



**Subdivision Review Waiver SRW 2011001: Big Woods Road**

*RAW* Richard Weaver, Acting Supervisor, Area 3, [richard.weaver@montgomeryplanning.org](mailto:richard.weaver@montgomeryplanning.org) (301) 495-4544  
*JAC* John Carter, Chief, Area 3, [john.carter@montgomeryplanning.org](mailto:john.carter@montgomeryplanning.org) (301) 495-4575

Completed: 9-28-12

**Description**

**Subdivision Review Waiver SRW 2011001: Big Woods Road**

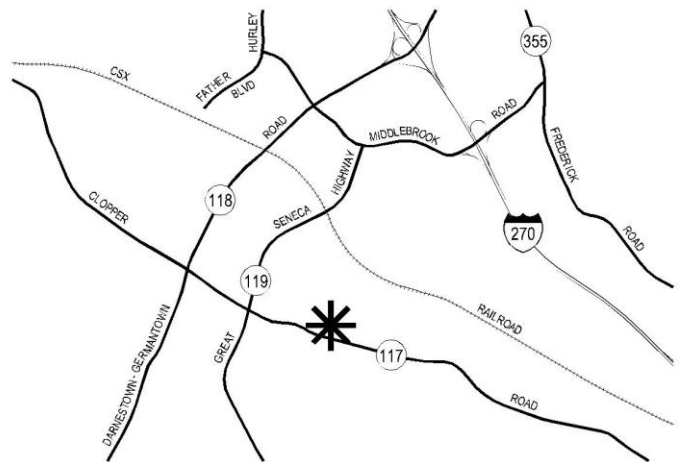
A request for a waiver under Section 50-38 to allow an unplatted parcel created after June 1, 1958 to proceed under the minor subdivision process, located at 20915 Big Woods Road, 2.5 acres, R-200 Zone, Master Plan for the Preservation of Agriculture and Rural Open Space

**Staff Recommendation:** Approval, with conditions

**Applicant:** Andrew Grove

**Submission Date:** March 31, 2011

**Review Basis:** Chapter 50 (Sec. 50-38(a)(1))



**Summary**

- Section 50-35A(a)(1) *Minor Subdivisions* recognizes that while parcels created by a deed recorded prior to June 1, 1958, and that have remained unchanged in size or shape since that date, are exempt from the platting requirements, an owner may voluntarily plat such an exempt parcel under the minor subdivision process i.e., without preliminary plan approval.
- The Subject Property was such an exempt parcel, however, in July, 1995 a former owner deeded away 200 square feet of the 2.59 acre parcel to an adjacent property owner.
- The Applicant cites unusual circumstances (erroneous government document) that have caused a significant delay in securing building permits and seeks a waiver that will allow the property to be platted under the minor subdivision process.

## **STAFF RECOMMENDATION**

Approval of a waiver of Section 50-35A(a)(6) of the Subdivision Regulations pursuant to section 50-38(a)(1) of the Subdivision Regulations in order to permit recordation of a plat through the minor subdivision process for a parcel created **after** June 1, 1958, subject to the following conditions:

1. Applicant must submit a complete Record Plat application within 120 days of the date of mailing of the Board's Resolution for this decision.
2. Road dedication and conservation easements must be shown on the plat.
3. All necessary easements for ingress/egress and public utilities must be shown on the plat.

## **SITE DESCRIPTION**

The 2.59 acre property is an unplatted parcel (P795, Tax Map CV341) located at 20915 Big Woods Road in Beallsville, MD and zoned R-200 ("Property" or "Subject Property"). The Property is currently vacant but has an identifiable area where a house once stood. Surrounding uses within the immediate area along Big Woods Road are mostly residential on large lots and parcels. Agriculture is the predominant use beyond the homes that front on Big Woods Road.

The Property contains forest and is moderately sloped with its highest elevation located in its center at 532 feet sloping to the north and south to its lowest elevation of 506 feet. The Property is shaped like a triangle having 220 feet of frontage on Big Woods Road tapering to 15 feet at its northernmost point.

## **PROJECT DESCRIPTION**

The Applicant seeks a building permit to construct a house on the Property and until recently has been moving forward with plans under the assumption that the Property was exempt from platting. Under the premise of an exemption, a septic reserve area has been approved by the Montgomery County Department of Permitting Services and substantial work has been completed with Staff on meeting the forest conservation exemption requirements. The Montgomery County Department of Transportation supports the use of the existing driveway cut already in place.







## WAIVER REQUIREMENTS

The Planning Board has the authority to grant waivers pursuant to Section 50-38(a)(1) of the Subdivision Regulations provided certain findings can be made. The section states:

“The Board may grant a waiver from the requirements of this Chapter upon a determination that practical difficulties or unusual circumstances exist that prevent full compliance with the requirements from being achieved, and that the waiver is: 1) the minimum necessary to provide relief from the requirements; 2) not inconsistent with the purposes and objectives of the General Plan; and 3) not adverse to the public interest.”

