



Takoma Park Overlook Preliminary Plan 120110060



Neil Braunstein, AICP, Area One, neil.braunstein@montgomeryplanning.org, (301) 495-4532

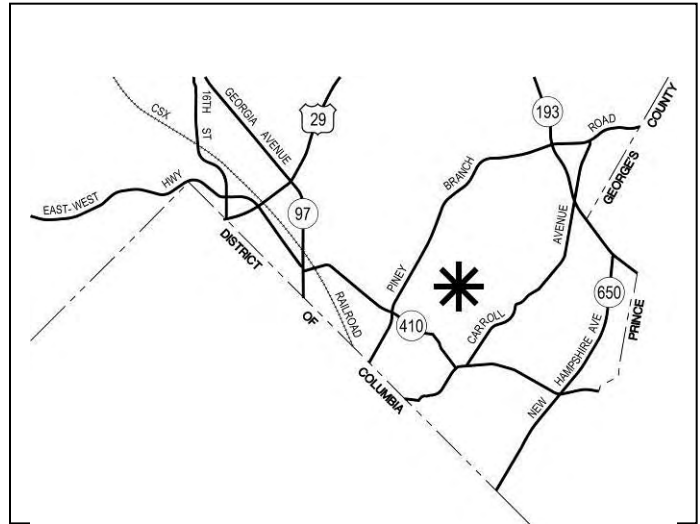


Robert Kronenberg, Acting Chief, Area One, robert.kronenberg@montgomeryplanning.org, (301) 495-2187

Staff Report Date: 1/25/13

Description

- Location: 119 Geneva Avenue, Takoma Park
- Zone: R-60
- Master Plan: Takoma Park
- Property size: 0.85 acres
- Application to subdivide 0.85 acres of land into four lots for four one-family detached dwellings
- Applicant: 103 Geneva, LLC
- Filing date: December 17, 2010



Summary

- **Staff recommendation: Approval of the preliminary plan and final forest conservation plan with conditions**
- The application is a resubdivision, and a finding that the proposed lots are of the same character as existing lots in the neighborhood is necessary for approval.

RECOMMENDATION: Approval subject to the following conditions:

- 1) This Preliminary Plan is limited to four lots for one one-family detached dwelling unit on each lot.
- 2) The certified Preliminary Plan must contain the following note:
Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of building permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board’s approval.
- 3) The applicant must comply with the conditions of approval for the final forest conservation plan approved as part of this Preliminary Plan, subject to the following:
 - a. The applicant must submit a revised final forest conservation plan and obtain approval from staff prior to any land disturbing activity occurring on site. The revised final forest conservation plan must include the five-year tree management plan for Tree J.
 - b. The applicant must submit the fee-in-lieu or certificate of compliance for the off-site forest mitigation and obtain approval by staff prior to land disturbing activities occurring onsite.
 - c. The applicant must enter into a contract with an appropriate tree care professional to implement the required five-year tree management plan for Tree J.
- 4) The applicant must grant to the City of Takoma Park and the record plat must show a ten-foot-wide public improvement easement along the subject property frontage of Geneva Avenue, between the front property line and the required ten-foot-wide public utility easement.
- 5) Prior to recordation of plat(s), the applicant must satisfy the provisions for access and improvements as required by the City of Takoma Park.
- 6) The Planning Board has accepted the recommendations of the City of Takoma Park – Department of Public Works in its stormwater management concept letter dated November 3, 2011, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the applicant must comply with each of the recommendations as set forth in the letter, which may be amended by the City of Takoma Park – Department of Public Works provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 7) The Subject Property is within the Blair School cluster area. The applicant must make a School Facilities Payment to Montgomery County Department of Permitting Services (“MCDPS”) at the middle school level at the single-family detached unit rate for all units for which a building permit is issued and a School Facilities Payment is applicable. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.
- 8) The record plat must show necessary easements.
- 9) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.

SITE DESCRIPTION

The property, shown below and in Attachment A, consists of two platted lots and one part of a platted lot, which together comprise 0.85 acres (37,026 square feet) in area. The property is located on the southwest side of Geneva Avenue, 500 feet southwest of Hilltop Road, in the City of Takoma Park. It is located in the R-60 zone. The property is undeveloped. Surrounding properties to the north are developed with one-family detached dwellings in the R-60 zone. A child day care center is also located to the north of the subject property, across Geneva Avenue. Surrounding properties to the south are developed with multi-family dwellings in the R-10 zone and one-family detached dwellings in the R-60 zone. Surrounding properties to the east are developed with multi-family dwellings in the R-10 zone. Surrounding properties to the west are developed with one-family detached dwellings in the R-60 zone and multi-family dwellings in the R-30 zone. An adjacent property to the northwest is developed with a church in the R-60 zone.

