



No Gain Preliminary Plan of Subdivision, 1-20130170



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

PAK

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



Staff Report Date: 2/14/14

description

- Address: 7111 Brookville Road,
- Village of Chevy Chase, Section 5
- Zone: R-60
- Size: 0.97 acres
- Master Plan: Bethesda-Chevy Chase
- Request: Subdivide three parcels into two lots.
- Applicant: 7111 Brookville Company, LLC
- Filing Date: March 3, 2013



summary

- Staff recommendation: **Approval** with conditions
- The applicant seeks to subdivide three parcels into two one family lots. The property is located within the Village of Chevy Chase, Section 5.

RECOMMENDATION: Approval subject to the following conditions:

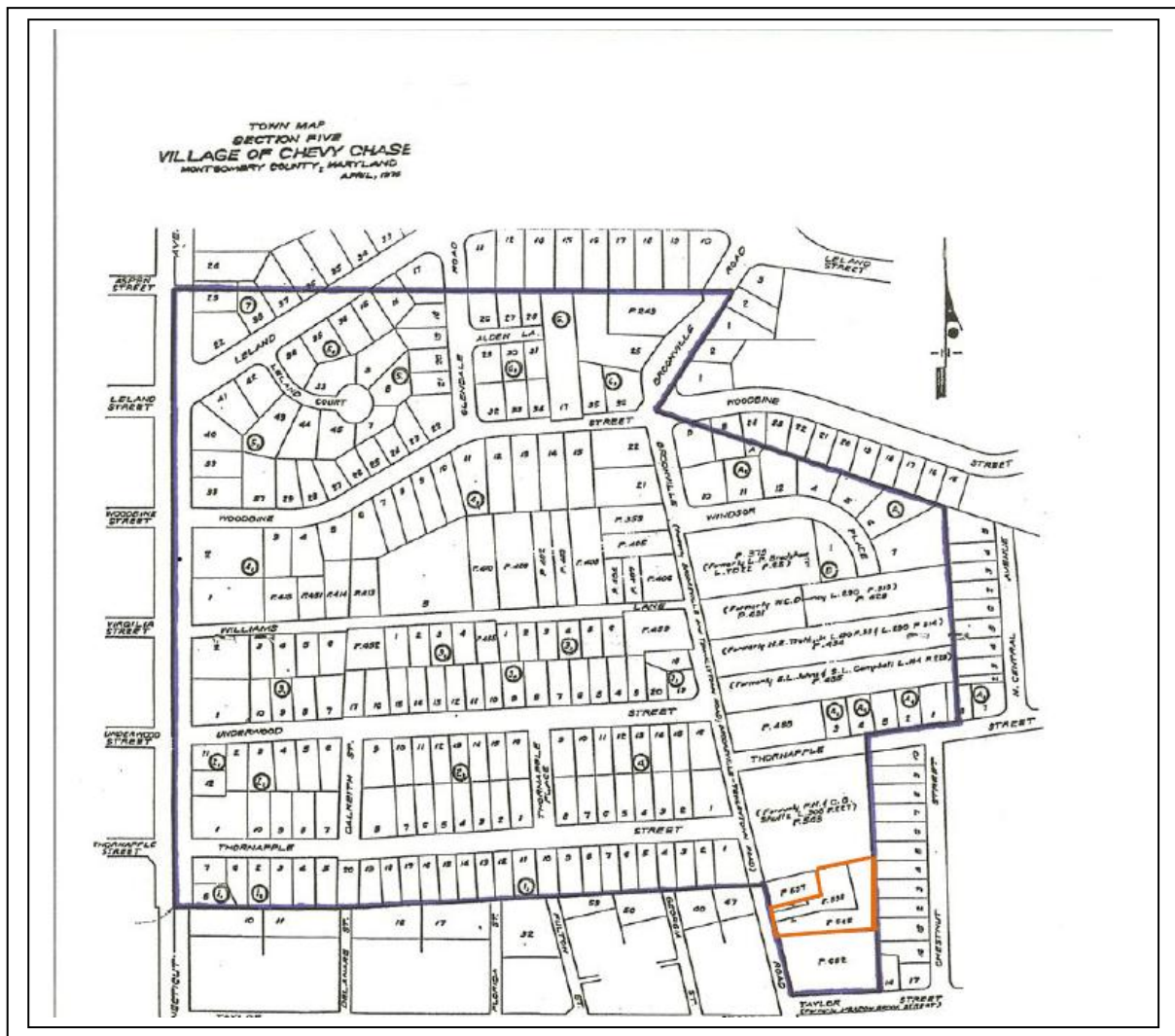
- 1) This Preliminary Plan is limited to two lots for two one-family dwelling units.
- 2) The certified Preliminary Plan must contain the following note:
Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site 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 Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated January 2, 2014, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 4) The Applicant must enter into a stormwater management easement with the Montgomery County Department of Permitting Services, prior to Record Plat application, and record it prior to Record Plat approval.
- 5) The Applicant must dedicate and show on the final record plat 35 feet of right-of-way, for Brookville Road as measured from the existing right-of-way centerline, to provide a 70 feet wide right-of-way along the site's frontage as recommended in the 1990 Approved and Adopted Bethesda-Chevy Chase Master Plan.
- 6) The record plat must reflect common ingress/egress and utility easements over the shared driveway.
- 7) The fee-in-lieu payment or certificate of compliance to use an off-site forest mitigation bank that satisfies the 0.13 acre afforestation requirements must be submitted by the Applicant then approved by M-NCPPC staff prior to any clearing or grading within the project area.
- 8) The Final Forest Conservation Plan must show and the applicant must install on-site six 3" - caliper native canopy trees to satisfy the tree variance mitigation requirements.
- 9) The subject property is within the Bethesda Chevy Chase High School cluster area. The Applicant must make a School Facilities Payment to MCDPS at the high school level at the single-family detached unit rate for any unit for which a building permit is issued. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.
- 10) 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 subject property is located on the east side of Brookville Road (MD 186) approximately 220 feet south of its intersection with Thornapple Street. The property comprises three unrecorded parcels identified as Parcels 596, 598 and 645, in the Village of Chevy Chase, Section 5. Parcel 596 consists of approximately 608 square feet; Parcels 598 and 645 contain approximately 14,072 and 22,324 square feet, respectively. Access to this site is from Brookville Road, (MD 186), a state maintained public right-of-way. The site is relatively flat with trees and vegetation along its northern, southern and eastern property lines. The property is vacant as the applicant razed the existing one-family detached dwelling unit on the property.

Immediately north of the site, the property is zoned R-60 and developed with a historic property known as "No Gain". The surrounding properties to the east and west are also zoned R-60 and developed with one-family detached dwelling units. South of the site and abutting to the subject site, the property is also zoned R-60 and has been developed as restaurant use, Le Ferme, under Special Exception BA 1775, approved on June 29, 1965. The subject properties are located in the Rock Creek watershed. The map below shows the boundaries for the Village of Chevy Chase Section 5, (in blue) the subject site is highlighted in orange.