Section 50-35A(a)(6) of the Subdivision Regulations provides for owners of certain unplatted properties to proceed to a record plat without a preliminary plan approval:

“Plats for certain residentially zoned parcels created by deed **before** June 1, 1958. Although a single family residential parcel may qualify for an exception to platting under Section 50-9(f), if the parcel is developable for only one single family detached dwelling unit, then an owner may submit a plat to record such a parcel under the minor subdivision procedures”

This provision allows unplatted (deed) parcels that meet the exemption to platting requirements under 50-9(f) - *deeded parcels that have not changed in size or shape since before June 1, 1958* (“Exempt Parcel”) to record a plat under the minor subdivision process. Because of a conveyance of 200 square feet in July 1995, the Subject Property no longer meets this requirement.

## DISCUSSION

The Applicant purchased the Subject Property in 2010 with the intent to build a home and contracted with Potomac Valley Surveys (Attachment A). This firm had completed work for the previous owner of the Property to secure building permits but that owner died unexpectedly before a house could be built. Potomac Valley Surveys acquired many approvals for the previous owner, and the Applicant continued with the same firm. One of the documents that Potomac Valley Surveys acquired was an exemption letter from Park and Planning dated February 27, 2006 (Attachment B), stating that the parcel was exempt under 50-9(f), from the requirement to plat prior to issuance of a building permit; referred to as an exemption letter. As an Exempt Parcel, the previous owner and Potomac Valley Surveys moved forward with plans with the assumption that no preliminary plan or record plat would be required and successfully conducted water table tests, septic percolation tests and removed the old house<sup>1</sup> to prepare the site for a new house. After the death of the previous owner, the Applicant moved forward with Potomac Valley Surveys also on the assumption that the parcel was exempt.

After the Applicant contracted with Potomac Valley Surveys and submitted forest conservation material to staff in 2010, Staff discovered that the 2006 exemption letter was written in error. The deed history to the property indicates that in July, 1995, a conveyance of 200 square feet from the Subject Property

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<sup>1</sup> Note: Had this house remained standing today, the Property would qualify for platting under a recently adopted minor subdivision provision that allows platting of lots that meet the zoning in place when the house was built.

to an adjacent property owner essentially changed the size and shape of the property after June 1, 1958. The conveyance was done by mutual agreement between two land owners to address the ill-advised location of a well shaft drilled on the common property line between the Subject Property and the neighboring property.

The Property is not an Exempt Parcel and; therefore, the Applicant is not able to get a building permit without first recording a plat. Had it not been for the 200 square feet conveyed to the adjacent property owner, the Property would be an Exempt Parcel. The erroneous 2006 exemption letter appears to have played a role in this matter and has now stalled the Applicant's efforts.

## **WAIVER DISCUSSION**

### **Applicant's Position**

In a letter dated January 27, 2011, (Attachment C), supplemented by letters dated March 30, 2011, (Attachment D) and June 19, 2012, (Attachment E), the Applicant claims that an *unusual circumstance* exists that prevents full compliance with the Subdivision Regulations. The Applicant requests a waiver to allow a plat to be recorded under Section 50-35A(a)(6) of the minor subdivision process for a parcel that has changed in size and shape **after** June 1, 1958. The letter suggests that the unusual circumstance was created when the parcel was changed in size and shape, but only by 200 square feet and by a previous property owner and between agreeable neighbors. The Applicant acknowledges that a record plat is necessary but that a preliminary plan submission would delay him further and ultimately serve no useful purpose. He believes that most of the issues that would be resolved by a preliminary plan have already been addressed or can be addressed prior to the approval of a minor subdivision record plat. Stormwater management can be addressed as part of the sediment control or building permit review process.

The letters explain that the 200 square foot conveyance was likely done without legal counsel and that, in hindsight, an easement over the same 200 square feet would have served the same purpose. The supplemental letters confirm that the Applicant's efforts to prepare the Property for a new home was initiated under the assumption that the exemption letter issued by Park and Planning was valid and that it was not until much later in the process did staff discover the. The letter has eventually caused his building permit to be delayed.

The Applicant believes the waiver is the minimum necessary to provide relief from the requirement to submit a full subdivision and that the continued use of the R-200 zoned Subject Property for one house is consistent with the General Plan. The Applicant suggests that the eventual recordation of a plat sufficiently provides for the public interest and that the plat will ensure the building permit will be issued for a structure that meets all requirements of the County Code. A final comment is made regarding the hardship that has been placed on the Applicant and how that hardship would be extended both financially and time-wise if the waiver were not granted.

### **Staff Position**

There are two unusual circumstances that justify the requested waiver. The first is the conveyance of a small 200 square foot portion of the 2.5 acre (112,820 square feet) parcel that resulted in the Property losing its exempt status. A deed conveyance in itself is not unusual; however, the size of the conveyance was unusually small and while it does change the size and shape of the parcel, it does not materially

alter the parcel's ability to accommodate a house nor did it create any issue for zoning conformance. No other buildable parcels were created by this conveyance; no additional lots are requested, and the Property remains well in excess of the minimum size requirements of the R-200 zone and meets all other zoning standards as shown in the table below:

R-200 Requirements	Proposed
Minimum Size (20,000 sf. min)	112, 820 sf.
Frontage on street (25 ft. min)	216 ft.
Width at front b.r.l. (100 ft. min)	205 ft.
Setbacks: <ul style="list-style-type: none"> <li>▪ Front (40 ft. min)</li> <li>▪ Rear (30 ft. min)</li> <li>▪ Side (12 ft. min/25 ft. total)</li> </ul>	House shown meets all setbacks.
Max. lots permitted under zone (5)	1

The second unusual circumstance is the issuance of the erroneous exemption letter in 2006 that indicated the parcel had not changed in size or shape since June 1, 1958 and was otherwise exempt from platting. This is a governmental error that has led to a delay for the Applicant.