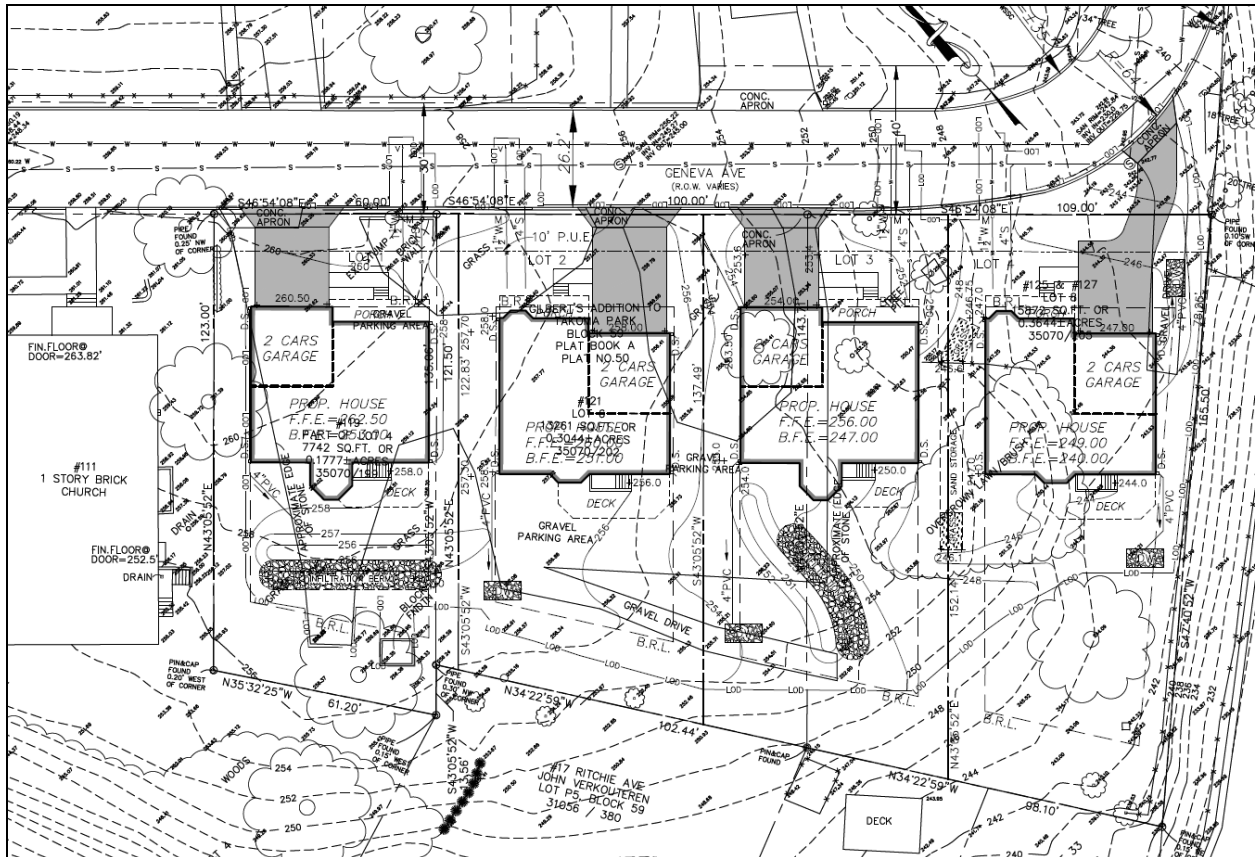
The property is located in the Sligo Creek watershed. There are no streams, floodplains, forests, or other sensitive environmental features on the site.



PROJECT DESCRIPTION

The applicant proposes to resubdivide the existing lots and part of a lot into four lots for four one-family detached dwellings. The lots are proposed to range in size from 8,475 square feet to 10,252 square feet.

Vehicular access to the lots will be provided by individual driveways from Geneva Avenue.



Proposed Preliminary Plan

(See also Attachment B – proposed plan)

ANALYSIS AND FINDINGS – Chapter 50

Conformance to the Master Plan

The Takoma Park Master Plan recommends retention of existing zoning throughout the Master Plan area in the absence of a specific recommendation for change on a particular property. The Master Plan does not specifically address the subject property, but does call for retention of the existing R-60 zoning. In the Master Plan, the subject property and surrounding development are identified as suitable for one-family detached housing. The application substantially conforms to the Master Plan because the application provides one-family detached housing consistent with the current density of the neighborhood and the current zoning designation. The lots are similar to surrounding existing lots with

respect to dimensions, orientation, and shape, and future residences will have a similar relationship to the public street and surrounding residences as do existing residences in the area. The application will not alter the existing pattern of development or land use, which is in substantial conformance with the Master Plan recommendation to maintain the existing residential land use.

Public Facilities

Roads and Transportation Facilities

Access to the proposed lots will be via individual driveways from Geneva Avenue. The City of Takoma Park has indicated that sidewalk is to be provided on the opposite side of Geneva Avenue and not directly along the property frontage. The roadway of Geneva Avenue will provide safe pedestrian access to the lots until a future project provides sidewalk on the opposite side of the street.

The proposed subdivision does not generate 30 or more vehicle trips during the morning or evening peak hours. Therefore, the application is not subject to Local Area Transportation Review. In addition, the proposed subdivision generates four new vehicle trips in the morning or evening peak hours, and the Policy Area Mobility Review requires mitigation of 10% of the new vehicle trips. Therefore, the Policy Area Mobility Review generates a requirement to mitigate less than one trip, and the application satisfies this requirement without additional mitigation.

Proposed vehicle and pedestrian access for the subdivision will be safe and adequate.

Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The property is proposed to be served by public water and public sewer. The application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, and health services are operating according to the Subdivision Staging Policy resolution currently in effect and will be adequate to serve the property. The subject property is within the Blair High School cluster area, which is currently operating between 105-120% of capacity at the middle school level, and a school facilities payment is required. Electrical, telecommunications, and gas services are also available to serve the property.

Environment

Environmentally Sensitive Areas

A Natural Resources Inventory/Forest Stand Delineation was approved for the site on March 31, 2010. The site contains a number of native trees, some of which are significant or specimen in size. The site is located within the Sligo Creek watershed. A minor area of manmade steep slopes exists on the site. The steep area was formed decades ago as part of the grading for houses that had previously occupied the site. Grading of the subject property to accommodate the proposed dwellings will eliminate this steep slope. The subject property contains no other environmentally sensitive features such as streams, wetlands, 100 year floodplains, or any associated buffers.

Forest Conservation

The property does not contain any forest, and no forest exists on adjacent properties. Since no existing forest is affected by the subdivision, there are no reforestation requirements triggered by the application. However, the forest conservation worksheet establishes an afforestation requirement of 0.14 acres. Because there is no on-site priority planting area (such as stream buffers and floodplains), no onsite plantings or associated conservation easement is proposed or recommended. Therefore, the afforestation credits will be satisfied offsite either by purchase of the equivalent credits from a private forest conservation bank or a payment of fee-in-lieu.

Provided that the recommended conditions of approval are adopted, the application is in compliance with the Forest Conservation Law.

Forest Conservation Variance

Section 22A-12(b)(3) of the Montgomery County Forest Conservation Law provides criteria that identify certain individual trees, called "protected 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 requires a variance. An application for a variance must include 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 an historic site or designated with an 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.

The applicant submitted a variance request for impacts to, but retention of, seven protected trees (Attachment C). In total, seven trees that are considered high priority for retention under Section 22A-12(b)(3) of the Forest Conservation Law are proposed to be affected. In all cases where critical root zone impacts are proposed to trees that will not be removed, appropriate tree preservation and/or stress reduction measures will be performed under the supervision of a licensed tree care professional. Refer to the tree table in the applicants' forest conservation variance request for additional information.



Protected trees impacted by the application. Critical root zones are outlined; impacted areas are shaded.

Unwarranted Hardship – Per Section 22A-21 of the Forest Conservation Law, a variance may only be considered if the Planning Board finds that leaving the requested trees in an undisturbed state would result in an unwarranted hardship. The site is surrounded by protected trees which occur both on- and offsite. Public utility dedication, building setbacks, and stormwater management requirements further constrain the buildable areas of the proposed lots, which also overlap with protected trees and/or their critical root zones. Therefore, development of the property under the existing zoning would require impacts to protected trees. Based on the number, location, and size of the trees found on the property, there would be an unwarranted hardship if a variance were not approved.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. Staff has made the following determinations in the review of the variance request and the proposed forest conservation plan:

Variance Findings - Staff has made the following determination based on the required findings that granting of the requested variance:

1. *Will not confer on the applicant a special privilege that would be denied to other applicants.*

Minor impacts to the trees growing on the opposite side of Geneva Avenue are associated with utility tie-ins within the right-of-way. The tree impacts on the subject property are within the buildable area established by the setbacks and other site constraints. Furthermore, the site previously contained residential structures and currently contains a gravel parking area. Rebuilding of the structures, which appear in 2002 aerial photographs, or removal of the existing gravel would result in a similar footprint of impacts to those currently proposed. Therefore, the variance request would be granted to any applicant in a similar situation.

2. *Is not based on conditions or circumstances which are the result of the actions by the applicant.*

The requested variance is based upon existing site conditions that would necessitate impact to the protected trees to develop the site consistent with zoning and applicable regulatory controls.

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

The requested variance is a result of the existing and proposed site design and layout on the subject property and not a result of land or building use on a neighboring property.

4. *Will not violate State water quality standards or cause measurable degradation in water quality.*

Granting this variance request will not violate State water quality standards or cause measurable degradation in water quality. The project does not propose the removal of any protected trees. In addition, the City of Takoma Park approved the Stormwater Management Concept for the project on November 3, 2011. The City review and ultimate approval of the storm water management plans will ensure that appropriate standards are met.

County Arborist's Recommendations – 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 applicants' request was forwarded to the County Arborist on November 1, 2012. The County Arborist issued a response to the variance request on November 15, 2012, and recommended that the variance be approved with the condition that mitigation be provided for the resources that are disturbed. (Attachment D). Additionally, the County Arborist provided general recommendations on calculating mitigation plantings and providing tree preservation measures.

Mitigation for Trees Subject to the Variance Provision – Generally, staff recommends that replacement plantings for variance purposes occur at a ratio of approximately 1" diameter at breast height (DBH) for every 4" DBH removed, using onsite native tree plantings that are a minimum of 3" caliper. However, staff generally does not recommend mitigation for trees impacted but retained. Since the protected trees can be appropriately retained, no mitigation planting is recommended.