Village of Chevy Chase, Section 5, Boundaries



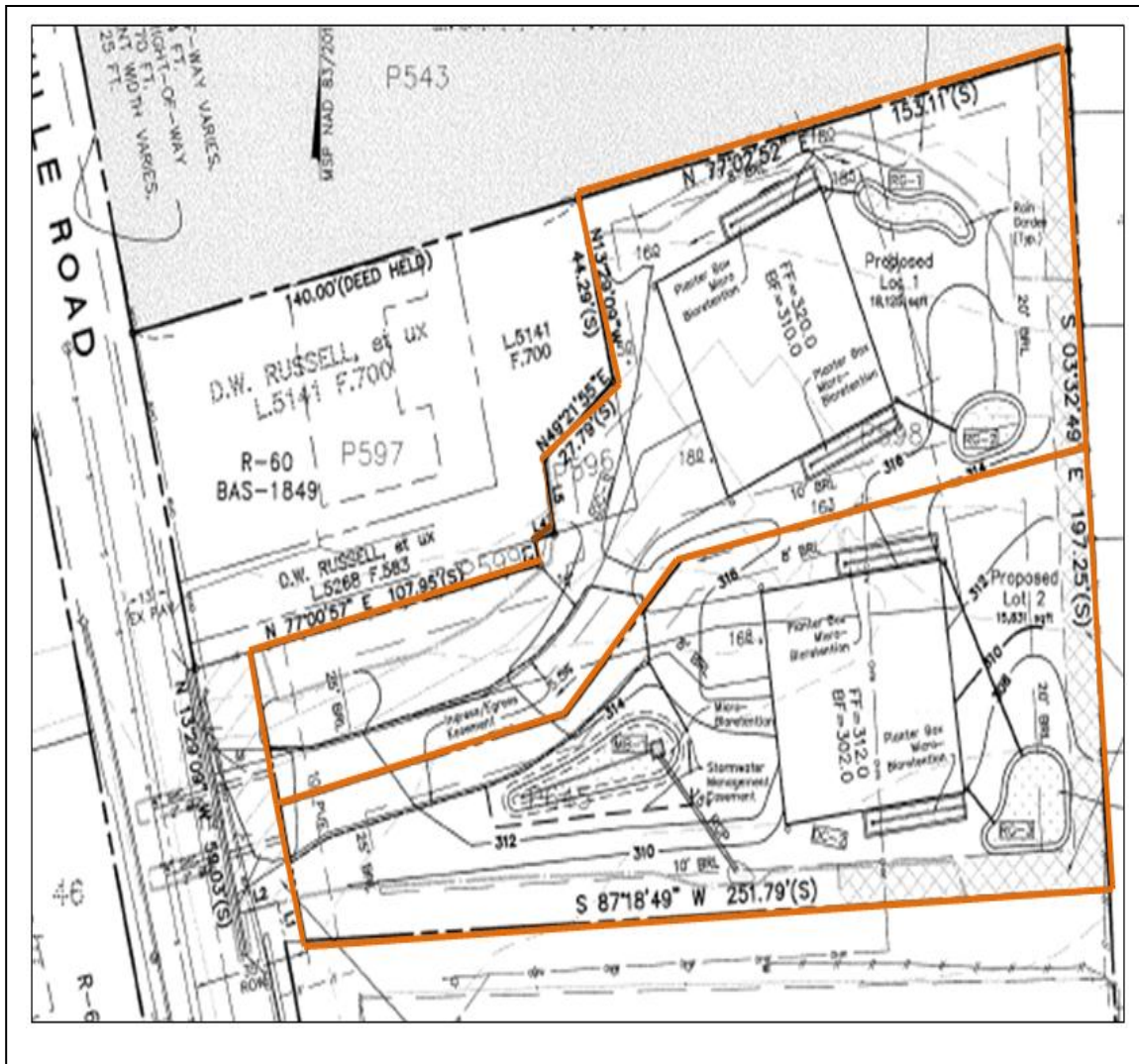
PROJECT DESCRIPTION

The applicant is proposing to subdivide the property consisting of three parcels into two one-family lots. Under this application, Parcels 596 and 598 will become Lot 1 and consist of approximately 18,125 square feet, while Parcel 645 will become Lot 2 with approximately 17,771 square feet. Both lots will be developed with a one-family detached dwelling unit. Each lot will be flag-shaped with frontage on Brookville Road of 36 feet for Lot 1 and 32 feet for Lot 2. A shared driveway approximately 20 feet wide will provide access to each lot. The applicant has submitted a tree variance with this application for the removal of three trees and impacts to eleven other trees associated with the property. Finally, the applicant is proposing to dedicate approximately 1,107 square feet of right of way along the frontage of Brookville Road. After dedication the net lot area of the entire site will be approximately 35,897 square feet. The proposed preliminary plan is shown on the following page.

Aerial view of site (outlined in blue)



Preliminary Plan



Conformance to the Master Plan

The property is located in the Bethesda-Chevy Chase Master Plan which does not specifically address the subject property. The 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. In the case of the subject property, the Master Plan calls for retention of the existing R-60 zoning.

The proposed subdivision complies with the recommendations adopted in the Master Plan in that it proposes one-family residential development consistent with surrounding development patterns and the current zoning designation. The proposed residential lots will be similar to surrounding lots with respect to dimensions and orientation. The proposed subdivision will not alter the existing pattern of development or land use and is in substantial conformance with the Master Plan recommendation to maintain the existing land use.

Public Facilities

Roads and Transportation

The subject site is located on Brookville Road (MD 186) which is owned, operated, and permitted by the Maryland State Highway Administration (SHA). As such the Montgomery County Department of Transportation (MCDOT) has no comment on the proposed application and deferred any recommendations on the proposed subdivision to SHA.

Currently, the site has vehicular access from MD 186 via one existing residential driveway. Future vehicular access to the proposed subdivision will be limited to the existing residential driveway and will be a shared between the two proposed residential lots. Bicyclist access to the site will be provided on MD 186, which is designed as a shared roadway in the 2005 Bikeways Functional Master Plan.

SHA has waived the requirement to provide a sidewalk along the site's frontage, per an email dated July 16, 2013. The waiver of the sidewalk requirement was based on existing physical constraints within the roadway that would make construction in this location unfeasible. A copy of the email is as well as the MCDOT memo is included as Attachment A. The immediate area is served by Montgomery County Ride-On and Metrobus transit service.

Master Plan Roadways and Pedestrian/Bikeway Facilities

The 1990 Approved and Adopted Bethesda-Chevy Chase Master Plan and the 2005 Bikeways Functional Master Plan designates MD 186, Brookville Road, (P-5), as a Primary Roadway with a minimum right-of-way width of 70 feet and an on-road shared bicycle facility designated as SR-4. Primary roads are described in the Master Plan as streets that serve as local collectors between higher volume roadways and residential uses.

Adequate Public Facilities Review

The applicant submitted a transportation statement, dated February 2, 2013 that summarized the proposed development's estimated impact of two AM peak-hour and three PM peak-hour vehicular trips. As a result of this *de minimis* impact, the proposed subdivision is exempt from the Local Area Transportation Policy Review (LATR) and Transportation Policy Area Review (TPAR). The proposed development satisfies Adequate Public Facility (APF) requirements and does not necessitate further traffic analysis. Staff concludes that the proposed development satisfies the LATR and TPAR requirements of the APF review and will provide safe, adequate, and efficient site access.

Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The property will be served by public water and sewer systems. The application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the subject property has appropriate access for fire and rescue vehicles. The property is located in the Bethesda-Chevy Chase cluster, which is operating over its program capacity at the high school level and a school facility payment is required. Other public facilities and services, such as police stations, firehouses and

health services are available to serve the existing dwelling units. Electrical, gas, and telecommunications services are also available to serve the property.

Historic Preservation

The property directly north and abutting the subject site, is known as “No Gain”. It is an individually designated site in the Master Plan for Historic Preservation (#35/069) and the environmental setting includes the entire property. See graphic below for the delineated environmental setting. Because of the environmental setting, any work undertaken on the *No Gain*, historic property will need to be reviewed by the Historic Preservation Commission (“HPC”). The applicant’s arborist submitted a report dated August 19, 2014 which noted that a 28” black cherry tree (Tree #7) located on the historic property is growing on both the historic property and the subject site. The HPC staff reviewed this report and granted permission for Tree #7 to be removed. HPC staff also issued letters to both the applicant and the owners of the historic property that would permit Tree #7, to be removed from each property. A copy of these letters is contained in Attachment B. Thus, the preliminary plan application will have no adverse impact on this identified historic resource.

Environmental Setting (outlined in blue) for Abutting Historic Property “No Gain”



Environment

A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) # 420130880 for the subject property was approved on December 21, 2012. There is no forest on the subject site, however the property contains numerous trees, many of which are significant or specimen in size. A historic property, known as *No Gain*, shares the northernmost boundary with the subject site. Some of the trees associated with the historic setting are growing partially within and/or immediately adjacent to the subject property.

There are no streams or wetlands onsite but a piped stream channel is located along the site's southern property line and the adjacent restaurant use. This piped stream is not subject to a stream buffer. The site is located within the Rock Creek watershed; a use I watershed¹.

Forest Conservation

No forest exists on-site; however the proposed subdivision plan is subject to a forest conservation plan and there is an afforestation requirement of 0.13 acres. Attachment C includes a copy of the preliminary forest conservation plan. Given the relatively small size of the property, the lack of environmentally sensitive areas, and the modest amount of afforestation requirements, the afforestation is proposed to be satisfied offsite by either fee-in-lieu or the use of an offsite forest mitigation bank.

Trees

The subdivision, which abuts the environmental setting of a historic property, proposes to remove four trees ranging in size from 5" to 33" DBH. Under this preliminary plan, a Forest Conservation tree variance is required for the removal and impacts to trees ≥ 30 " DBH and trees within an environmental setting regardless of size. HPC reviews all trees on environmental settings of historic properties that are greater than 6" DBH. Thus, there is some overlapping regulatory review for the removal of the four trees. While the Forest Conservation Variance requirements are discussed in more detail later in this report, the following paragraphs focus on the four trees to be removed. These trees are shown on the exhibit on the next page.