Staff generally agrees that the submission of a preliminary plan in this instance will serve no purpose in the public interest. The Applicant has secured septic approval, well location approval, provided for dedication of Big Woods Road 35 feet from centerline, and will establish the necessary ingress/egress easements for the driveway that traverses the Subject Property and serves adjacent properties. The Property has received an exemption from forest conservation. It is not yet known if the Property can be developed under the limits of the exemption but any forest easements, if required, will be shown on the record plat that will ultimately be before the Planning Board for approval. Sediment control devices will be coordinated with any forest easements shown on the plat. There will be no adequate public facilities implications with respect to traffic, schools, or fire and rescue access.

**FINDINGS AND CONCLUSION**

**Unusual Circumstances** - *Staff finds* that there are two unusual circumstances that prevent this Applicant from fully complying with the requirements of the subdivision regulations. The first is the conveyance of relatively insignificant portion of the Property to an adjoining neighbor that effectively eliminated the exempt status the parcel once had. The second unusual circumstance is an erroneous exemption letter that provided incorrect information to the Applicant and caused a delay in the issuance of a building permit. The Property is no longer exempt from platting and must be recorded by plat before a building permit can be issued. The submission and review of a preliminary plan further delays the Applicant and provides no useful purpose that benefits the public interest.

**Minimum Necessary** - *Staff finds* that for this Property, the request to waive the requirement that a parcel be an Exempt Parcel in order to take advantage of the minor subdivision provision under 50-35A(a)(6) is the minimum necessary to provide relief from this requirement.

**Consistent with the General Plan** - The waiver will allow a house to be replaced one that was removed and located on a recorded lot. This community of homes along Big Woods Road is a rural community recognized by the AROS Plan which recommended the R-200 zone to allow these smaller properties to continue to conform to the zone as opposed to placing it in the Rural Density Transfer zone. Therefore, *Staff finds* that the waiver is consistent with the General Plan as amended by the AROS Plan.

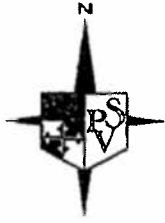
**Public Interest** - Further, *Staff finds* that the waiver is not adverse to the public interest as there is no additional public benefit that would be obtained through the submission and review of a Preliminary Plan. The eventual platting of the Property is in the public interest to assure conformity with zoning.

Staff recommends approval of the requested waiver with the conditions cited above.

**Attachments:**

- A. Contract with Potomac Valley Surveys
- B. February 27, 2006 exemption letter
- C. Waiver request letter dated January 27, 2011
- D. Supplemental waiver request letter dated March 30, 2011
- E. Supplemental waiver request letter dated July 19, 2012





# Potomac Valley Surveys, LLC

P.O. Box 627  
Poolesville, MD 20837-0627  
Phone 888-349-5090 Fax 301-349-5441  
[www.potomacvalleysurveys.com](http://www.potomacvalleysurveys.com)

New Job #  
(old 094-052)  
D10-050

Client: Andy Grove  
19400 Willis Lane  
Poolesville, Maryland 20837

Date: 06-22-10

Project: 20915 Big Woods Road, Parcel 795 Tax Map CV31 ("Property")

Pursuant to your request, Potomac Valley Surveys, LLC ("PVS") is pleased to submit this proposed agreement ("Agreement") to Andy Grove ("Client") for surveying services.

## A. Scope of Services.

PVS shall perform pursuant to this Agreement each of the applicable services below which have been initiated by the parties (collectively "Services"). Client agrees to pay PVS for all fees associated with the Services as noted below (collectively "Fees") in accordance with the terms and conditions of this Agreement.

### Permit Plan Phase-1

Well Plan: PVS will prepare a plan showing three possible well locations for the subject property. A single stakeout of the three proposed wells is included. **Fee: \$750.00**

### Permit Plan Phase-2

Septic Field Plan: Utilizing the previously prepared topographic worksheet PVS will design a septic field to meet DPS requirements. **Fee: \$1,800.00**

Site Grading/Zoning Plan: Using the previously prepared topographic survey, Potomac Valley Surveys will prepare a Site Grading/Zoning Plan. The plan will meet Montgomery County Department of Permitting requirements for in-fill development. **Fee: \$2,400.00**

Stormwater Management/Sediment Control Plan: Using the previously prepared topographic survey, Potomac Valley Surveys will prepare a combination Stormwater Management/Sediment Control Plan. The plan will meet the requirements of Chapter 19 of the County Code on stormwater management and Montgomery County sediment control requirements. **Fee: \$3,400.00**

### Construction Layout Phase

ADG/ Boundary Survey: PVS will perform a boundary survey on the subject Property adhering to the standards set forth in COMER 09-13-06-03. **Fee: \$1,500.00**

Limits of Disturbance: PVS will set stakes at the limits of disturbance in preparation for the site inspection of the Montgomery County sediment control inspector. **Fee: \$600.00**

/ **Foundation Stakeout:** Using architectural plans supplied by the Client, PVS will set four stakes offsetting the foundation for excavation. A grade sheet and sketch will be prepared and furnished to the Client. **Fee: \$750.00**