However, in this case, one of the retained trees will require additional ongoing professional care. Tree J is a 36" DBH oak tree located on the adjacent church property, near the west center of the subject property line. The tree will receive considerable impacts from proposed construction on proposed Lot 1. The staff recommendation includes a condition that the applicant must enter into a contract with an appropriate tree care professional to implement the required a tree care program, as described in Attachment H.

Stormwater Management

The City of Takoma Park Department of Public Works approved the stormwater management concept on November 3, 2011. The stormwater management concept consists of environmental site design through the use of drywells and infiltration berms.

Compliance with the Subdivision Regulations and Zoning Ordinance

The application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections, including the requirements for resubdivision as discussed below. The lots meet all the dimensional requirements for area, frontage, width, and setbacks in the R-60 zone as specified in the Zoning Ordinance. A summary of this review is included in attached Table 1. The size, width, shape, and orientation of the lots are appropriate for the location of the subdivision.

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

A. Statutory Review Criteria

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

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

B. Neighborhood Delineation

In administering Section 50-29(b)(2) of the Subdivision Regulations, the Planning Board must determine the appropriate "neighborhood" for evaluating the application. In this instance, the Neighborhood selected by the applicant, and agreed to by staff, consists of 17 lots (Attachment E). The neighborhood includes platted lots in the R-60 zone in the vicinity of the property. All the lots share multiple access points on Geneva Avenue and Ritchie Avenue. The designated neighborhood provides an adequate sample of the lot and development pattern of the area. A tabular summary of the area based on the resubdivision criteria is included in Attachment F.

C. Analysis

Comparison of the Character of Proposed Lots to Existing

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

Frontage:

In the neighborhood of 17 lots, lot frontages range from 0 feet (no frontage) to 137 feet. The smallest frontage for lots that have a frontage greater than 0 feet is 25 feet. Six of the lots have frontages of less than 60 feet, eight lots have frontages between 60 and 100 feet, and three lots have frontages of over 100 feet. The proposed lots have frontages between 66 and 71 feet. **The proposed lots will be of the same character as existing lots in the neighborhood with respect to lot frontage.**

Alignment:

Thirteen of the 17 existing lots in the neighborhood are perpendicular in alignment, two are corner lots, one has an angled alignment, and one has no street frontage. All four of the proposed lots are perpendicular in alignment. **The proposed lots are of the same character as existing lots in the neighborhood with respect to the alignment criterion.**

Size:

The lots in the delineated neighborhood range from 5,444 square feet to 28,698 square feet. Three of the lots are smaller than 6,000 square feet, nine are between 6,000 and 20,000 square feet, and five are larger than 20,000 square feet. The proposed lots will be 8,475, 8,591, 9,558, and 10,252 square feet in size, respectively. **The proposed lot sizes are in character with the size of existing lots in the neighborhood.**

Shape:

Eleven of the 17 existing lots in the neighborhood are rectangular, four are irregularly shaped, one has a pipestem shape, and one is triangular. The four proposed lots will be rectangular in shape. **The shapes of the proposed lots will be in character with shapes of the existing lots in the neighborhood.**

Width:

The lots in the delineated neighborhood range from 45 feet to 140 feet in width. Five of the lots have widths between 45 and 60 feet, eight of the lots have widths between 60 and 100 feet, and the remaining four lots have widths of more than 100 feet. The proposed lots will have widths between 60 and 70 feet. **The proposed lots will be in character with existing lots in the neighborhood with respect to width.**

Area:

The lots in the delineated neighborhood range from 2,066 square feet to 16,383 square feet in buildable area. Seven of the lots have buildable areas smaller than 5,000 square feet, four have

buildable areas between 5,000 and 10,000 square feet, and six have buildable areas larger than 10,000 square feet. The proposed lots will have buildable areas between 4,052 and 5,268 square feet in size, respectively. **The proposed lots will be of the same character as other lots in the neighborhood with respect to buildable area.**

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

Citizen Correspondence and Issues

The applicant has complied with all submittal and noticing requirements, and staff has not received correspondence from any community groups or citizens as of the date of this report.

CONCLUSION

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

Section 50-29(b)(2) of the Subdivision Regulations specifies seven criteria with which resubdivided lots must comply: street frontage, alignment, size, shape, width, area and suitability for residential use within the existing block, neighborhood or subdivision. As set forth above, the proposed lots are of the same character as the existing lots in the defined neighborhood with respect to each of the resubdivision criteria, and therefore, comply with Section 50-29(b)(2) of the Subdivision Regulations.