Tree #10, a 33" Norway Maple, is proposed for removal and requires a variance because it is in excess of 30" DBH and is not associated with the environmental setting of the abutting historic property. However, Tree #7, a 28" Black Cherry, and Tree "C", a 5" Sassafras, both less than 30" DBH, require a variance because they are associated with the environmental setting of the historic property. Tree #7 was reviewed and granted approval to be removed by HPC staff on January 10, 2014. Tree "C" is less than 6" DBH and was not subject to review by HPC. Tree #6, a 27" DBH White Mulberry, is not subject to

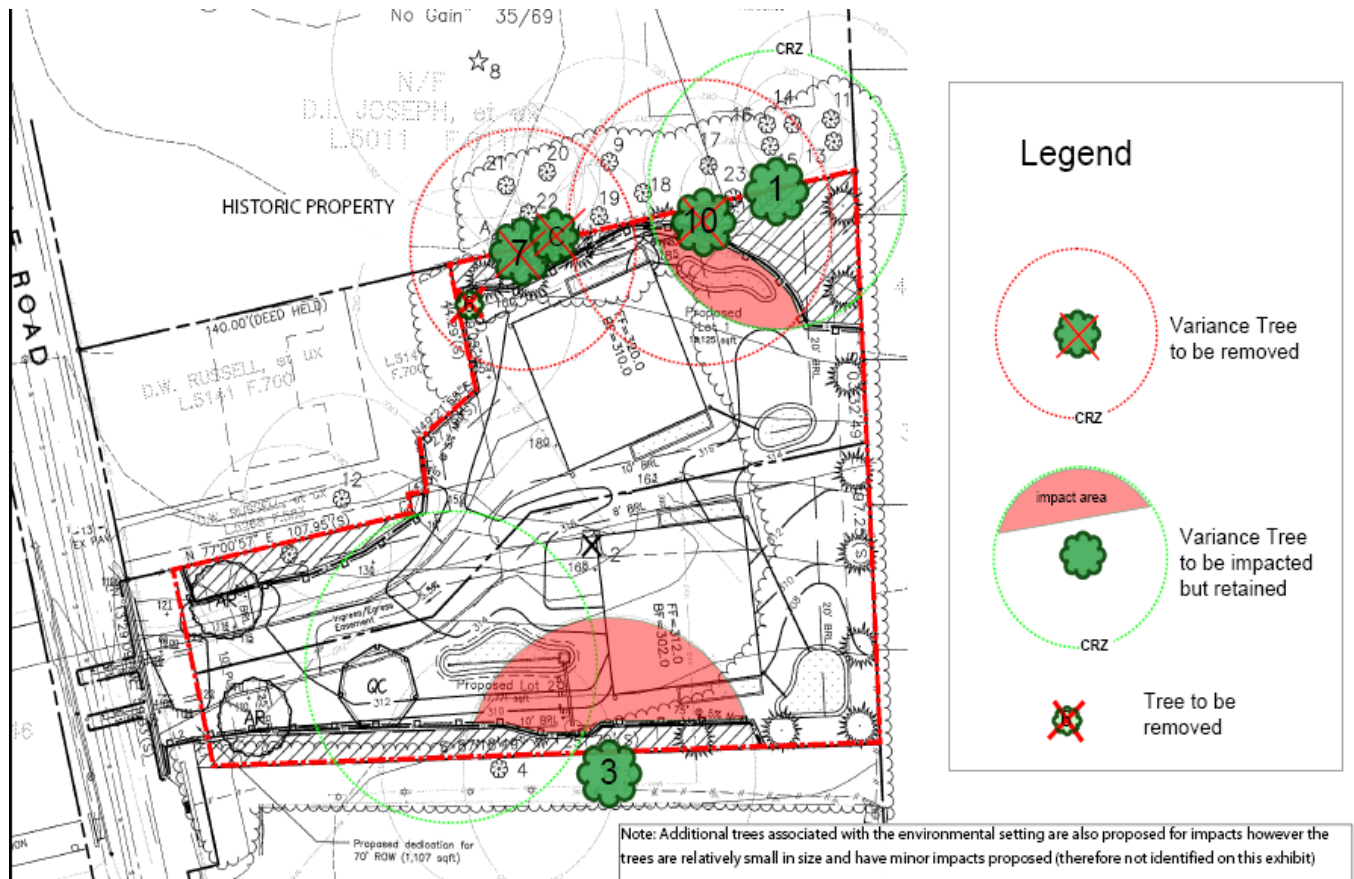
¹ Use I:

WATER CONTACT RECREATION & PROTECTION OF AQUATIC LIFE

Waters that are suitable for: water contact sports: play and leisure time activities where the human body may come in direct contact with the surface water; fishing; the growth and propagation of fish (other than trout); other aquatic life, and wildlife; agricultural water supply and industrial water supply.

a variance nor is it associated with the environmental setting of the historic property. It will be removed for construction impacts related to the subdivision.

Highlights of variance trees to be removed or impacted



The following two pictures depict trees associated with the environmental setting of the historic property.



This 28" Black Cherry (Tree #7) proposed for removal; partially located on abutting historic property



This 5" Sassafras Tree (Tree "C") is proposed for removal; base of tree is on the abutting historic property. The Tree is subject to a variance but not HPC review



Staff noted that a 54" DBH silver maple tree had been growing next to the single family home that existed on the subject property. (See photo at left)

The applicant sought a demolition permit for the structure which was granted by DPS. Additionally, the applicant also obtained a letter from an arborist certifying that the 54"DBH Silver Maple was a hazardous tree; see Attachment D. The approved NRI/FSD identified issues with the same tree and noted a poor condition. The home was demolished and the tree was removed in the late winter or early spring of 2013. Since DPS issued the demolition permit and an arborist had certified the tree as a hazard, no enforcement action was sought by staff.

Details of protection measures for the remaining trees will be addressed at the time of Final Forest Conservation Plan (FFCP) review. The FFCP will specify supplemental measures for individual trees affected by the proposed work, including those trees subject to the variance. An arborist hired by the applicant, prepared a report dated August 19th, 2013, which specifies recommended measures for trees associated with the property. A copy of the report prepared by the applicant's arborist is included as Attachment E.

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 DBH or greater; are part of a historic site or designated with a historic structure; are designated as 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. The proposed project includes disturbance within the CRZ of trees which are subject to a variance due to their size measuring 30 inches DBH or greater, or because the affected trees (regardless of size) are part of a historic site. The applicant submitted a variance request package for the impacts and removals of

subject trees. See Attachment F for variance request. The applicants' request is to remove three trees and impact but not remove eleven trees are that are considered high priority for retention under Section 22A-12(b) (3) of the County Forest Conservation Law.

Table 1: Subject Trees to be removed

| TREE NUMBER | TYPE | DBH | CONDITION | Percent of Impact |
|-------------|--------------|-----|-----------|-------------------|
| 7 | Black Cherry | 28" | Poor | 100% |
| 10 | Norway Maple | 33" | Fair | 100% |
| C | Sassafras | 5" | Poor | 100% |

Table 2: Subject Trees to be Impacted but Retained

| TREE NUMBER | TYPE | DBH | CONDITION | Percent of CRZ Impacted by LOD |
|-------------|--------------|-----|-----------|--------------------------------|
| 1 | Black Cherry | 32" | Good | 15% |
| 3 | Catalpa sp. | 36" | Poor | 32% |
| 9 | White Pine | 24" | Good | 8% |
| 17 | White Cedar | 16" | Good | 1% |
| 18 | White Pine | 17" | Good | 18% |
| 19 | White Pine | 12" | Good | 20% |
| 22 | White Pine | 18" | Good | 7% |
| 23 | Norway Maple | 13" | Fair | 6% |
| A | Holly Sp | 3" | Good | 0% |
| B | Holly Sp | 2" | Good | 0% |
| D | Sassafras | 2" | Good | 0% |

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. In addition to the required findings outlined numerically below, staff has determined that the Applicant has demonstrated that enforcement of the variance provision would result in an unwarranted hardship for the following reason:

The applicants' arborist has certified that Tree #7 has numerous structural issues and warrants removal (regardless of any proposed development).

Staff reviewed this application and based on the existing circumstances and conditions on the property, staff agrees that there is an unwarranted hardship.

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.*

The proposed two lots could not be constructed without impacts to the subject trees and the proposed lots are configured to minimize impacts to the subject trees. 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 not based on conditions or circumstances that are the result of actions by the applicant. The requested variance is based on achieving standard development goals allowed within the existing zoning and associated regulations.

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 current application on the subject property and is not related to land or building use on a neighboring property.

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

The Department of Permitting Services (DPS) approved the storm water management (SWM) concept for the project on January 2, 2014. The replanting of mitigation trees will provide shade, water retention and uptake which will result in even less storm water runoff. Therefore, the project will not violate State water quality standards or cause measurable degradation in water quality.

County Arborist's Recommendation

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection (MCDEP) for a recommendation prior to acting on the request. The request was forwarded to the County Arborist on September 18, 2013. The County Arborist issued a response to the variance request on October 3, 2013 and recommended the variance be approved with the condition that mitigation is provided. Additionally, the County Arborist provided general recommendations which include limiting soil compaction and the associated permanent impacts to critical root zones (CRZ's) by implementing tree protection techniques such as temporary protective matting.