/ **Brick Points:** PVS will set nails in the footing at all major outside corners of the proposed foundation. **Fee: \$600.00**

/ **Wall Check Survey:** PVS will field measure the dimension and location of the new foundation walls. The results of the survey will be drafted and supplied to the client. **Fee: \$600.00**

Any additional work (collectively "Extras") required with regard to this project will be performed by PVS only after PVS has received a written request from the Client. All Extras shall be billed by PVS to the Client under the following hourly rate schedule:

- |                                                 |                   |
|-------------------------------------------------|-------------------|
| • Survey crew(two person or one person robotic) | \$125.00 per hour |
| • Survey Technician                             | \$75.00 per hour  |
| • Professional Land Surveyor                    | \$125.00 per hour |

Client shall pay to PVS upon demand any fees associated with any Extras performed by PVS. Further, at the request of PVS, Client shall provide PVS with a deposit ("Deposit") in an amount determined by PVS for any Extras requested by the Client. PVS shall be entitled to maintain any such Deposit in its general operating account and not in trust along with other funds and PVS may bill any sums due under this Agreement against the Deposit. PVS shall refund to Client any unused portion of the Deposit, without interest.

## **B. Assumptions.**

The following assumptions were made and shall be relied upon by PVS in the preparation of this Agreement:

- The property has been approved by Montgomery County Well/Septic for a private septic field.
- There are no historical matters or neighborhood covenants affecting the Property.
- There are no environmental problems, concerns or issues on or affecting the Property.
- The previously prepared Tree Protection Plan will satisfy MNCP&PC requirements pertaining to forest conservation. Any additional work that may be required will be covered under a separate contract or prepared by others.
- The proposed improvements on the Property will be sited no closer than 2.0' from Building Restriction Lines.
- The client has had the necessary geotechnical tests performed for this project.
- It is recommended that Client furnish to PVS a title report for the Property so that all matters affecting the Property may be adequately addressed.
- If a Sloping Lot Exemption is required for the project it will be covered under a separate contract.

**C. Payment Terms.**

Client shall pay to PVS one hundred percent (100%) of the Permit Plan Phase-1 Fees upon execution of this Agreement (\$750.00). Client shall pay to PVS fifty percent (50%) of the Permit Plan Phase-2 Fees as they are ordered. The remaining balance of the Fee shall be paid by the Client to PVS as they are completed. PVS shall be entitled to submit invoices to the Client monthly covering progress payments due and reimbursable expenses (collectively "Expenses") which Client does hereby agree to pay to PVS. Payment is due upon Client's receipt of any such invoice. Except as expressly set forth herein, the Fees due PVS under this Agreement are not contingent upon the happening of any event or occurrence including, but not limited to, Client's settlement on the Property. A default by Client under this Agreement shall be defined as the failure by Client to comply timely with each and every provision of this Agreement. In the event of any default by Client under this Agreement, PVS shall be entitled to recover from Client all Fees and Expenses due hereunder plus all costs of collection including, but not limited to, reasonable attorneys' fees. The parties hereto designate any court of competent jurisdiction in Montgomery County, Maryland as the proper forum and venue for any and all disputes and claims arising out of this Agreement and submit themselves to the personal jurisdiction of such court. Each party waives its right to a trial by jury with regard to any disputes and claims arising from or associated with this Agreement. If any term or provision of this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law. Notices required hereunder shall be sent to parties respective addresses set forth below on the signature blocks. Any notices required by this Agreement shall be in writing and shall be sent via Federal Express, priority overnight delivery or via facsimile with receipt therefor. PVS shall be entitled to collect interest from Client at the rate of 18% per annum on any sums that are not paid timely and in accordance with the terms and conditions hereof.

**D. Limitations of Liability.**

PVS is not liable for damages caused by delays in performance of the Services which arise from events beyond PVS' reasonable control. PVS is not responsible for and will not certify to the accuracy or validity of information obtained from others and utilized in the Services covered under this Agreement. In no event shall any liability under this Agreement exceed the Fees and Expenses paid to PVS under this Agreement.

**E. Client Responsibilities.**

All permit/processing fees and bonds shall be the sole responsibility of the Client. It shall be the responsibility of the Client to supply PVS with the latest plans and revisions for this project. Client shall fully cooperate with PVS and shall provide PVS upon demand with any additional information and/or documentation that PVS reasonably requires in order to perform the Services under this Agreement..

POTOMAC VALLEY SURVEYS, LLC  
Sign: ALP  
Print: David P. Mowatt  
Title: Professional Land Surveyor  
(Authorized Agent)  
Date: 06/22/10  
Address: P.O. Box 627  
Poolesville, MD 20837  
Phone: (888) 349-5090  
Fax: (301) 349-5441  
E-mail: dpm@potomacvalleysurveys.com

CLIENT: Andy Grove  
Sign: Andy Grove  
Print: Andy Grove  
Title: \_\_\_\_\_  
Date: 6/29/10  
Address: 19400 Willis Lane  
Poolesville, MD 20837  
Phone: 301-349-5246  
Fax: \_\_\_\_\_  
E-mail: ndt@a@yahoo.com

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4500, [www.mncppc.org](http://www.mncppc.org)

February 27, 2006

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Potomac Valley Surveys  
Thomas Prather  
19960 Fisher Avenue, #4  
P.O. Box 627  
Poolesville, MD 20837

Re: Parcel 795; Tax Map CV31

Dear Mr. Prather:

The Development Review Division staff has reviewed the information supplied by you with regards to the above referenced property. It is our finding that Parcel 795 does qualify for an exception to the Subdivision Regulations under section 50-9(f). The deed history provided indicates that this parcel existed in its present size and shape prior to June 1, 1958. This property is eligible for construction of one (1) single-family residential dwelling as provided for under Section 59 -B-5.1 of the Montgomery County Zoning Ordinance.