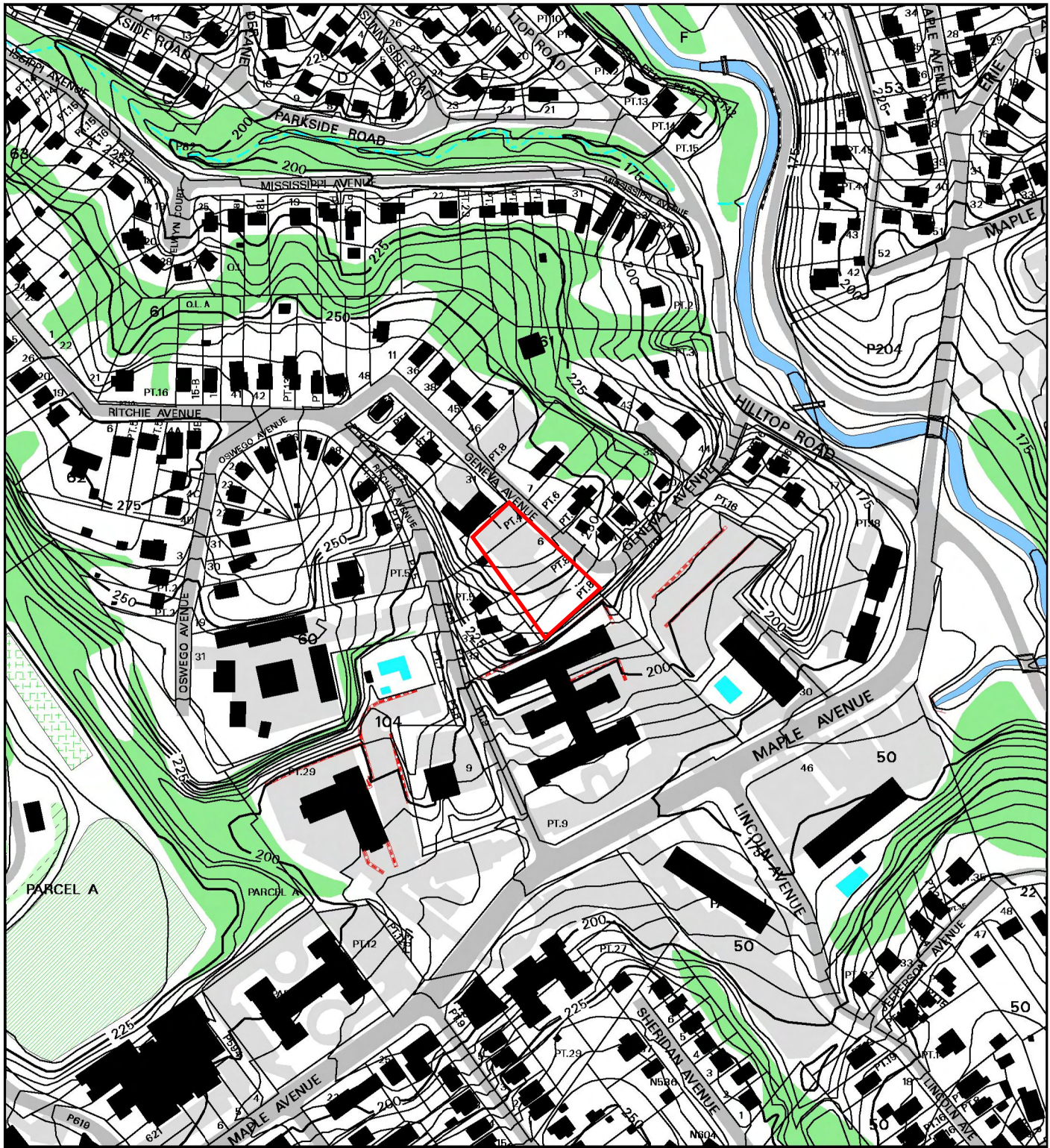
Attachments

- Attachment A – Vicinity Development Map
- Attachment B – Proposed Preliminary Plan and Forest Conservation Plan
- Attachment C – Forest Conservation Variance Request
- Attachment D – County Arborist’s Response to Forest Conservation Variance
- Attachment E – Resubdivision Neighborhood Map
- Attachment F – Resubdivision Data Table
- Attachment G – Agency Correspondence Referenced in Conditions
- Attachment H – Five-Year Tree Management Plan for Tree J

Table 1: Preliminary Plan Data Table

PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval by the Preliminary Plan
Minimum Lot Area	6,000 sq. ft.	8,475 sq. ft. minimum
Lot Width	60 ft.	66 ft. minimum
Lot Frontage	25 ft.	66 ft. minimum
Setbacks		
Front	ft. Min.	Must meet minimum ¹
Side	ft. Min./ ft. total	Must meet minimum ¹
Rear	ft. Min.	Must meet minimum ¹
Maximum Residential Dwelling Units per Zoning	6	4
MPDUs	N/a	N/a
TDRs	N/a	N/a
Site Plan Required	No	No

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



Map compiled on January 09, 2013 at 3:22 PM | Site located on base sheet no - 209NE01

NOTICE

The planimetric, property, and topographic information shown on this map is based on copyrighted Map Products from the Montgomery County Department of Park and Planning of the Maryland-National Capital Park and Planning Commission, and may not be copied or reproduced without written permission from M-NCPPC.

Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14,400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes, is not recommended. - Copyright 1998

Key Map



N



Research & Technology Center



1 inch = 300 feet
1 : 3600



Harford View L.L.C.

November 22, 2012

Mark Pfefferle, Acting Director, Environmental Planning
The Maryland-National Capital Park & Planning Commission
8787 Georgia Ave
Silver Spring, MD 20910

Re: **Forest Conservation Variance Request**
Preliminary Plan #: 120110060
Plan Name: Takoma Park Overlook

Dear Mr. Pfefferle:

This letter is to request a Variance to impact critical root zone of seven specimen trees.

