should be removed regardless of any impact from the development. ST-13, a 39" White Oak in moderate condition, is located in the central portion of the property, in an area that is proposed for house construction.

There are four specimen trees that will not be removed, but will require a variance due to impacts from construction activities. The four trees are identified on the Preliminary Forest Conservation Plan (PFCP) as ST-3, ST-5, ST-15, and ST-17. ST-3, a 30" Scarlet Oak in moderate condition, is located in the northern portion of the property, in a proposed tree save area. A retaining wall is proposed within the critical root zone of the tree to minimize grading for the tree save area. Construction activities and the associated grading will impact approximately 13% of the critical root zone. This tree will be retained. ST-5, a 33" White Oak in moderate condition, is located near the northern boundary of the property, in an area to remain undisturbed. A new residence and retaining wall is proposed within a portion of the critical root zone. Construction activities and the associated grading will impact approximately 39% of the critical root zone. This tree will be retained. ST-15, a 32" White Oak in moderate condition, is located off-site on the south side of the property. Construction activities and the associated grading will impact less than 1% of the critical root zone. The impact to this tree is insignificant. ST-17, a 31" Scarlet Oak in moderate condition, is located off-site on the south side of the property. Construction activities and the associated grading will impact 6% of the critical root zone. This tree is not significantly impacted.

Requirements for Justification of Variance:

Section 22A-21(b) *Application requirements* states the applicant must:

1. Describe the special conditions peculiar to the property which would cause 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 violated or that a measurable degradation in water quality will not occur as a result of granting of the variance; and
4. Provide any other information appropriate to support the request.

There are special conditions unique to the property which would cause unwarranted hardship should the variance not be approved. The property is located in the R-60 zone which permits lots as small as 6,000 square feet. The proposed lots are significantly larger than the minimum permitted by the zone but are still small relative to the critical root zone coverage of the specimen trees located on or near the site. It is not possible to develop the site without impacting the root zones of some of the specimen trees. This circumstance is not related to the slope of the property. The impact of development on existing specimen trees would occur on any property with R-60 type lots where trees are present. As shown on plans for the property, there are a total of 12 trees which are large enough to require consideration for variances. The entire site is encompassed by the critical root zones of these trees. Without approval of the requested variance, this site cannot be developed.

Should this variance not be approved, the property owner would be deprived of rights commonly enjoyed by others in similar circumstances. This project has been designed to meet or exceed all development standards for the R-60 zone. No waivers of any subdivision or zoning standard have been requested. The proposed subdivision meets all of the requirements for subdivision in the R-60 zone but the property cannot be developed as shown on submitted plans without approval of the variance due to the presence of specimen trees. Again, the entire property is encompassed by the critical root zones of specimen trees. If the variance is not approved, the property owner will be deprived of the right to reasonable development of R-60 zoned property.

The granting of a variance will not result in a violation of State water quality standards or any measurable degradation in water quality. There are no streams, stream buffers, wetlands, floodplain, or other sensitive areas located on or anywhere near this site. The project has been planned to provide environmental site design (ESD) practices in accordance with the latest State and County requirements for stormwater management. Furthermore, the project has been planned to minimize site disturbance, impervious areas, and stormwater runoff as much as possible by sensitive house placement, reduced house footprints, and shorter driveways.

In addition, Section 22A-21(d) indicates that a variance must not be granted if granting the request:

1. Will confer on the applicant a special privilege that would be denied to other applicants;
2. Is based on conditions or circumstances which are the result of the actions by the applicant;
3. Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or
4. Will violate State water quality standards or cause measurable degradation in water quality.

This request for a variance will not confer a special privilege that would be denied to other applicants. The subject property is zoned for residential use and is planned to meet or exceed all development standards of the R-60 zone. Approval of a variance to permit subdivision in accordance with all zoning and subdivision standards does not confer a special privilege to the applicant.

This variance request is not based on conditions and circumstances which are the result of actions by the applicant. The applicant has prepared and submitted plans which meet all applicable development standards and requirements. The variance request is based upon plans which meet all requirements but result in impacts to certain specimen trees. The variance request is not based upon any actions by the applicant.

The request for a variance does not arise from a condition relating to land or building use, either permitted or nonconforming on a neighboring property. The adjacent properties that are zoned for residential use are not a contributing factor for the variance request.

For the above reasons, we respectfully request approval of this request for a variance from provisions of Section 22A-21 of the Montgomery County Code. If you have any questions or concerns regarding this request, please do not hesitate to contact me.