The trees, subject to this variance, to be impacted, but retained, are appropriate candidates for safe retention and will receive adequate tree protection measures. No mitigation is recommended by M-NCPPC staff for trees impacted but retained.

Tree Mitigation Subject to Variance Provisions

There are 3 subject trees proposed for removal in association with the project. There will also be some disturbance to CRZ's of another 11 subject trees that will be retained. Planting mitigation trees for the removals should be at a rate that approximates the form and function of the trees removed. Therefore, staff is recommending that replacement occur at a ratio of approximately 1" DBH for every 4" DBH removed, using trees that are a minimum of 3" caliper. This means that for the 66 diameter inches of trees to be removed, the applicant should provide mitigation of 17 inches of caliper replacements. Therefore the mitigation requirements would be satisfied by the planting of six 3" caliper trees.

The applicant is not proposing mitigation for two of the subject trees due to the condition of the trees being listed as "poor", and is providing only three replacement trees on the submitted plans. The variance provisions do not have exceptions for tree health/condition, rather the law states that variance trees must remain in an "undisturbed condition." Staff has recommended a condition of approval requiring that the six mitigation trees be provided onsite. The October 3, 2013 letter from the County arborist letter supports the staff's position by recommending mitigation plantings even for trees in poor or hazardous condition. The installation of six trees does not include any plantings for the 54" silver maple that has already been removed and would have otherwise triggered the requirement of five additional trees (for a total of 11 replacement trees). Additionally no planting mitigation is recommended by staff for the trees impacted but retained.

Based on the above findings, staff recommends that the applicant's request for a variance from Forest Conservation Law to remove three trees and impact but retain, eleven subject trees associated with the proposed subdivision be approved by the Planning Board.

Stormwater Management

The MCDPS Stormwater Management Section reviewed a stormwater management concept plan (#250291) and approved it on January 2, 2014. The plan utilizes Environmental Site Design (ESD) measures such as rain gardens, microbioretention and rooftop disconnects to meet stormwater management goals. To achieve these goals the applicant is proposing to place an easement on proposed Lot 2. Prior to recordation of the final plat, the applicant must record the necessary easements on Lot 2 with MCDPS. See Attachment G.

Compliance with the Subdivision Regulations and Zoning Ordinance

This application has been reviewed for compliance with the Montgomery County Code, Chapter 50, Subdivision Regulations. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision. The subject property consists of two unplatted parcels that separately and together have a flag shape. The tract contains ample area for two lots that fully meet the R-60 zoning development standards as anticipated by the master plan, but the existing shape of the property necessitates that the lots continue to be flag shaped. Although flag lots do not exist elsewhere in the area, this is the manner in which the house being replaced on the property was developed and is the only option for achieving the second lot that the underlying zoning supports. The orientation of the new lots results in house locations that have a favorable relationship with surrounding lots. The application meets all applicable sections of Chapter 50 and a summary of this review is included below in Table 3.

The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

Table 3: Preliminary Plan Data Table

| PLAN DATA | Zoning Ordinance Development Standard | Proposed for Approval by the Preliminary Plan |
|---|--|--|
| Minimum Lot Area | 6,000 sq. ft. | 17,771 sq. ft. minimum |
| Lot Width | 60 ft. | 87 ft. minimum |
| Lot Frontage | 25 ft. | 32 ft. minimum |
| Setbacks | | |
| Front | 25 ft. Min. | Must meet minimum ¹ |
| Side | 8 ft. Min./18 ft. total | Must meet minimum ¹ |
| Rear | 20 ft. Min. | Must meet minimum ¹ |
| Maximum Residential Dwelling Units per Zoning | 6 | 2 |
| MPDUs | N/a | N/a |
| TDRs | N/a | N/a |
| Site Plan Required | No | N/a |

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

Municipality and Citizen Correspondence and Issues

The applicant conducted a pre-submission meeting on January 28, 2013 with the adjoining property owners and surrounding homeowner's associations. Written notice of the public hearing was given by the applicant and staff. To date, no resident letters have been received. Additionally, the Village of Chevy Chase, Section 5 Council submitted a letter stating no objection to the proposed subdivision. A copy of letter is included as Attachment H.

CONCLUSION

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conform to the recommendations of the Bethesda–Chevy Chase 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 at the beginning of this staff report is recommended.

Attachments

Attachment A – MCDOT memo and SHA email
Attachment B – Historic Preservation Commission letters
Attachment C – Preliminary Forest Conservation Plan
Attachment D – Applicant's Arborist Letter
Attachment E – Applicant's Arborist Report
Attachment F – Applicant's Variance Request

Attachment G – MCDPS Stormwater Management Concept Approval Letter
Attachment H- Village of Chevy Chase, Section 5, Letter

From: Erich Florence <EFlorence@sha.state.md.us>
Sent: Tuesday, July 16, 2013 4:10 PM
To: Folden, Matthew
Subject: RE: No Gain

Matthew,

Will has not contacted me about this project. SHA will not require sidewalk along the frontage of the property due to the physical constraints of the roadway.

Erich Florence
Office of Highway Development
Access Management Division
Maryland State Highway Administration
707 North Calvert Street Mail Stop - C302
Baltimore, Maryland 21202

410-545-0447

From: Folden, Matthew [<mailto:matthew.folden@montgomeryplanning.org>]
Sent: Tuesday, July 16, 2013 3:19 PM
To: Erich Florence
Subject: FW: No Gain

Eric,

Where did SHA land on the "No Gain" sidewalk? Will Haynes informed me that he would get back to me this week – just wanted to check in with you as well.

Thanks,

Matt

From: Folden, Matthew
Sent: Wednesday, July 10, 2013 4:00 PM
To: william.haynes@montgomerycountymd.gov
Cc: Eric Florence (EFlorence@sha.state.md.us)
Subject: No Gain

Will,

Sorry to answer your voicemail with an e-mail – I'm a little pressed for time this afternoon (heading to a 4pm meeting) and wanted to get you some information quickly so we can discuss tomorrow. I will call you around 11 tomorrow morning to discuss.

1. I don't believe there is a need for you to provide comments on the revised No Gain plans unless you are interested in doing so. Most of the revisions requested were clean-up items.
2. One outstanding issue I have with this plan is the proposed frontage sidewalk – I've spoken to Eric Florence at SHA (copied for his reference) and I believe the consensus was to not require a frontage sidewalk at this location. Could you coordinate with Eric and make a final determination about whether or not MCDOT supports the no sidewalk option and include it in your approval letter?
 - a. This property is the first single family detached house in a neighborhood that stretches approximately 1 mile along Brookeville Road; there is a sidewalk to the south of the site, however, physical constraints to the north make it unlikely that any future sidewalk would be continued northward.
 - b. In addition to the physical constraints to the north, there is a culvert to the south of the site (adjacent to the commercial drive apron) that would need to be reconstructed to accommodate a new sidewalk.

Thanks,

Matt

Matthew Folden | Planner Coordinator

Maryland – National Capital Park and Planning Commission

Montgomery County Planning Department | Planning Area 1

8787 Georgia Avenue | Silver Spring, MD 20910-3760

301.495.4539 | matthew.folden@montgomeryplanning.org

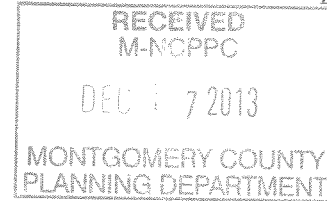


DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

December 10, 2013



Ms. Kathleen A. Reilly, AICP, Planner Coordinator
Area 1 Planning Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan No. 120130170
No Gain

Dear Ms. Reilly:

This letter is to confirm our comments at the April 29, 2013, meeting of the Development Review Committee and our subsequent conversation related to the preliminary plan dated February 4, 2013. We have completed our review of the latest submission of the above-referenced preliminary plan and offer no further comments based on the development having its sole driveway access onto a State-maintained roadway (i.e., MD 186). Our April 29, 2013 comments did include the recommendation to extend the sidewalk offsite to connect with the existing sidewalk south of the site. We understand that the Montgomery County Planning Department does not support this recommendation.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact me at (240) 777-2132 or william.haynes@montgomerycountymd.gov.