The unwarranted hardship related to this project is the presence of so many specimen trees on and adjacent to the property. Because the site has been developed historically and is within an existing community, landscaping trees on the property have been allowed to grow to specimen size. It is unusual for a small property such as the subject property to be impacted/overlapped by the critical root zone of so many specimen trees. The hardship associated with this condition is that reasonable and expected development of the site, based on site zoning and adjacent land uses, will now be impacted by the conflicts with the specimen trees. The applicant has proposed to reduce site development density and proposes exceptional efforts to retain all specimen trees on the site. Further reduction in scope of the project will create an unwarranted hardship as it would not allow for reasonable and expected development of the site.

The table below summarizes CRZ Impact of specimen trees by the proposed development.

Specimen Trees CRZ Impact Table

Tree:	Existing CRZ: (sq.ft.)	Impacted CRZ: (sq.ft.)	Impacted CRZ: (%)
A	9,676	2,540	26
F	12,468	4,172	33
J	9,160	3,570	39
K	9,160	1,707	19
L	8,171	152	2
M	10,207	0	0
N	11,310	1,106	10
O	8,171	394	5

Strict enforcement of the regulations would limit the applicant's ability to utilize the property in a reasonable and expected manner. Other landowners can expect to obtain reasonable development potential from their land in the absence of some permanent site constraints. Denying the use of the land based on a non permanent resource condition, if the specimen trees are not a permanent feature within the landscape, will deprive the property owner reasonable use of his land. The issuance of a variance to allow for development is part of the accepted practice in the development process to allow for reasonable land use and therefore should be consider a right.

There will be no degradation in water quality as result of granting of the variance. Water quality for the proposed residential development will be addressed through the use of approved ESD stormwater management techniques.

The proposed development includes a four lot subdivision and will impact critical root zone of specimen trees that are present on and within the vicinity of the subject property will remain. Further, given that the specimen trees present on and adjacent to the site area not part of the forest community, their function and value is primarily limited to one of aesthetic benefit. These trees are no in a location that is conducive to provided substantial habitat value that can sometimes be attributed to larger, specimen sized trees.

The applicant has minimized the development strategy for the property, reducing the proposed lot yield from five to four in an effort to reduce the impacts to the specimen trees on and adjacent to the site. In addition, the applicant has contracted an arborist to develop a protection plan to provide tree health assessments and mitigation as needed for each tree impacted by the proposed development.

In considering the lot layout for the property, effort was made to develop a lot layout that would have allowed for the retention of all specimen trees on the property. The proposed development represents an in-fill development that is in keeping with Smart Growth planning. The proposed lots will utilize a previously developed parcel of land, will not require extension of roads or utilities and are within an existing community. The loss of development potential to further reduce an impact of specimen trees is not in keeping with the greater goals of planning and re-development and therefore we feel that the proposal to allow critical root zone impacts to allow for development of the site is reasonable.

If you have any questions or require any additional information, please contact me via e-mail at harfordview@verizon.net or phone at (240) 449-0760.

Sincerely,

Harford View L.L.C.



Vasyl Mytsak, P.E., LEED AP



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Robert G. Hoyt
Director

November 15, 2012

Françoise Carrier, Chair
Montgomery County Planning Board
Maryland National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

RE: Takoma Park Overlook, DAIC 120110060, NRI/FSD application accepted on 2/12/2010

Dear Ms. Carrier:

The County Attorney's Office has advised that Montgomery County Code Section 22A-12(b)(3) applies to any application required under Chapter 22A submitted after October 1, 2009. Accordingly, given that the application for the above referenced request was submitted after that date and must comply with Chapter 22A, and the Montgomery County Planning Department ("Planning Department") has completed all review required under applicable law, I am providing the following recommendation pertaining to this request for a variance.

Section 22A-21(d) of the Forest Conservation Law states 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.

Applying the above conditions to the plan submitted by the applicant, I make the following findings as the result of my review:

1. The granting of a variance in this case would not confer a special privilege on this applicant that would be denied other applicants as long as the same criteria are applied in each case. Therefore, the variance can be granted under this criterion.
2. Based on a discussion on March 19, 2010 between representatives of the County, the Planning Department, and the Maryland Department of Natural Resources Forest Service, the disturbance of trees, or other vegetation, as a result of development activity is not, in and of itself, is not interpreted as a condition or circumstance that is the result of the actions by the applicant. Therefore, the variance can be granted under this criterion, as long as appropriate mitigation is provided for the resources disturbed.

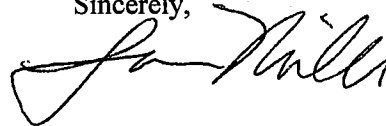
3. The disturbance of trees, or other vegetation, by the applicant does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. Therefore, the variance can be granted under this criterion.
4. The disturbance of trees, or other vegetation, by the applicant will not result in a violation of State water quality standards or cause measurable degradation in water quality. Therefore, the variance can be granted under this criterion.