Sincerely,

Joshua O. Maisel, RLA
ISA Certified Arborist # MA-4514A
PNW/ISA Certified Tree Risk Assessor # CTRA 918

ATTACHMENT D

Dear Ms. Reilly -

Thank you so much for your conscientious assistance to Frances Ferguson and, through her, to our neighborhood as we have attempted to understand the laws and procedures concerning proposed development at 6311 Wynkoop Blvd and what role we can play in mitigating damage that may be done to our visual environment. From Frances we know that you have visited the site and I appreciate that too.

I am writing after learning the hard way that if one stands idly by during lot-preparation and house-construction, the appearance of a neighborhood can deteriorate in a hurry. Several lots, all immediately across the street from us or next-door, have entered development recently. The latest is the plot mentioned above, for which subdividing is proposed. Moreover, according to the new owner's Preliminary Forest Conservation Plan, "the applicant is proposing to remove all of the trees on the property." This is not our idea of "forest conservation."

The county does have some rules about keeping trees, but my understanding from Frances is that these rules are easy to circumvent by paying a fee or by planting trees miles away. Sometimes they don't even have to do that much, as we found out when my new next door neighbor tore down an old house, denuded its plot and built a McMansion. One great old tree he claimed was diseased - though it turned out not to be; with another his developer damaged the roots, so the county approved taking them both down.

I am attaching photos of all the recent ravaging of our hilly 50-year-old section where the original developers won an annual prize for going with the terrain: building into the hillsides and leaving trees in place. Below are brief statements about each photo, identified by brief file names.

Thanks for your consideration. -Henry Hamburger and Marsh McJunkin, 6400 Wynkoop Blvd., Bethesda

current This is the lot at 6311 Wynkoop Blvd., currently under consideration. It's a double-size lot on a hill. The owner proposes to subdivide and clear-cut. What we want is the maximum feasible number of trees left in place.

stumps This lot at 6315 at Wynkoop Blvd. is directly across from us. The photo shows our new view of stumps for almost a year. The owner vowed he would save as many trees as possible, which turned out to be two (at left in photo).

fallow This barren lot - probably 6317 - was fully treed until several years ago when the owner cleared it but never got around to building on it. One big tree was cut "by mistake" and "it fell on another."

old Here's where we live, at 6400, on a lot with a house and trees.

new This is the 4,500 square footer that was built for my new next-door neighbor by a developer who assured me it would be "very tasteful." Its address is on Winston Drive.

dozer These two photos of the preceding lot show that trees were still standing on both sides of the old chimney as demolition neared completion and presumably could have been kept.





05/19/2010



05/19/2010



07/09/2011



07/09/2011





07/09/2011

Dear Ms . Reilly,

Re: 6311 Wynkoop Blvd. Bethesda

Thank you for your consideration of the objections of many of our neighbors in adjacent homes to the application to develop and subdivide the above lot. We appreciate your analysis and obvious concern about the environment and living conditions of the citizens of our neighborhood. We join our neighbors in objecting to many of the provisions of the owners' proposal. And also to the wholesale destruction of the adjacent lot at 6313 Wynkoop, which occurred without any advance notice to us.

We add our protest to the others you have already heard regarding the sad degradation and proposed changes to the character of our home area. We have lived at 6303 Wynkoop Blvd for over 35 years. We raised our children here. We carefully maintain our house and land. We have repeatedly improved the landscaping and planted more trees. We originally bought our house in part because of the wooded beautiful, well- spaced setting. We were proud of our area, at least until recently.

6313 has been absolutely denuded of trees and left with refuse (fences, wood, canvas) and weeds on the apparently abandoned lot. It is surprising to us that a county like ours would permit this condition to continue.

The application for 6311 apparently calls for not one, but two houses jammed on a relatively modest plot, in sharp contrast to the one-house per lot pattern throughout the entire tract and all nearby areas. This effort to drastically change our neighborhood for pure profit is, we believe, not consistent with the County's laws and development regulations. One house is and should be the rule in this lovely secluded area. Trees should be preserved, regardless of what cash payment the owner might offer to plant trees somewhere else. The hilly environment and grading should be preserved to ensure proper drainage and in character with the rest of our neighborhood.

We have always done our best be good citizens of Montgomery, to maintain this streetscape and the setting for our benefit, for our neighbors and for the benefit of the County. We hope the Planning Board will reciprocate to us as citizens and home owners.

Please let us know what else we can do to assist you in reaching a community-based decision in this matter and in preserving the unique character of our homes.