This exemption does not waive any other legal requirements imposed by other governmental review agencies. You may wish to contact the Department of Permitting service to clearly understand any other limitation associated with building permit reviews for this property. If you have any questions regarding this transmittal, please contact me at 301/495-4623.

Sincerely,

A handwritten signature in black ink, appearing to read "Taslima Alam", written over a circular stamp or mark.

Taslima Alam

cc: W. Cornelius, DRD

January 27, 2011

Ms. Francoise Carrier  
Chair, Planning Board  
Maryland-National Capital Parks and Planning  
8787 Georgia Avenue  
Silver Spring, MD 20910

Re: 20915 Big Woods Road, Dickerson, MD  
Request for Subdivision Regulation Waiver

Dear Madam Chair,

We request approval of a Subdivision Regulation Waiver, pursuant to Section 50-38 (a) of the Montgomery County, Maryland Subdivision Regulations, to allow us to record a minor subdivision plat for the property at 20915 Big Woods Road, Dickerson, MD. As described in more detail below, in 1994 a 200 square foot piece of the property was given by the owner to her neighbors to accommodate a well that was drilled too closely to the property line. We understand from the Development Review division that since this action changed the parcel shape that had been in existence prior to June 1, 1958, the parcel is now subject to the Subdivision Regulations. We also understand that the Planning Board has the authority to grant a waiver to the Subdivision Regulations *"upon a determination that practical difficulties or unusual circumstances exist that prevent full compliance with the requirements from being achieved and that the waiver is: 1) the minimum necessary to provide relief from the requirements; 2) not inconsistent with the purposes and objectives of the General plan; and 3) not adverse to the public interest"* [Sec. 50-38 (a) Authority of Board].

We recently purchased the 2.59 acre parcel located at 20915 Big Woods Road in Dickerson, Maryland. The parcel is described as P795 on Tax Map CV31 of Montgomery County, Maryland, is zoned R-200, and existed prior to June 1, 1958. The property is currently unimproved as a previous owner demolished a single family dwelling in 2006 but we are planning to build a single family detached dwelling for our family residence. We have supplied a drawing of the parcel prepared by our surveyor as required by the Waiver application (See Plan Drawing).

In 1994, 200 square feet of the parcel was given by the property owner and resident to her neighbor. This was done to accommodate a well, drilled by the neighbor, that was violating county regulations because it was too close to the property line and is described in a memorandum recorded with the deed in Liber 13280 at Folio 25 and re-recorded in Liber 13534 at Folio 338 (see Exhibit A and B). The previous owner apparently had no legal counsel as to the appropriate course to address this issue since granting an easement to the well would have addressed the county requirements.

In any event, the land transfer was executed, changed the shape of the parcel, and therefore made the parcel subject to the Subdivision Regulations. However, we believe that having to go through the full Subdivision process under the unusual circumstances for this parcel shape change would serve no useful purpose. Construction of one single family home does not alter the existing use of the property nor are any additional lots being created out of the existing parcel. The plating could be addressed by a minor subdivision under section 50-35A(a)(6) of the Montgomery County, Maryland Subdivision Regulations since it was an original pre-1958 property and only changed shape due to this very unusual



circumstance. Other land use and construction requirements would be achieved through the construction permitting process with the county.

In conclusion, we believe that allowing the recordation of a plat pursuant to the minor subdivision regulations of 50-35A(a)(6) constitutes the minimum necessary to provide relief from the requirements associated with the full Subdivision Regulations. We believe that the waiver request and the resulting record lot meet the applicable requirements of the Subdivision Regulations. This, in addition to the fact that the existing use of the property for a single family home would not be altered, shows the waiver request is not inconsistent with the purposes and objectives of the General Plan. Finally, the waiver is not adverse to the public interest as the recordation of the lot ensures that the subsequent building permit for the property will meet requirements in the County Code. We would be remiss not to add one final point. Having to go through the full Subdivision Process would be an extreme hardship on our part since the process would cost more than \$35,000 and result in a one to two year delay before we would be able to build.

Granting us a waiver of the Subdivision Regulations will allow us to proceed with the recording of the minor subdivision plat and to begin the building permitting process for the construction of our home. We respectfully request approval of the waiver.

Sincerely,

  
Andrew Grove & Kristina Grove

# Exhibit A

JUN 14 1994

THIS DEED, made this 11th day of June, 1994, by and between Ida M. Harden, ("Grantor"), and Mary Elizabeth Weedon and George Edward Weedon, ("Grantee"):

WITNESSETH, that in consideration of \*\*\*NO CONSIDERATION\*\*\* (\$0.00) Grantor does grant and convey unto Grantee, their heirs and assigns, in fee simple as tenants by the entirety all that piece or parcel of land situate, lying and being in Montgomery County, State of Maryland, and described as follows:

See attached Metes and Bounds Description

SUBJECT to covenants, conditions and restrictions of record.