Therefore, I recommend a finding by the Planning Board that this applicant qualifies for a variance conditioned upon the applicant mitigating for the loss of resources due to removal or disturbance to trees, and other vegetation, subject to the law based on the limits of disturbance (LOD) recommended during the review by the Planning Department. In the case of removal, the entire area of the critical root zone (CRZ) should be included in mitigation calculations regardless of the location of the CRZ (i.e., even that portion of the CRZ located on an adjacent property). When trees are disturbed, any area within the CRZ where the roots are severed, compacted, etc., such that the roots are not functioning as they were before the disturbance must be mitigated. Exceptions should not be allowed for trees in poor or hazardous condition because the loss of CRZ eliminates the future potential of the area to support a tree or provide stormwater management. Tree protection techniques implemented according to industry standards, such as trimming branches or installing temporary mulch mats to limit soil compaction during construction without permanently reducing the critical root zone, are acceptable mitigation to limit disturbance. Techniques such as root pruning should be used to improve survival rates of impacted trees but they should not be considered mitigation for the permanent loss of critical root zone. I recommend requiring mitigation based on the number of square feet of the critical root zone lost or disturbed. The mitigation can be met using any currently acceptable method under Chapter 22A of the Montgomery County Code.

In the event that revisions to the LOD are approved by the Planning Department, the mitigation requirements outlined above should apply to the removal or disturbance to the CRZ of all trees subject to the law as a result of the revised LOD.

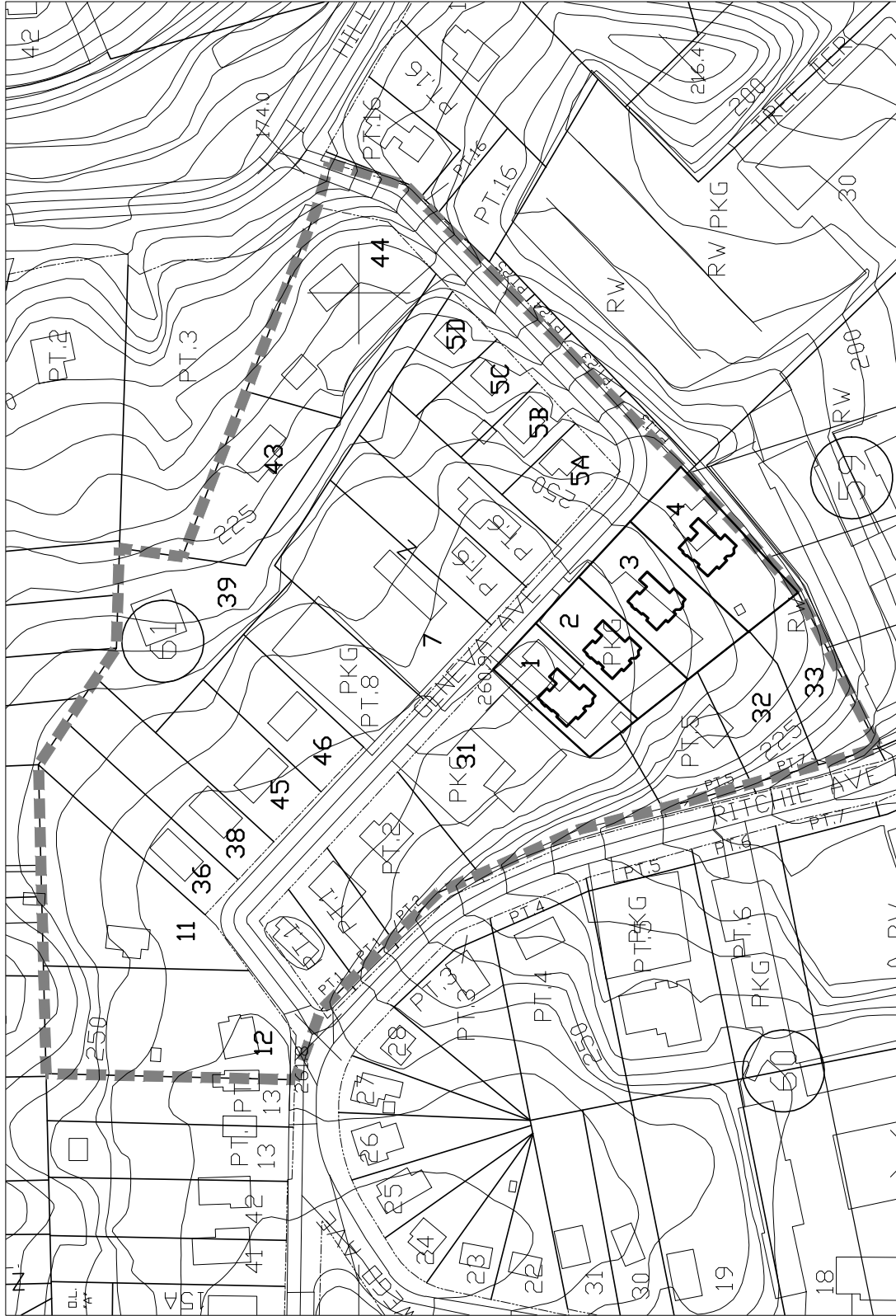
If you have any questions, please do not hesitate to contact me directly.