Sincerely yours,

Mike and Penny Lemov

Michael R. Lemov L.L.C.
Attorney at Law
6303 Wynkoop Blvd.
Bethesda, Md. 20817
O: 301-229-7444
C: 202-271-7621
lemovlaw@verizon.net

6300 Wynkoop Boulevard
Bethesda, Maryland 20817

Montgomery County Planning Board
Rockville, Maryland 20850

Attention: Kathy Reilly

Re: Preliminary Plan Number 120110260
Country Club Village
6311 Wynkoop Boulevard, Bethesda
Purpose: To subdivide R-60 zoned land into 2 lots

Dear Members of the Board:

My husband, Alan R. Tupek, and I, Karen Ronne Tupek, wish to go on record as opposing the variance application submitted by Ms. Ulrike Berger to sub-divide the lot on our street, adjacent to the house at 6309 Wynkoop Blvd in Bethesda, Montgomery County. (I suppose the address to be 6311 Wynkoop Blvd. On site plans, it's labeled "Resubdivision of part of 'Parcel C'.") We urge the Montgomery County Planning Board to disapprove this application without further delay, so that this poorly-conceived project no longer looms over our beautiful and cherished neighborhood.

My husband and I have lived in our house at the end of the street at 6300 Wynkoop Boulevard for over thirty years. In July of 1981, when we bought our house in this neighborhood, we were particularly attracted to it because of the way the houses were sited, placed back up into the lovely diverse clusters of trees. The woods were preserved. You drive down our street and barely notice the houses tucked up into nature, surrounded by mature trees. Guests always comment enviably on the beauty of our surrounding trees.

Upon settlement, we learned that the original development had won a prestigious award for landscape architecture for this "back to nature" placement of the houses, as they are spaced so generously and unobtrusively. The houses themselves were built from designs by noted architect Richard Goodman, whose impetus (shown with generous windows and minimal exterior fuss) was to honor, respect and preserve the surrounding nature, by living in harmony with it and in it, causing little impact or harm.

The plans for new houses, two on a lot clearly sized for only one, is an egregious violation of the original award-winning planners' design - both in the site location of the houses and the removal of the mature trees. One lot, one house - that was the intent; the brilliance of the original planned ambiance for the neighborhood should be respected and retained.

In the revised proposal, Ms. Berger still has not addressed the proposed removal of mature and immature trees; their future growth will ensure continued protection of the nature-like quality in the neighborhood. Significant tree removal would not only be a visual "crime" but would also lead to severe erosion of the bank, as the trees currently hold it in place. This would cause more water and soil runoff that would end up pooling

even more at our end of the street, in front of our house. This has already been a problem, and the increase in run-off water, mud and debris would be intolerable.

If built, the new houses would violate the design and ambiance of the current streetscape and would be massive intrusions to the well-planned rhythm and spacing of all other houses in the neighborhood. Besides, all other houses on that side of the street are elevated; these would be at ground level, again interrupting the rhythm of the houses. Additionally, their new proposed placement closer to the street would create a whole new visual intrusion, as they would be much closer to the street than any other house on the Wynkoop streets (Boulevard or Court) or the approach street, Winston Drive - also known as Country Club Forest and Country Club Village, respectively. The same set-back distances should be maintained. There is no precedence for this proposal (both tight spacing as well as proximity to the curb - almost like close urban townhomes, with small front yards) anywhere within the greater neighborhoods or even adjacent to our area. Not until you get into urban downtown Bethesda would you find single-family houses placed so close together or to the street. The environment of our unique wooded neighborhood is totally opposite of that urban atmosphere.

If implemented, this project would undoubtedly ruin the woodsy, spacious character that makes our neighborhood so desirable and valuable. This would potentially drive prices down for everyone in the neighborhood. I can't imagine the Planning Board wanting to allow this, as it would be reflected not only in resale prices but also in tax revenue. It sets a sad and dangerous precedent. It is a special neighborhood; it would be tragic to destroy it.

Ms. Berger's pending purchase of the lot is contingent on being able to build two houses on the one lot. Though I've not met her, I can only conclude that this application of hers appears to be motivated by an attempt to gain financially, without regard to who or what it impacts.

I don't get a sense that our neighborhood residents are naive and trying to oppose any development on the lot. Quite the contrary. I believe that the overall goal of the neighborhood, for this lot, is to support and welcome a new house on the lot, as long as it is a single house, designed in size, scale and massing reflective of the current houses, set back from the street and sited in a way compatible with the existing houses and does not require the removal of any more of the mature trees.