AND the Grantor covenants that she will warrant specially the property hereby conveyed;

and that she will execute such further assurances of said land as may be requisite.

WITNESS her hand and seal.

WITNESS:

Margaret E. Winter Ida M. Harden by Thomas V. Prather (SEAL)  
IDA M. HARDEN, by Thomas V. Prather her attorney-in-fact

STATE OF MARYLAND :  
COUNTY OF MONTGOMERY : ss

ON this 11th day of June, 1994, before me, the undersigned officer, personally appeared Thomas V. Prather, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Margaret E. Winter  
Notary Public  
MARGARET E. WINTER  
NOTARY PUBLIC STATE OF MARYLAND  
My Commission Expires July 21, 1997

AGRICULTURE TRANSFER TAX IN THE AMOUNT OF \$ NA  
SIGNATURE [Signature]

ELDER

RECEIVED FOR TRANSFER  
State Department of Assessments & Taxation  
for Montgomery County  
#37813

95 MAR -2 P 3:57.2  
FILED  
MOLLY O. RUHL  
CLERKS OFFICE  
MONTGOMERY CO. MD

20  
085

GRANTOR AND GRANTEE hereby certify that the consideration given or to be given under this deed, including the amount of any mortgage or deed of trust assumed thereby, is NONE, and that the property is free and clear of any and all liens and encumbrances to the best of their knowledge, information and belief.

*Ida M. Harden, by Thomas V. Prather*  
IDA MAE HARDEN; by Thomas V. Prather her attorney-in-fact

*Mary Elizabeth Weedon*  
MARY ELIZABETH WEEDON

*George Edward Weedon*  
GEORGE EDWARD WEEDON

THIS IS TO CERTIFY that the within instrument was prepared by or under the supervision of the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland.

*[Signature]*  
STEVEN J. BIENSTOCK

Parcel Identifier No: 11-1-916118  
Grantor: Ida Mae Harden  
c/o Thomas V. Prather  
20915 Big Woods Road  
Dickerson, MD 20842  
Grantee: Mary Elizabeth Weedon  
George Edward Weedon  
20923 Big Woods Road  
Dickerson, MD 20842  
Address of Parcel: 20915 Big Woods Road  
Dickerson, MD 20842  
Title Insurer: N/A, No title examination

Return recorded deed to:  
Bienstock & Donnelly  
401 East Jefferson Street, Suite 208  
Rockville, Maryland 20850  
(301) 251-1600

All Taxes on assessments certified to the  
Collector of Taxes for Montgomery County  
M&D 2/16/95

MAR 2 1995  
11-1-916118

*[Signature]*

GKS

MEMORANDUM

TO: Mike Elder  
FROM: Meg Winter *M*  
DATE: February 15, 1995  
RE: Harden to Weedon partial transfer

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Just so you know, we are transferring this property because the well is located right on the property line and that is a violation of the county health regulations. I talked to Carol in the transfer office on 7/8/94 and she told me that they would not charge transfer tax on this transaction because it is such a small piece of property and the property is free and clear. We haven't been able to record before now because the taxes weren't paid because the tax credit application for Ms. Harden just was approved. I have attached a copy of the paid tax bill in case it hasn't made its way to the computer yet. Please call me if there are any problems. Thanks.

LF 13280.028

DETAILS HERE AND RETURN UPPER PORTION WITH PAYMENT. Retain receipt copy for your records. This along with your cancelled check is your receipt \* Payments made after due date must include interest/penalty which reverts back to October 1, of the levy year. Amount, if shown above in payment schedule, includes tax due and interest/penalty. April and May do not include tax sale fees. CNTY RATE 1.937 EXCEEDS CONSTANT YIELD 1.897 BY 0.040

# MONTGOMERY COUNTY, MARYLAND PROPERTY TAX BILL - RECEIPT

FULL YEAR BILL - LEVY YEAR 1994  
DELINQUENT BILL  
DESCRIPTION OF PROPERTY

DIST	SUB	ACCOUNT NO.	LIBER	FOLIO	LOT	BLOCK	ACRES/FT	TAX CLASS
11	1	916110	1761	315			2.55A	42

LEGAL DESC WOODSTOCK  
MORTGAGE CO.

MUNICIPALITY NAME:

	EXEMPT CODE	ASSESSMENTS	
		EXEMPT	TOTAL
STATE			41290
COUNTY			41290
PARKING			41290
			MUNICIPAL

BILL NO. 78645236

BILL DATE

DUE DATE 09/30/94

### DEFERRALS

TAXES	CODE	AMOUNT
STATE TAX		86.71
COUNTY TAX		700.70
SPECIAL AREA		263.03
MUNICIPAL TAX		.00
<b>TOTAL TAX</b>		<b>1149.53</b>

**PAID**  
PROPERTY TAX CREDITS  
FEB 13 1995  
CK # 416  
DEPT. OF FINANCE  
MONTGOMERY CO., MD.

TOTAL TAX	1149.53
TOTAL SERVICE CHARGE **	145.22
TOTAL DEFERRALS AND CREDITS	.00
<b>NET AMOUNT DUE</b>	<b>1294.75</b>
PAID TO DATE	
PRINCIPAL	
PAID TO DATE	
INTEREST	
<b>BALANCE DUE</b>	<b>1294.75</b>
IF PAID BY DUE DATE	

TOTAL DEFERRALS AND CREDITS .00

### SERVICE CHARGES-ANNUAL CHG. \*\*

REFUSE	145.22
WSSC FFBC	.00
WSSC COMM. FEE	.00
MUNICIPAL FFBC	.00

### UNPAID PRINCIPAL BALANCES

	.00
	.00

\*\* SERVICE CHARGES ARE NOT DEDUCTIBLE FOR INCOME TAX PURPOSES FOR MOST HOMEOWNERS. CONSULT YOUR TAX ADVISOR.