Sincerely,

William L. Haynes, Engineer III
Development Review Team

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cc: Seth Warner 7111 Brookville Company, LLC
Lauren Ireland Macris, Hendricks & Glascock
Scott Newill MDSHA AMD
Robert Kronenberg M-NCPPC Area 1
Matthew Folden M-NCPPC Area 1
Catherine Conlon M-NCPPC DARC
Preliminary Plan folder
Preliminary Plan letters notebook

Division of Traffic Engineering and Operations

100 Edison Park Drive, 4th Floor • Gaithersburg, Maryland 20878
Main Office 240-777-2190 • TTY 240-777-6013 • FAX 240-777-2080
trafficops@montgomerycountymd.gov

Ms. Kathleen A. Reilly
Pre-Preliminary Plan No. 120130170
December 10, 2013
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| | | |
|-------|--------------------|-------------|
| cc-e: | Amy Butler Stevens | MCDPS SWFMP |
| | Atiq Panjshiri | MCDPS RWPR |
| | Sam Farhadi | MCDPS RWPR |
| | Bill Campbell | MCDPS WRM |
| | Marie LaBaw | MCFRS |
| | Greg Leck | MCDOT DTEO |



ATTACHMENT B

HISTORIC PRESERVATION COMMISSION

Isiah Leggett
County Executive

William Kirwan
Chairperson

January 10, 2014

Mr. Scott Churilla
7111 Brookeville Road
Chevy Chase, Maryland 20815

Re: Removal of 28" Black Cherry tree(s) in the historic site address 7121 Brookville Road #35/69, No Gain Historic Site

Dear Scott Churilla,

I have received your arborist's report dated 8/19/2013 regarding the above-referenced tree(s), which documents the assessment that this tree(s) is dead/dying or a hazard and in severe decline.

Therefore, due to the health and hazard of the subject tree(s), the Historic Preservation Commission authorizes the removal of the tree.

This letter serves as your permission to remove the tree(s) without further review by the HPC. If you have any additional questions, please do not hesitate to contact me at 301-563-3400.

Sincerely,

Kevin Manarolla

Kevin Manarolla,
Senior Administrative Specialist
Historic Preservation Section, M-NCPPC





HISTORIC PRESERVATION COMMISSION

Isiah Leggett
County Executive

William Kirwan
Chairperson

January 10, 2014

Thornapple Dynasty Trust
7121 Brookville Road
Chevy Chase, Maryland 20815

Re: Removal of 28" Black Cherry tree(s) in the No Gain Historic Site

Dear Thornapple Dynasty Trust,

I have received your arborist's report dated 8/19/2013 regarding the above-referenced tree(s), which documents the assessment that this tree(s) is dead/dying or a hazard and in severe decline.

Therefore, due to the health and hazard of the subject tree(s), the Historic Preservation Commission authorizes the removal of the tree.

This letter serves as your permission to remove the tree(s) without further review by the HPC. If you have any additional questions, please do not hesitate to contact me at 301-563-3400.

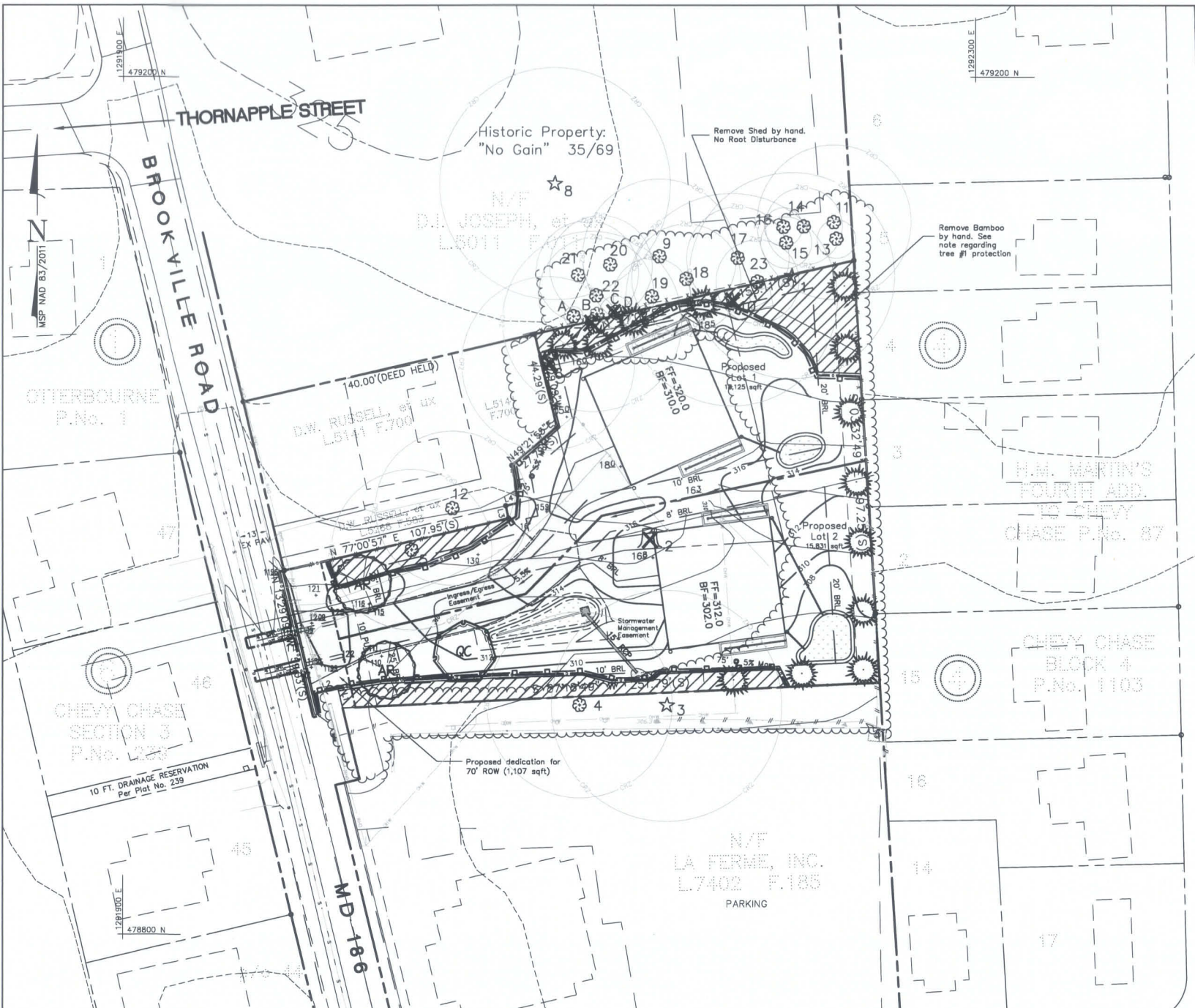
Sincerely,



Kevin Manarolla

Kevin Manarolla,
Senior Administrative Specialist
Historic Preservation Section, M-NCPPC





| SIGNIFICANT & SPECIMEN TREE LIST | | | | |
|----------------------------------|------------------|----------------------|----------------|--|
| ID # | Common Name | Botanical Name | DBH CRZ (s.f.) | CRZ (radius) Conditions/Remarks |
| *1 | Black Cherry | Prunus serotina | 32 7235 | 48 Good |
| *2 | Silver Maple | Acer saccharinum | 54 20602 | 81 stump - hazard tree was removed |
| *3 | Southern Catalpa | Catalpa bignonioides | 36 9156 | 54 Poor - dieback, broken limbs |
| 4 | Silver Maple | Acer saccharinum | 29 5942 | 43.5 Good - broken limbs |
| 5 | Black Walnut | Juglans nigra | 25 4416 | 37.5 Fair - dead limbs |
| 6 | White Mulberry | Moraceae alba | 27 5150 | 40.5 Poor - dieback, dead limbs |
| 7 | Black Cherry | Prunus serotina | 28 5539 | 42 Poor - vines, dead limbs |
| *8 | Black Walnut | Juglans nigra | 36 9156 | 54 Fair - dieback |
| 9 | White Pine | Pinus strobus | 24 4069 | 36 Good |
| *10 | Norway Maple | Acer platanoides | 33 7694 | 49.5 Fair - vines, dead limbs |
| 11 | Black Walnut | Juglans nigra | 24 4069 | 36 Good |
| 12 | White Pine | Pinus strobus | 24 4069 | 36 Good |
| 13 | White Pine | Pinus strobus | 6 254 | 9 Good |
| 14 | White Pine | Pinus strobus | 12 1017 | 18 Good |
| 15 | White Pine | Pinus strobus | 8 452 | 12 Good |
| 16 | White Pine | Pinus strobus | 6 254 | 9 Good |
| 17 | White Cedar | Thuja occidentalis | 16 1809 | 24 Fair - lower branches shaded out/dead branches |
| 18 | White Pine | Pinus strobus | 17 2042 | 25.5 Good |
| 19 | White Pine | Pinus strobus | 12 1017 | 18 Good |
| 20 | White Pine | Pinus strobus | 16 1809 | 24 Good |
| 21 | White Pine | Pinus strobus | 16 1809 | 24 Good |
| 22 | White Pine | Pinus strobus | 18 2289 | 27 Good |
| 23 | Norway Maple | Acer platanoides | 13 1194 | 19.5 Fair - vines |
| A | Holly sp | Ilex spp. | 3 64 | 4.5 Good - multistem |
| B | Holly sp | Ilex spp. | 2 28 | 3 Good - multistem |
| C | Sassafras | Sassafras albidum | 5 177 | 7.5 Poor - leaning and growing thru fence. Fence in tree |
| D | Sassafras | Sassafras albidum | 2 28 | 3 Good |