I'm sure that the Mahaffie's (sellers of the lot) can find another suitable buyer for the lot who has more respect for the neighbors and would be better caretakers for the surrounding nature that we are so fortunate to enjoy. As a body that represents us as county residents, we trust that the Montgomery County Planning Board will sympathetically adopt and rule by this position.

It is my understanding that Planning Board members serve as representatives of county residents. In that capacity, it is incumbent upon the Board to respect and reflect the wishes of the long-time loyal tax-paying neighbors to this property. I join other neighbors in urging the Montgomery County Planning Board to deny this application (Preliminary Plan Number 120110260, Country Club Village) for sub-dividing the lot at 6311 Wynkoop Boulevard, Bethesda, Maryland.

Respectfully,

Karen Ronne Tupek
Architect (retired)

penguins51@aol.com

301 229-9191 - home

301 404-0662 - cell

Kathy,

Naturally, I have questions about details for my delivery of our signed joint neighborhood statement. I thought perhaps I should just send you my list of current questions for efficiency's sake. I expect to get the last signatures tonight.

- First, our one neighbor who hasn't committed seems to be still deciding. He called me last night to say he hadn't been able to open the documents from the Planning website. He seemed to need a password. I sent them to him by email, then I checked today and there is a big problem with the site either refusal to accept the request or some sort of mostly black screen with what looks like a password entry box in the middle of the screen. Another problem: clicking on the help link gets me to a statement that the link no longer exists! How do I report this...to you or someone else?
- How do you want delivery? I thought that perhaps I could USPS mail the hardcopy with the real signatures to you on tomorrow or Friday, (Is first class okay or should I do a priority option?) but I can also email you a scanned set of pages.
- I know I can scan everything to PDF. Would you like our package emailed in PDF format?
- If yes on PDF, should I just make one file of PDF images or a one PDF file for each page? (I have no idea how to manipulate the pages once they are in the one PDF file. They read like a scroll.)
- I think our package will be from five to seven pages long. Okay?
- I have written the Attachment that describes the neighborhood history and its awards. We were thinking about adding photos. Can I assume that our package will be attached to your DRC report and distributed with it?
- How many people are on the Board and how many other officials might be at the May 10th meeting?
- How will the report be distributed to the Planning Board members? In advance? In hard copy or electronic or both?
- Who else besides the Board gets your DRC report and when? Well before, at the meeting, or after?
- We are considering bringing a color photo handout to the meeting. Would you be able to give me a notion of how many would be needed by a week or so before the meeting?
- Would it be possible to give a Power Point presentation at the meeting? If so how do I find out about preparations and requirements?

I am beginning to look forward to the end of this process in the worst way! It has been extremely time consuming.

I hope to talk to you soon. I expect to be in most of today and tomorrow.

Regards,
Frances,
301-229-6657

Kathy,

I thought you might want to know that my neighborhood now has a joint statement urging denial of the above subdivision application. All but the last six promised signatures have been collected and they are expected shortly. The son of the owners of the property also lives on Wynkoop Boulevard and we have't felt it was appropriate to ask him and his wife to participate. We will have signatures from the residents and owners of all but one of the remaining nineteen homes on Wynkoop Boulevard and Wynkoop Court in our Country Club Estates subdivision. We also have the signatures of a couple whose home on Winston has a direct view down the Boulevard to the subject property. In addition I am also working on an attachment to the statement that provides details on the awards won by the subdivision and its developers.

I think we'll have at least ten people at the Planning Board meeting on May 10. Our statement nominates a speaker to represent the group. He is my personable young neighbor, Andy Garrett. There may be a couple of others who will sign up to speak individually. We'd like to think that all this effort will have been unnecessary, but we feel strongly that we want our opinions known to the Planning Board if they help assure denial.

Thanks for helping me through the process. There was a lot of material to digest, but we kept our statement short and simple. I've been grateful that the neighborhood has had such a uniformly negative reaction to the subdivision plans and positive views on our statement. I'll give you a call when our package is ready to deliver.

Frances

301-229-6657

Kathy,

I am attaching PDF files of the documents I've been discussing with you. We have a joint statement urging the Planning Board to deny its approval of subdivision application 120110260 and an attachment that attempts to explain what makes our neighborhood such a special place, starting with the commitment of the subdivision developers to save the trees and their natural setting, and listing awards that the developer received. I will mail you the original signed copy as well.

Our statement is signed by residents and owners from 18 of the 20 homes on Wynkoop Court and Wynkoop Boulevard. Of the two not included, one family is still studying the documents regarding the application and may write you separately. The Mahaffies are the remaining family. We felt it was inappropriate to approach them to sign because Matt Mahaffie is the son of the property owners, who have granted the applicant a contract to purchase the property contingent on the outcome of the Board's decision on the application. We also have included another family on Winston Road at the end of the Boulevard whose home has a view of the property.