### COUNTY SPEC.IMP.

TOTAL SERV.CHG.	145.22
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IDA M HARDEN  
20915 BIG WOODS RD  
DICKERSON

MD 20842

PAYABLE TO: MONTGOMERY COUNTY, MD.  
MAIL TO: MONTGOMERY COUNTY, MD.  
DIVISION OF REVENUE  
BOX 6210  
ROCKVILLE, MD: 20849-6210

THE ENCLOSED BROCHURE IS AN INTEGRAL PART OF THIS BILL

PD 387.73 CK # 0416



THIS DEED, made this 11th day of July, 1994, by and between Ida M. Harden, ("Grantor"), and Mary Elizabeth Weedon and George Edward Weedon, ("Grantee"):

WITNESSETH, that in consideration of \*\*\*NO CONSIDERATION\*\*\* (\$0.00) Grantor does grant and convey unto Grantee, their heirs and assigns, in fee simple as tenants by the entirety all that piece or parcel of land situate, lying and being in Montgomery County, State of Maryland, and described as follows:

See attached Metes and Bounds Description

SUBJECT to covenants, conditions and restrictions of record.

AND the Grantor covenants that she will warrant specially the property hereby conveyed;

and that she will execute such further assurances of said land as may be requisite.

WITNESS her hand and seal.

WITNESS:

Margaret E. Winter (SEAL)  
Ida M. Harden  
IDA M. HARDEN, by Thomas V. Prather her attorney-in-fact

(Per Power of Attorney recorded in Liber 12810 at folio 194)

STATE OF MARYLAND :  
COUNTY OF MONTGOMERY :

: ss  
:

ON this 11th day of July, 1994, before me, the undersigned officer, personally appeared Thomas V. Prather, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires:

MARGARET E WINTER  
NOTARY PUBLIC STATE OF MARYLAND  
My Commission Expires July 21, 1997

AGRICULTURE TRANSFER TAX IN THE  
AMOUNT OF \$ N/A  
SIGNATURE [Signature]

RECEIVED FOR TRANSFER  
State of Maryland  
CLERK OF THE COURT  
#37813

ELDER

THIS DEED IS BEING RE-RECORDED TO ATTACH THE LEGAL DESCRIPTION OF THE PROPERTY WHICH WAS INADVERTENTLY OMITTED FROM THE ORIGINAL RECORDING.

95 JUL 31 P 4:16B  
FILED  
MOLLY O. RUHL  
CLERKS OFFICE  
MONTGOMERY COUNTY, MD.  
95 MAR -2 P 3:57 Z  
FILED  
MOLLY O. RUHL  
CLERKS OFFICE  
MONTGOMERY CO. MD.

GRANTOR AND GRANTEE hereby certify that the consideration given or to be given under this deed, including the amount of any mortgage or deed of trust assumed thereby, is NONE, and that the property is free and clear of any and all liens and encumbrances to the best of their knowledge, information and belief.

*Ida Mae Harden*  
IDA MAE HARDEN, by Thomas V. Prather her attorney-in-fact

*Mary Elizabeth Weedon*  
MARY ELIZABETH WEEDON

*George Edward Weedon*  
GEORGE EDWARD WEEDON

THIS IS TO CERTIFY that the within instrument was prepared by or under the supervision of the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland.

*Steven J. Bienstock*  
STEVEN J. BIENSTOCK

Parcel Identifier No: 11-1-916118  
Grantor: Ida Mae Harden  
c/o Thomas V. Prather  
20915 Big Woods Road  
Dickerson, MD 20842  
Grantee: Mary Elizabeth Weedon  
George Edward Weedon  
20923 Big Woods Road  
Dickerson, MD 20842  
Address of Parcel: 20915 Big Woods Road  
Dickerson, MD 20842  
Title Insurer: N/A, No title examination

Return recorded deed to:  
Bienstock & Donnelly  
401 East Jefferson Street, Suite 208  
Rockville, Maryland 20850  
(301) 251-1600

All Taxes on assessments certified to the Collector of Taxes

MAR 2 1995  
11-1-916118

*2/2/95*

*Handwritten signature*

TRANSFER WITHOUT CONSIDERATION

*GKS*

Metes and Bounds Description - Harden to Weedon  
Part of a tract of land called:  
"Woodstock"  
Ida M. Harden Property  
Barnesville (11th) District  
Montgomery County, Maryland

Beginning for the same at the end of 570.50 feet on the 2nd line of a conveyance from Mack F. Wagner, et ux. to Llewellyn O. Harden and Ida M. Harden by deed dated February 9, 1953 and recorded in Liber 1761 at Folio 315 among the land records of Montgomery County, Maryland, said point being also 25.00 feet from the end of the 1st line of a conveyance from Senora Jenkins to Mary E. Weedon, et ux. by deed dated May 22, 1981 and recorded in Liber 5709 at Folio 735 among said land records, thence with part of the lines of the above mentioned conveyances

N.05°15'00"W. 20.00 feet, thence leaving said line crossing so as to include a part of the Harden Property  
S.84°45'00"W. 10.00 feet, thence  
S.05°15'00"E. 20.00 feet, thence  
N.84°45'00"E. 10.00 feet to the place of beginning

Containing: 200 Square feet of land or 0.00459 of an Acre

Date: May 17, 1994

Subject to Rights of Way and Easements of record.