Notes: Diameters are given for each trunk of multiple bole trees when division occurs below 4.5 feet. If major division occurs above 4.5 feet only the trunk diameter at 4.5 feet is given. Tree ID Numbers correspond to those assigned on the Natural Resource Inventory/Forest Stand Delineation Map. Some off-site trees DBH estimated.
* Specimen tree

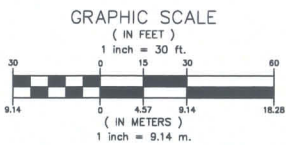
| Tree Variance Detail Table | | | | | |
|----------------------------|--------------|-----|---------------|------------|-----------|
| Tree ID# | Species | DBH | Impact/Remove | % Impacted | Condition |
| 1 | Black Cherry | 32 | Impact Only | 15% | Good |
| 3 | Catalpa sp. | 36 | Impact Only | 32% | Poor |
| 7 | Black Cherry | 28 | Remove | 100% | Poor |
| 9 | White Pine | 24 | Impact Only | 8% | Good |
| 10 | Norway Maple | 33 | Remove | 100% | Fair |
| 17 | White Cedar | 16 | Impact Only | 1% | Fair |
| 18 | White Pine | 17 | Impact Only | 18% | Good |
| 19 | White Pine | 12 | Impact Only | 20% | Good |
| 22 | White Pine | 18 | Impact Only | 7% | Good |
| 23 | Norway Maple | 13 | Impact Only | 6% | Fair |
| A | Holly Sp | 3 | Impact Only | 0% | Good |
| B | Holly Sp | 2 | Impact Only | 0% | Good |
| C | Sassafras | 5 | Remove | 0% | Poor |
| D | Sassafras | 2 | Impact Only | 0% | Good |

Total: 33"
33"/4 = 8.25" to be replanted = 3 trees @ 3" min.

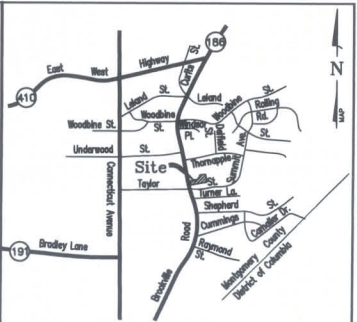
| ON-SITE SPECIMEN TREE MITIGATION LIST | | | | | |
|---|-----|------------------|-------------|----------|----------------------|
| KEY | QTY | BOTANICAL NAME | COMMON NAME | CAL | MITIGATION PROVIDED* |
| AR | 2 | Acer rubrum | Red Maple | 3-3 1/2" | 6 caliper inches |
| QC | 1 | Quercus coccinea | Scarlet Oak | 3-3 1/2" | 3 caliper inches |
| TOTAL SPECIMEN TREE MITIGATION PROVIDED | | | | | 9 caliper inches |

*Mitigation provided = Qty x 3.0 Caliper inches

NOTE:
1. Bamboo outside of the LOD in the Northeast corner of the site to be removed by hand. Dispose of soil containing Bamboo roots properly, take off-site. Methods to be used must not injure roots of tree #1. (i.e. cut above grade, allow to resprout, and pour herbicide in stalk) Additional Bamboo removal details may be needed at FFCP and/or in field.
2. Existing house from NRI has already been removed.
3. All proposed plantings to be planted within the critical root zones of saved trees shall be installed with care to minimize any disturbance to the roots of existing trees. If trees to be planted are in proximity to trees to be saved, the work is to be performed by hand and the planting pits size shall be minimized and/or shifted in location if significant roots are encountered during the installation. (Planting details and notes to be adjusted on FFCP accordingly)
4. Evergreen trees shown on plan are for informational purposes only and are not subject to the forest conservation plan or preliminary plan of subdivision.



| NO. | DATE | DESCRIPTION | BY |
|-----|------|-------------|----|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |



VICINITY MAP
SCALE 1" = 2,000'

LEGEND

- SIGNIFICANT TREE
- SPECIMEN TREE
- STUMP
- TREE/STUMP TO BE REMOVED
- TEMPORARY TREE PROTECTION FENCE, ROOT PRUNING AND SIGNAGE
- OVERHEAD WIRES
- LIMIT OF DISTURBANCE
- CRITICAL ROOT ZONE
RADIUS = 1.5' PER INCH DBH
- PROPOSED SHADE TREE FOR VARIANCE MITIGATION CREDIT
- TREE CANOPY AND BAMBOO
- PROPERTY BOUNDARY
- WOOD FENCE
- CHAIN FENCE
- SEWER LINE
- VERTICAL MULCH WITH MYCORRHIZAE
- EVERGREEN TREE (NOT SUBJECT TO THE FCP OR THE PP)

AFFORESTATION SUMMARY

Total Afforestation Requirement of 0.13 acres to be met via fee-in-lieu

TAX MAP HN562

WSSC 209NW03

PRELIMINARY FOREST CONSERVATION PLAN PROPOSED LOTS 1 & 2

NO GAIN

L.34884 F.335, L5268 F.586 & L.4867 F.416
7TH ELECTION DISTRICT - MONTGOMERY COUNTY - MARYLAND



Macris, Hendricks & Glascock, P.A.
Engineers • Planners
Landscape Architects • Surveyors

9220 Wightman Road, Suite 120
Montgomery Village, Maryland
20886-1279

Phone 301.670.0840
Fax 301.948.0693
www.mhga.com

| Proj. Mgr. | Designer |
|-------------|----------|
| LEI | FCJ |
| Date | Scale |
| 08-19-13 | 1"=30' |
| Project No. | Sheet |
| 12.114.20 | 1 of 1 |

| TREE PRESERVATION AND STRESS REDUCTION MEASURES | | | | | |
|---|------------------|----|----|----|----|
| ID # | PRESERVATION | RP | VM | SP | MB |
| 1 | 32" B. CHERRY | X | X | X | X |
| 3 | 36" CATALPA | X | X | X | X |
| 4 | 28" SILVER MAPLE | X | X | X | X |
| 5 | 25" B. WALNUT | X | X | X | X |
| 12 | 24" W. PINE | X | X | X | X |
| A | 3" Holly | | | X* | |
| B | 2" Holly | | | X* | |
| D | 2" Sassafras | | | X* | |

NOTE: 1. STRESS REDUCTION MEASURES MAY BE CHANGED PER MNCPPC FOREST CONSERVATION INSPECTOR AND ARBORIST/AND LICENSED TREE EXPERT AT PRECONSTRUCTION MEETING.
2. SANITATION PRUNING AND IVY REMOVAL MAY BE NEEDED FOR ADDITIONAL TREES TO BE DETERMINED AT PRECONSTRUCTION MEETING.

TERMINOLOGY

(RP) ROOT PRUNING IS TO BE PERFORMED OUTSIDE THE TREE PROTECTION FENCE WITHIN THE CRITICAL ROOT ZONE. IT IS TO BE ACCOMPLISHED BY A VIBRATORY PLOW WITH A SERRATED CUTTING EDGE OR A ROOT CUTTER WITH A 36" WHEEL TO A DEPTH OF 18". CHAIN DRIVEN TRENCHERS ARE NOT ACCEPTABLE. (SEE DETAIL ON FFCP)

(VM) VERTICAL MULCHING WITH MYCORRHIZAE

(SP) SANITATION PRUNE TO REMOVE ALL DEAD OR DYING LIMBS GREATER THAN ONE INCH ON A TREE TO IMPROVE ITS HEALTH AND APPEARANCE.
* THE BRANCHES BACK DURING REMOVAL OF TREE #7: PRUNE ONLY AS NEEDED

(MB) MULCH BEDS ARE TO BE 2-4" SHREDDED HARDWOOD MULCH, SHREDDED PINE BARK MULCH, OR COMPOSTED WOOD CHIPS. FRESHLY CUT WOODCHIPS ARE NOT ACCEPTABLE.