Our signers uniformly expressed hope that this application be denied and that any future development on this property be in keeping with its naturally beautiful setting and the high standards that have been set for the neighborhood.

Thank you personally for keeping us informed so well through this long application process. Some of us look forward to seeing you at the Board meeting in May.

Frances Ferguson
19 Wynkoop Court
Bethesda, MD 20817

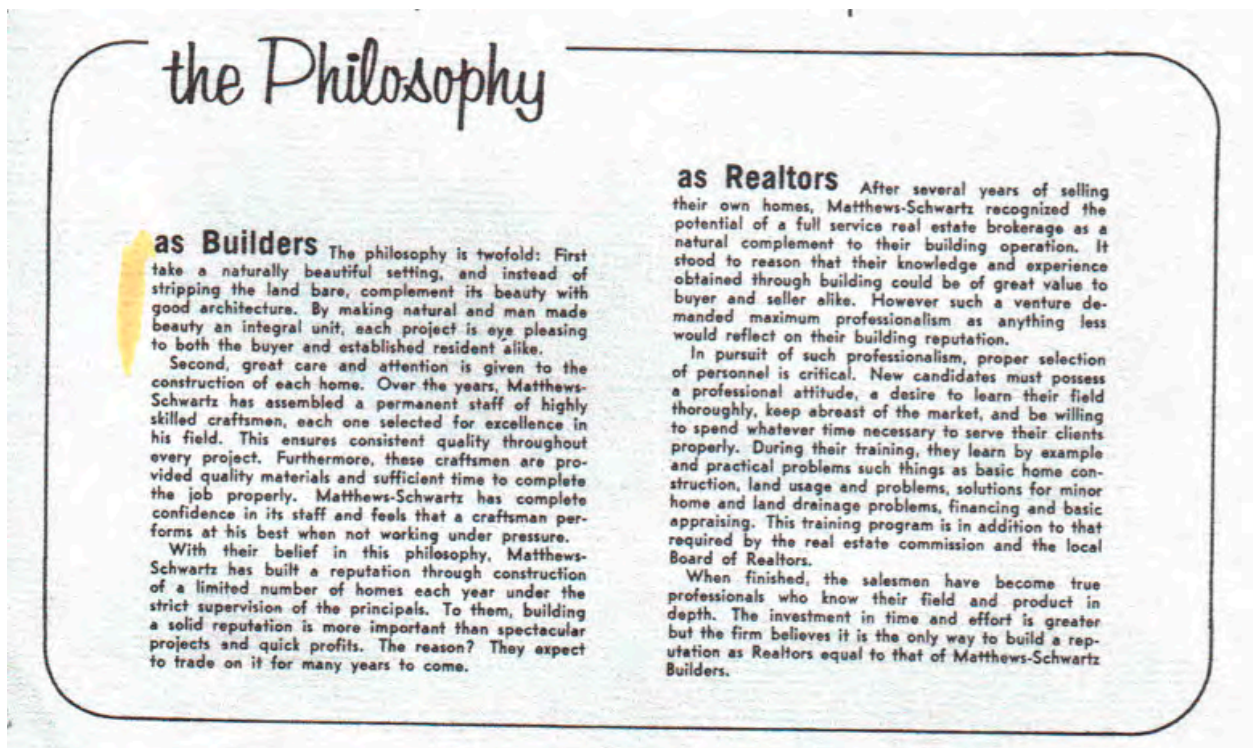
Wynkoop Neighborhood Joint Statement - Attachment 1

The Unique Design and History of the Country Club Estates Subdivision

The firm Matthews-Schwartz, Inc., builders, developers and realtors, created the Country Club Estates subdivision off River Road in Bethesda, Maryland during the 1960s. Some published materials from this time remain in the possession of the current subdivision residents. John L. Matthews and James I. Schwartz expressed their philosophy as builders in their original neighborhood brochure, below:

"First take a naturally beautiful setting, and instead of stripping the land bare, complement its beauty with good architecture. By making natural and man made beauty an integral unit, each project is eye pleasing to both the buyer and the resident alike..."

"Second, great care and attention is given to the construction of each home."