Sincerely,

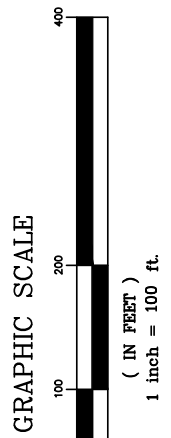


Laura Miller
County Arborist

cc: Robert Hoyt, Director
Walter Wilson, Associate County Attorney
Mark Pfefferle, Chief



TAKOMA PARK OVERLOOK
PRELIMINARY PLAN No: 120110060
NEIGHBORHOOD MAP



PROPOSED AND ADJOINING LOTS DATA TABLE							
Lot No:	Lot Area (sq.ft.):	Lot Shape:	Lot Width (ft.):	Lot Frontage (ft.):	Lot Alignment	Lot Build. Area (sq.ft.):	
5D	5,444	Rectangular	58	64	Perpendicular	2,083	
5B	5,541	Rectangular	53	54	Perpendicular	2,066	
5C	5,705	Rectangular	58	59	Perpendicular	2,535	
5A	6,637	Rectangular	65	64	Corner	2,580	
32	8,240	Irregular	64	68	Perpendicular	4,754	
1	8,475	Rectangular	66	66	Perpendicular	4,052	
2	8,591	Rectangular	66	66	Perpendicular	4,074	
33	9,023	Irregular	60	60	Perpendicular	4,072	
3	9,558	Rectangular	66	66	Perpendicular	4,778	
46	9,636	Rectangular	60	60	Perpendicular	4,810	
4	10,252	Rectangular	69	71	Perpendicular	5,268	
45	11,200	Rectangular	68	67	Perpendicular	5,719	
36	11,434	Rectangular	45	47	Perpendicular	5,377	
38	11,801	Rectangular	51	51	Perpendicular	6,179	
44	17,605	Rectangular	107	114	Perpendicular	10,778	
43	17,625	Rectangular	89	0	N/a	6,193	
7	20,830	Rectangular	98	98	Perpendicular	12,246	
11	22,200	Triangular	96	74	Angled	12,441	
12	24,442	Irregular	108	122	Corner	16,105	
31	26,318	Irregular	140	137	Perpendicular	16,383	
39	28,698	Pipestem	126	25	Perpendicular	10,735	

Proposed Lots:

City of Takoma Park, Maryland

Attachment G

DEPARTMENT OF PUBLIC WORKS
TELEPHONE: 301-891-7633
FAX: 301-585-2405



31 OSWEGO AVENUE
SILVER SPRING, MD 20910

November 3, 2011

Harford View LLC
11608 Woodland Drive
Lutherville-Timonium, MD 21093

Re: Stormwater Concept (SWC 10-08 Takoma Park Overlook)

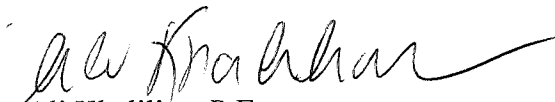
Dear Mr. Mytsak:

The concept, in general, is acceptable. However, this property is considered to be new development therefore 100 percent of the run off generated on the new impervious area should be treated.

Please submit Best Management Practices (BMP) to treat the remaining 19 percent of run off prior to submission of application for permit. The permit will only be issued once BMPs for treating 100 percent of run off from the project is provided.

If you have any questions, please contact the undersigned at 301-891-7620 or alik@takomagov.org.

Sincerely,


Ali Khalilian, P.E.
City Engineer

cc: File
Mr. Ozberk/Planning



5 Year Management Plan for 35" Black Oak (Tree J)

Year 1-

- ❖ Root pruning to reduce impact of construction.
- ❖ Cambistat® or equivalent systemic growth regulator before construction begins. Reduce the rate of Cambistat® by 25% to accommodate the reduction in root system.
- ❖ Deep root soil injection/root stimulant, as approved by arborist after root pruning.
- ❖ Irrigation to root system of tree during hot and dry periods, equivalent to 1"/week.
- ❖ Crown cleaning to reduce deadwood approximately 6 months after construction. Prune deadwood 2" in diameter and larger.
- ❖ Monitor for compaction from construction and airspade or vertical mulch if necessary.

Year 2-

- ❖ Monitor and irrigate during hot and dry periods, equivalent to 1"/week.
- ❖ Monitor for compaction from construction and airspade or vertical mulch if necessary.
- ❖ Monitor for insect/disease problems associated with construction on a quarterly basis and treatment if feasible.

Year 3-

- ❖ Monitor and irrigate during hot and dry periods, equivalent to 1"/week.
- ❖ Deep root soil injection/root stimulant, as approved by arborist.
- ❖ Monitor for insect/disease problems associated with construction on a quarterly basis and treatment if feasible.

Year 4-

- ❖ Monitor and irrigate during hot and dry periods, equivalent to 1"/week.
- ❖ Monitor for insect/disease problems associated with construction on a quarterly basis and treatment if feasible.

Year 5-

- ❖ Monitor and irrigate during hot and dry periods, equivalent to 1"/week
- ❖ Deep root soil injection/root stimulant, as approved by arborist.
- ❖ Monitor for insect/disease problems associated with construction on a quarterly basis and treatment if feasible.
- ❖ Cambistat® or equivalent systemic growth regulator. Reduce the rate of Cambistat® by 25% if the tree appears stressed or unhealthy. Oak should not be treated if the tree appears to be diseased or in rapid decline.

Prepared by:

Will Craft
Certified Arborist #MA 4086A
Certified Tree Risk Assessor #1235
Excel Tree Experts Inc.