FOREST CONSERVATION DATA TABLE

| DESCRIPTION | SIZE |
|---|------------|
| Total Tract Area | 0.85 Acres |
| Tract remaining in Agricultural Use | 0.00 Acres |
| Road & utility ROW (unimproved) | 0.00 Acres |
| Existing Forest | 0.00 Acres |
| Total Forest Retention | 0.00 Acres |
| Total Forest Cleared | 0.00 Acres |
| Land Use Category | HDR |
| Afforestation Threshold | 15 % |
| Reforestation Threshold | 20 % |
| Forest in Wetlands Retained | 0.00 Acres |
| Cleared | 0.00 Acres |
| Planted | 0.00 Acres |
| Forest in 100-year Floodplain Retained | 0.00 Acres |
| Cleared | 0.00 Acres |
| Planted | 0.00 Acres |
| Forest in Stream/Valley Buffer Retained | 0.00 Acres |
| Cleared | 0.00 Acres |
| Planted | 0.00 Acres |
| Forest in other Priority Areas Retained | 0.00 Acres |
| Cleared | 0.00 Acres |
| Planted | 0.00 Acres |
| Stream Valley Buffer Length | 0 Feet |
| Avg. Width | 0 Feet |

QUALIFIED PROFESSIONAL CERTIFICATION

I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON IS CORRECT AND THAT THIS PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF EXISTING STATE AND COUNTY FOREST CONSERVATION LEGISLATION.

12/18/2013
DATE

FRANK C. JOHNSON

RECOGNIZED AS QUALIFIED PROFESSIONAL
BY MD. DEPT. OF NATURAL RESOURCES
COMAR 08.19.06.01

NET TRACT AREA:

| | |
|--|------|
| A. Total tract area ... | 0.85 |
| B. Land dedication acres (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 ... | 0.85 |

LAND USE CATEGORY: (from Trees Technical Manual)

Total the number "1" under the appropriate land use, limit to only one entry.

| ARA | MCR | CA | HCR | MPO | CA |
|-----|-----|----|-----|-----|----|
| 0 | 0 | 0 | 1 | 0 | 0 |

| | | | |
|--------------------------------|-----|-------|------|
| G. Afforestation Threshold ... | 15% | x F = | 0.13 |
| H. Conservation Threshold ... | 20% | x F = | 0.17 |

EXISTING FOREST COVER:

| | |
|---|------|
| I. Existing forest cover ... | 0.00 |
| J. Area of forest above afforestation threshold ... | 0.00 |
| K. Area of forest above conservation threshold ... | 0.00 |

BREAK EVEN POINT:

| | |
|--|------|
| L. Forest retention above threshold with no mitigation ... | 0.00 |
| M. Clearing permitted without mitigation ... | 0.00 |

PROPOSED FOREST CLEARING:

| | |
|--|------|
| N. Total area of forest to be cleared ... | 0.00 |
| O. Total area of forest to be retained ... | 0.00 |

PLANTING REQUIREMENTS:

| | |
|--|------|
| P. Reforestation for clearing above conservation threshold ... | 0.00 |
| Q. Reforestation for clearing below conservation threshold ... | 0.00 |
| R. Credit for retention above conservation threshold ... | 0.00 |
| S. Total reforestation required ... | 0.00 |
| T. Total afforestation required ... | 0.13 |
| U. Credit for landscaping (may not exceed 20% of "S") ... | 0.00 |
| V. Total reforestation and afforestation required ... | 0.13 |

worksheet updated 8/5/2002



P.O. Box 1545 • Sterling, VA 20167 • 703-481-0355 fax

**24 HOUR STORM
DAMAGE SERVICE**

| | | | | | |
|----------------------------------|----------------------------------|----------------------------------|-------------------------------------|-----------------------------------|----------------------------------|
| Vienna 255-0993 | Tysons 849-9188 | Reston 689-2106 | Arlington 527-2298 | Fairfax 591-5131 | McLean 821-1737 |
|----------------------------------|----------------------------------|----------------------------------|-------------------------------------|-----------------------------------|----------------------------------|



Licensed in
the City of
Falls Church



Licensed MD
Tree Expert #501



1/9/2013

To Whom it may concern,

I Christopher Ewing a certified arborist have inspected the Silver Maple located at the front right corner of the structure at 7111 Brookville Rd Chevy Chase MD and have concluded it is a hazardous tree due to the following reasons

- The left hand trunk (one of three) has completely rotted away and contains extensive decay which more than likely has compromised the entire structure of the tree to support its two remaining trunks
- The far right hand trunk has completely died within the past season and will become brittle and shed large branches over the upcoming months that could cause serious harm to property or individuals
- Due to the extensive loss of canopy the tree appears to be dying or completely dead at this time

1/13/14

Christopher Ewing

ISA Certified Arborist

MA-4386-A



10563 Metropolitan Avenue, Kensington, MD 20895
301-942-6700 Fax 301-942-6734

August 19, 2013

Scott Churilla
Churilla Homes
4938 Hampden Lane
Bethesda, MD 20814

RE: Arborist Report
7111 Brookville Road
Chevy Chase, Maryland 20815

Dear Scott,

The following are my field observations and tree preservation recommendations for the above referenced property.

There are four trees on the Northwest side of the property that are to remain, two on the subject property and two on the neighboring property. I recommend root pruning along the LOD and vertical mulching with Mycorrhizae in the area denoted on site plan.

The Northeast side of the property contains numerous trees on and off the property that are to be preserved. Again, I recommend root pruning along the LOD and treating the area outside the LOD to the property line by vertical mulching with Mycorrhizae. Additionally, I recommend removal of all invasive species (Japanese Honey Suckle, English Ivy and Bamboo) from the far Northeast corner of the property. This removal work should be done by hand, under supervision, and with great care so as not to harm vegetation that is to remain. Bamboo growing in close proximity to any tree's root flare should be cut off 12" above grade to avoid damage the tree's bark. The notable trees to remain in the historic setting are a 4" Maple to the west of tree #7, a 5" Sassafras to the west of #7 and a 2" Sassafras to the west of #7 as well.

Tree #7 is in overall poor condition with numerous structural issues. The tree's main trunk is growing at a severe angle and there is evidence of a hazard beam forming in the trees main trunk section. Total failure will occur as this condition worsens. The main trunk section splits at about 15 feet above the ground and then becomes co-dominant. This is, structurally, not a good situation given the large size of this tree. Invasive English Ivy is completely covering the tree, doing irreversible damage to the bark fissures while suffocating the tree. Finally, there is significant crown die back further evidencing that the tree is in decline. My recommendation would be for total removal of this tree prior to any construction activity. The removal should be done the assistance of a hydraulic crane to mitigate damage to the Maple and Sassafras trees that are to remain in this area. Stump removal should not be performed in this area for the same reason.

The LOD and property line run concurrently on East side and there do not appear to be any significant trees on the neighboring property to be preserved.



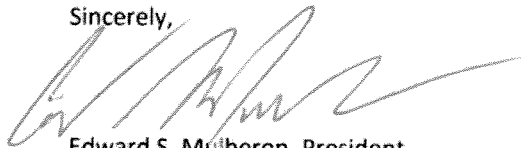
MD TREE EXPERT
LIC. NO. 715

Along the Southern property line there is a row of screening trees and a 29" Silver Maple and a 36" Catalpa that are to remain. I recommend vertical mulching with Mycorrhizae on the area denoted on the plan. Additionally, any low hanging or dead branches that overhang the subject property should be pruned to prevent damage to the trees during construction. I would also recommend total dead wood pruning of both trees with the tree owner's permission.

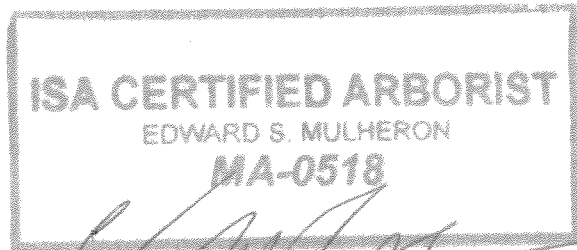
Additionally, anywhere there is root pruning, to keep out of the save tree areas, a post with a top wire and tree preservation signage should be affixed to the super silt fence.

Tree preservation measures are as per proposed construction shown on forest conservation plan by Marcus, Hendricks and Glascock, P.A. dated August 19, 3013.

Sincerely,



Edward S. Mulheron, President
ISA Certified Arborist MA0518
Maryland Licensed Tree Expert #715
ISA Certified Utility Specialist
ISA Certified Tree Risk Assessor #1072
MDA Certified Compost Operator



Macris, Hendricks & Glascock, P.A.
Engineers ▪ Planners ▪ Surveyors ▪ Landscape Architects

9220 Wightman Road, Suite 120
Montgomery Village, Maryland
20886-1279



Phone 301.670.0840
Fax 301.948.0693

August 19, 2013

Maryland National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910

Re: No Gain
PFCP
MHG Project No. 12.114.21

To Whom It May Concern:

On behalf of 7111 Brookville Company LLC, the applicant of the above referenced Forest Conservation Plan, we hereby request a variance for the removal of three trees and impact of eleven trees, as required by the Maryland Natural Resources Article, Title 5, Subtitle 16, Forest Conservation, Section 5-1611, and in accordance with Chapter 22A-21(b) of the Montgomery County Code. In accordance with Chapter 22A-21(b) of the Montgomery County Code, the proposed removal/impact of fourteen trees would satisfy the variance requirements.