They maintained that planning was the most important part of the project, starting

*"as soon as the land is chosen for development. Together, with the architects they inspect the land noting the topography, existing roads, natural features (especially trees and vegetation), location of utilities and ease of access to the site. These things are then taken into account in making up the **land plan**, which **includes planning individual sites, road and position of the homes in order to save the trees and natural setting**, and connection with utilities in the most efficient manner."*

“Next the homes are designed, again taking into account the topography and natural features of the land. Although two or three basic house designs may be used throughout the project, they are individually tailored to the topography and character of their respective sites. The end result is a community of new individual homes with a mature long established atmosphere.”

With this philosophy and careful planning and execution, it is not surprising that the development of the contemporary style homes surrounding the new streets of Wynkoop Boulevard and Wynkoop Court won multiple awards and accolades for the builders and architects (see below).

Another comment from judges: **“the jury was most complimentary to the developer for leaving the natural beauty of the site intact...”** In the intervening years since construction the Wynkoop community continued to retain its original appeal. A few trees have been lost to disease and storm damage but most remain and thrive. At least half of the homes have been remodeled or had additions but the character of the neighborhood has been respected. **Current Wynkoop neighborhood owners are also committed to the preservation of their sylvan environment and its heritage of natural beauty.**

Awards

1965 Metropolitan Washington Board of Trade — Wynkoop

1965 Metropolitan Area Home Builders — “S” Model

1965 Bethesda-Chevy Chase Chamber of Commerce — Wynkoop

1966 American Institute of Architects — “WY” Model

1966 Bethesda-Chevy Chase Chamber of Commerce — Mohican Hills

1966 Metropolitan Area Home Builders — Trey Model

1967 American Institute of Architects — “S” Model

1968 Metropolitan Area Home Builders — “Mac” Model

1969 Washington Building Congress Craftsmanship Award — “Mac” Model



some of the judges' comments . . .

“. . . a pleasant development project with a variety of architectural forms and a quiet unity . . .”

“. . . the jury was most complimentary to the developer for leaving the natural beauty of the site intact . . .”

“One of the best development projects they had seen in years.”

Planning Coordination from the Ground Up . . .

Something people seldom think about when looking at a house or development is the planning that went into it. This to Matthews-Schwartz is the most important part of the project.

The teamwork starts as soon as the land is chosen for development. Together, with the architects they inspect the land noting the topography, existing roads, natural features (especially trees and vegetation), location of utilities and ease of access to the site. These things are then taken into account in making up the land plan, which includes planning individual sites, roads and position of the homes in order to save the trees and natural setting, and connection with utilities in the most efficient manner.

Next the homes are designed, again taking into account the topography and natural features of the land. Although two or three basic house designs may be used throughout the project, they are individually tailored to the topography and character of their respective sites. The end result is a community of new



individual homes with a mature long established atmosphere.

From the planning stage on, both builder and architect work closely together to ensure adherence to original plans and make revisions when needed.

This close teamwork and coordination from the ground up make Matthews-Schwartz projects what they are — award winners.



We the undersigned residents and owners of homes in the neighborhood adjacent to the property at 6311 Wynkoop Boulevard, Bethesda, MD, the subject of subdivision application number 120110260 now under consideration by the Montgomery County Planning Board, wish to make known our desire that this application be denied by the Board. While officially listed as in Country Club Village, the subject property is visually a part of Country Club Forest.

The development of the hilly, forested property now served by Wynkoop Boulevard and Wynkoop Court took place in the 1960s. The architects and builders won an American Institute of Architects citation and other awards (which we document in Attachment 1) for their Country Club Forest subdivision design for twenty well sited midcentury modern homes with large windows providing leafy views of a landscape dominated by mature trees. The care and professionalism of their development is evidenced by the number of trees that remain, many sited close to homes and their foundations, still thriving after fifty years. As we live in an increasingly urbanized area, maintaining this protective tree canopy that enhances the environment is important to all of us owners and residents; we believe this goal is valuable to the entire Bethesda community as well.

In February 2011 one of us spoke for all of us at the preliminary meeting for the proposed application when she told the applicant that the neighbors of the property were concerned that as many trees as possible should be saved and the sylvan character and architectural style of the neighborhood be maintained and respected by the new developers. We were extremely distressed by the preliminary plans which were then presented to the Board in July 2011 showing removal of *all* of the trees on the property. We agree with the initial report on the preliminary plans by the Development Review Committee that cited the Bethesda Chevy Chase Master Plan that "recommends preservation of the Potomac Palisades unique environmental features of steeply wooded slopes and vistas" and recommended "creating no more than one lot on this property".