*John E. Poole, Jr.*  
John E. Poole, Jr., Surveyor  
P.L.S. #588

# Attachment "D"

March 30, 2011

Ms. Francoise Carrier  
Chair, Planning Board  
Maryland-National Capital Parks and Planning  
8787 Georgia Avenue  
Silver Spring, MD 20910

Re: 20915 Big Woods Road, Dickerson, MD  
Request for Subdivision Regulation Waiver

Addendum

Dear Madam Chair,

We have become aware of the circumstances surrounding how the adjacent property owner's well came to be drilled on the property line. The adjacent property owners hired a surveyor (Wilbur Ford, Jr.) who designed their well and septic plan with the proposed well site at least 10 feet from the property line. This plan was reviewed by Montgomery county and approved. Mr. Ford then staked out the well location and erroneously placed it on the property line. The well drilling company drilled the well and the county inspector approved the well without noting that the well was in the wrong location. It should be noted that Mr. Ford had his surveyor license revoked in 2008 due to gross negligence.

Some time later the adjacent property owners hired a different surveyor who discovered that the well was on the property line. He notified the adjacent property owners who subsequently notified the previous land owners of our parcel. The adjacent property owners then secured the services of a lawyer who drafted a legal document that transferred 200 square feet of property around the well from the previous parcel owners to the adjacent property owners to accommodate it. The previous parcel owners did not know there was an option to grant an easement to the adjacent property owners to allow them access to their well and therefore signed the document transferring ownership of the 200 square feet to their neighbors.

So it appears that a series of errors occurred that resulted in the 200 square feet of property being removed from the parcel, changing its shape, and therefore making it now subject to the Subdivision Regulations. If we were the owners of this parcel at the time, we would have granted an easement to the well and therefore would not have made the parcel subject to the Subdivision Regulations.

In addition, had a previous owner not demolished a single family dwelling in 2006, the parcel would have been eligible for platting under the minor subdivision process (without waiver) by this section of the Zoning Ordinance that was added in 2010:

Sec. 59-B-8.1. One-Family Dwelling Units.

A parcel created by deed that contains a one-family detached dwelling that was constructed under the standards of the zone applicable when the unit was constructed is exempt from the

area and dimensional requirements of its current zone but must meet the requirements of the zone applicable to them when the unit was constructed.

*Which is enacted by this 2010 change to the Subdivision Regulations*

Sec. 50-35A(a)

(9) Parcels that satisfy Section 59-B-8.1 of Chapter 59 may be platted under the minor subdivision procedure if:

(A) Any required street dedications along the frontage of the proposed lots is shown on the record plat.

(B) There is adequate sewerage and water service to the property, which may be either public service or approved private septic system/private well.

Sincerely,

  
Andrew Grove & Kristina Grove



June 19, 2012

Ms. Francoise Carrier  
Chair, Planning Board  
Maryland-National Capital Parks and Planning  
8787 Georgia Avenue  
Silver Spring, MD 20910

Re: 20915 Big Woods Road, Dickerson, MD  
Request for Subdivision Regulation Waiver

Addendum #2

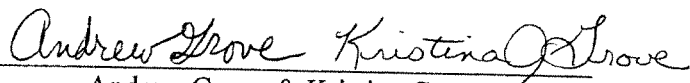
Dear Madam Chair,

On February 27, 2006 a Parks and Planning employee sent a letter to the owner of 20915 Big Woods Road (See Parks and Planning letter). The letter stated that the Development Review Division staff had found that "Parcel 795 [20915 Big Woods Road] does qualify for an exception to the Subdivision Regulations under section 50-9(f)." The letter was also sent to Potomac Valley Surveys, the surveyor whom the owner had hired to accomplish the work required for obtaining building permits. Due to the owner's unexpected death, the permitting work was never completed.

In June of 2010, we contracted with Potomac Valley Surveys to perform the work required both to purchase the Big Woods Road parcel and to obtain building permits (See Potomac Valley Surveys Contract). Potomac Valley Surveys was under the impression that the parcel would not require Subdivision. This is evidenced by the work that was proposed in the signed contract with Potomac Valley Surveys in June, 2010. No Subdivision-related work was outlined. Later, after interacting with Parks and Planning Development Review Division staff, we were informed that the parcel would in fact be subject to the Subdivision regulations. This was due to the 200 square feet of the property which had been previously deeded off to the neighbor as a result of their well drilled erroneously on the property line. The Development Review Division staff had overlooked this small change in size and shape in their 2006 assessment.

Therefore, again, we respectfully request a waiver of the Subdivision Regulations due to the unusual circumstance in which an incorrect government document has led to a delay in obtaining building permits to construct a home for our family.

Sincerely,

  
Andrew Grove & Kristina Grove