1. *Describe the special conditions peculiar to the property which would cause the unwarranted hardship;*

The subject property has a total tract area of 0.85 acres. There is no forest on-site and the one existing single family residence that was on-site has been demolished. Per the applicable zoning, the site is proposed to be subdivided into two lots. Because of the development requirements to build the two homes, including stormwater requirements and proper grading, impacts to trees cannot be avoided. There are three trees proposed to be removed: tree #10 is on-site and trees #7 and "C" are on the property line and are considered "shared ownership" trees. Trees #7 and "C" are in poor condition and are considered for a variance because they are on a shared property line with a historic property. Because of the current condition of the tree #7, additional tree save measures will be unable to prevent the tree from reaching a further deteriorated condition regardless of any proposed development. Even if we were able to stay out of the critical root zone of the tree, the tree would be a hazard to any house built on the property. Tree "C" is growing through the fence with the fence becoming engulfed by the tree as it grows. This tree is growing out over the subject site and because of the fence in the tree, the tree will continue to deteriorate. The critical root zone of this tree is not being impacted, however, the branches may be impacted by the removal of tree #7. Although the tree could be saved, because of the condition and growth issues of the tree, it would be more appropriate to remove the tree now before it becomes a problem. The third to be removed, tree #10, is a Norway Maple in fair condition. Because of the small lot size in

this zone and the size of tree #10, in order to build the two houses and provide proper stormwater management, impact to this tree cannot be avoided. Further, given the tree is considered an invasive species and is only in fair condition, this would not be a priority tree to be saved.

There are eleven trees that will be impacted by construction that need a variance. Tree numbers 1 and 3 are specimen trees that are both being impacted but saved. In addition, tree numbers "A", "B", "D", 9, 17, 18, 19, 22, and 23 are smaller trees that will be impacted by development but saved and are included as part of the variance request due to their presence on a historical property adjacent to the site. Trees "A", "B", and "D" do not have any impacts to their critical root zones but will need to have their branches tied back to avoid disturbance during the removal of tree #7. It may be necessary to prune the branches of the trees, including if any damage occurs to the branches during the removal of tree #7. Given the small size of the property area and the extent of the critical root zones of these trees, the property could not be developed without some impact to these trees. However, impacts have been minimized with reductions to the limits of disturbance and stress reduction measures are included per an arborists recommendations. Stress reduction measures, as shown on the plan and also found in the arborist's report, include tree protection fence, root pruning, vertical mulching, and limb pruning.

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

The critical root zones and branches of the affected trees are located within the buildable area on the property. The inability to remove and impact the subject trees would limit the development of the property. This creates a significant disadvantage for the applicant and deprives the applicant of the rights enjoyed by the neighboring and/or similar properties not subject to this approval process.

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;*

A Stormwater Management Concept plan has been submitted for the proposed improvements. Approval of this plan will confirm that the goals and objectives of the current state water quality standards are being met.

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

Pursuant to Section 22A 21(d) Minimum Criteria for Approval.

(1) The Applicant will receive no special privileges or benefits by the granting of the requested variance that would not be available by any other applicants.

The variance will not confer a special privilege because the removal and disturbance are due to the development of the site. As explained above, the critical root zones and branches of all of the subject trees are within the buildable area on the property constricting the development area of the property and cannot be avoided.

(2) The variance request is not based on conditions or circumstances which result from the actions of the applicant.

The requested variance is not based on conditions or circumstances which are the result of the applicant outside the norm of a development application allowed under the applicable zoning and associated regulations. The variance is based on the proposed site layout that is utilizing the only areas that are available for development.

(3) The variance is not based on a condition relating to the land or building use, either permitted or nonconforming on a neighboring property.

The requested variance is a result of the proposed site design and layout on the subject property in accord with zoning and subdivision requirements and not as a result of land or building use on a neighboring property.

(4) Will not violate State water standards or cause measurable degradation in water quality. Full ESD stormwater management will be provided as part of the proposed development.

The variance will not violate State water quality standards or cause measurable degradation in water quality. The trees being removed or disturbed are not within a special protection area. We are confident that the Montgomery County Department of Permitting Services will find the storm water management concept for the proposed project to be acceptable even if conditionally approved.

Further, as required under the law, mitigation will be undertaken for all variance trees to be removed that are better than "Poor" condition. A copy of the Forest Conservation Plan and a variance tree spreadsheet has been provided as part of this variance request. All impacted trees will receive stress reduction measures (i.e. tree protection fence, root pruning, and fertilization) performed by an ISA certified arborist. An arborist evaluation is included.

Please contact me via email, at fjohnson@mhgpa.com, or by phone, at (301) 670-0840 should you have any additional comments, concerns, or if any other information is necessary to support this request.

Thank you,



Frank Johnson

Tree Variance Detail Table

| <u>Tree ID #</u> | <u>Species</u> | <u>DBH</u> | <u>Impact/Remove</u> | <u>% Impacted</u> | <u>Condition</u> | <u>Mitigation</u> |
|------------------|----------------|------------|----------------------|-------------------|------------------|---------------------------|
| 1 | Black Cherry | 32 | Impact Only | 15% | Good | stress reduction measures |
| 3 | Catalpa sp. | 36 | Impact Only | 32% | Poor | stress reduction measures |
| 7 | Black Cherry | 28 | Remove | 100% | Poor | N/A - Poor condition |
| 9 | White Pine | 24 | Impact Only | 8% | Good | stress reduction measures |
| 10 | Norway Maple | 33 | Remove | 100% | Fair | 33" |
| 17 | White Cedar | 16 | Impact Only | 1% | Fair | stress reduction measures |
| 18 | White Pine | 17 | Impact Only | 18% | Good | stress reduction measures |
| 19 | White Pine | 12 | Impact Only | 20% | Good | stress reduction measures |
| 22 | White Pine | 18 | Impact Only | 7% | Good | stress reduction measures |
| 23 | Norway Maple | 13 | Impact Only | 6% | Fair | stress reduction measures |
| A | Holly Sp | 3 | Impact Only | 0% | Good | stress reduction measures |
| B | Holly Sp | 2 | Impact Only | 0% | Good | stress reduction measures |
| C | Sassafras | 5 | Remove | 0% | Poor | N/A - Poor condition |
| D | Sassafras | 2 | Impact Only | 0% | Good | stress reduction measures |

Total: 33"

33"/4 = 8.25" to be replanted = 3 trees @ 3" min.



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Diane R. Schwartz Jones
Director

January 2, 2014

Mr. Pearce Wroe
Macris, Hendricks & Glascock, P.A.
9220 Wightman Road, Suite 120
Montgomery Village, MD 20886-1279

Re: Stormwater Management **CONCEPT** Request
for No Gain
Preliminary Plan #: 120130170
SM File #: 250291
Tract Size/Zone: 0.85 Ac./R-60
Total Concept Area: 0.85 Ac.
Parcel(s): P598, P596, and P645
Watershed: Lower Rock Creek

Dear Mr. Wroe:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept proposes to meet required stormwater management goals via ESD by the use of rain gardens, micro-bioretenention and rooftop disconnect. Micro-bioretenention planter boxes may be substituted for the rain gardens at time of engineered plan submittal.

The following **items** will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
2. One engineered sediment control plan must be submitted for this development.
3. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
4. Use the latest MCDPS design criteria to design all ESD structures.
5. Prior to detailed plan approval please submit an executed Montgomery County Standard Stormwater Management Easement/Covenant and an executed Joint Easement and Declaration for shared use. These documents are for the micro-bioretenention structure located on Lot 2.

This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 **is not required**.

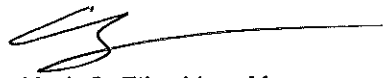
This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located

Mr. Pearce Wroe
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January 2, 2014

outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact David Kuykendall at 240-777-6332.

Sincerely,



Mark C. Etheridge, Manager
Water Resources Section
Division of Land Development Services

MCE: me CN250291 No Gain.DWK

cc: C. Conlon
SM File # 250291

| | |
|-------------------|------|
| ESD Acres: | 0.85 |
| STRUCTURAL Acres: | 0.00 |
| WAIVED Acres: | 0.00 |

August 2, 2013

Dear Mr. Churillo,

This letter is in response to your request for the position of Section 5 of the Village of Chevy Chase regarding the division of the property at 7111 Brookville Road into two building lots. It is our understanding that there be one single family house built on each lot. Section 5 has no objection to the division of the property as proposed.

Sincerely,

Section 5's Council