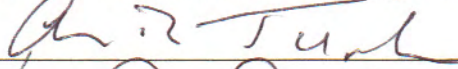
Only very recently have we had online access to the applicant's revised application and five other accompanying documents. We have studied them and while we note that the revised plans address some of the concerns in the initial report and do retain a few trees on the edges of the property, they still do not merit acceptance. We rely in part on the review staff of the Board for their assessment of this application because some aspects of their review such as restrictions related to the soils and slope of the property and storm water runoff will be highly technical. But we would like to point out two obvious shortcomings that call for restricting this property to no more than one house.

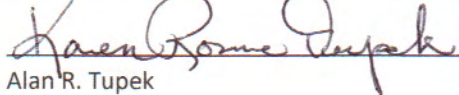
First, this application's siting for a pair of houses would be noticeably out of character for the neighborhood. The planned placement of the two proposed houses would contrast greatly and obtrusively with that of the neighborhood's existing homes. The proposed houses would be larger than their near neighbors, clustered *much* more closely, and nearer to the street. They would be built almost at street level while all of the existing homes on their side of the Boulevard are elevated and are well set back. A single house on the undivided lot with its frontage width in scale for the neighborhood could be built with a wider but shallower footprint, allowing it to be located further back on the lot in line with the existing homes without destroying the lot's slope or as many trees. It would also require less ground coverage for walkways and driveways.

Second, three large specimen trees are at risk in the revised application but could be retained if the property were left undivided and thus restricted to a single house. The revised submitted Forest Conservation Plan shows the planned site layout and provides a Tree Table giving data on nineteen specimen size trees in the immediate area. The property's two most visually dominant trees, white oaks labeled ST-7 and ST-13, that are rated in the table as in moderate condition yet are listed for removal, are close to the street and could be saved in a single house/single lot plan. Also highly visible near the street is another white oak, ST-16, listed as in moderate condition and sited just off the property line. Surprisingly, it is missing from the applicant's request for waiver letter, which discusses off site trees impacted by the development plans. It appears that nearly half of its roots extend into the site and are at great

risk for damage. This adjacent property owner's valuable tree likely would be adversely affected should the proposed application be approved. However, it could remain undamaged by construction of a single home built at the center of the undivided property.

For these and other unspecified reasons, the following residents and property owners in the Wynkoop neighborhood, respectfully urge the Planning Board to deny subdivision application number 120110260. We also wish to name Andrew Garrett (or any substitute he might name from the neighborhood) to speak as our representative:

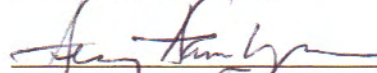


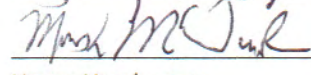


Alan R. Tupek
Karen R. Tupek
6300 Wynkoop Boulevard

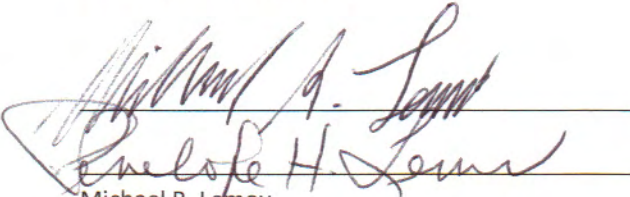


Susan Olsen
6307 Wynkoop Boulevard






Henry Hamburger,
Marsh McJunkin
6400 Wynkoop Boulevard

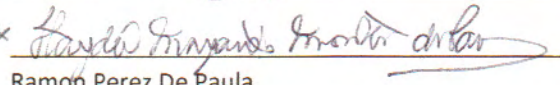


Michael R. Lemov
Penelope H. Lemov
6303 Wynkoop Boulevard

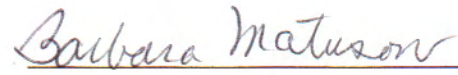


John J. Younger
Hollis Palmer Younger
2 Wynkoop Court

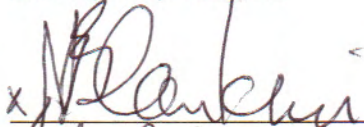


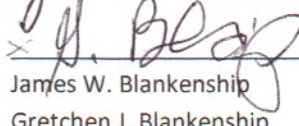


Ramon Perez De Paula
Haydee Margarida Monteiro De Paula
6304 Wynkoop Boulevard

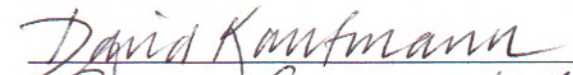


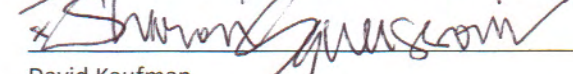
Barbara Matusow
4 Wynkoop Court



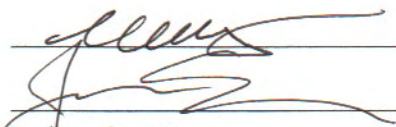


James W. Blankenship
Gretchen J. Blankenship
6305 Wynkoop Boulevard

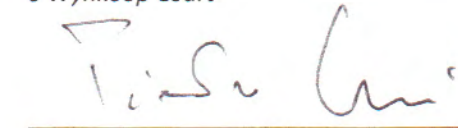




David Kaufman
Sharon Squassoni
6 Wynkoop Court

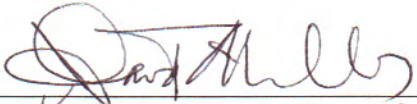


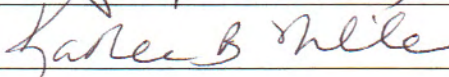
Andrew Garrett
Jennifer Sun
6306 Wynkoop Boulevard



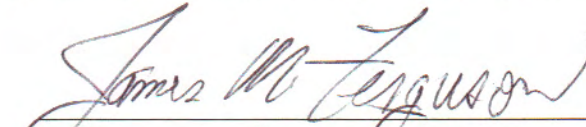
Pietro Masci
8 Wynkoop Court

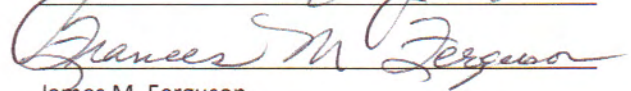
For the above mentioned and other unspecified reasons, the following residents and property owners in the Wynkoop neighborhood, respectfully urge the Planning Board to deny subdivision application number 120110260. We also wish to name Andrew Garrett (or any substitute he might name from the neighborhood) to speak as our representative:



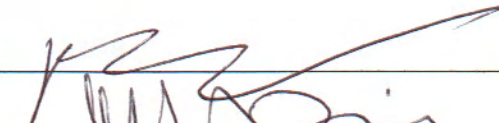


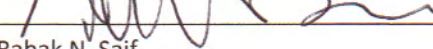
J. David Miller
Kathleen B. Miller
10 Wynkoop Court






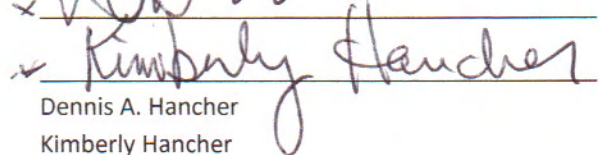
James M. Ferguson
Frances M. Ferguson
19 Wynkoop Court






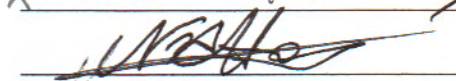
Babak N. Saif
Mahtab Dabir
12 Wynkoop Court



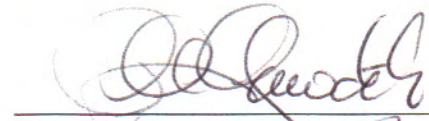


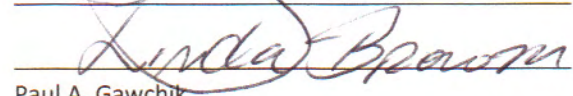
Dennis A. Hancher
Kimberly Hancher
20 Wynkoop Court



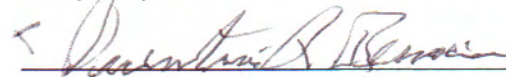


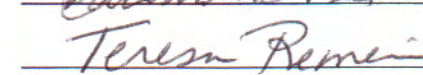
Brian C. Hirt
Maria F. Attademo-Hirt
16 Wynkoop Court





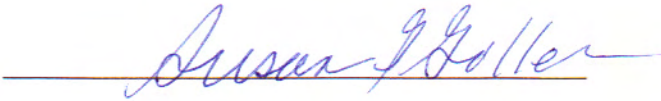
Paul A. Gawchik
Linda A. Brown
6301 Winston Drive
This home is situated at the end of Wynkoop Boulevard





Quentin Remein
Teresa Remein
18 Wynkoop Court

As a resident and property owner in the Wynkoop neighborhood, I respectfully urge the Planning Board to deny subdivision application number 120110260. I also wish to name Andrew Garrett (or any substitute he might name from the neighborhood) to speak as our representative:

A handwritten signature in blue ink that reads "Susan G. Giller". The signature is written in a cursive style and is positioned above a horizontal line.

Susan G. Giller
14 Wynkoop Court