



Preliminary Plan 120070550 Rock Creek Forest



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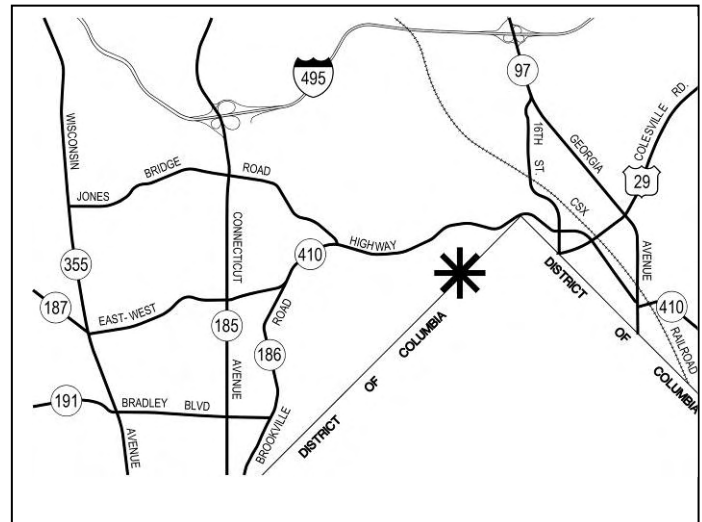
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Staff Report Date: 4/25/14

Description

- Location: on the south side of Ashboro Drive, 400 feet west of Grubb Road.
- Zone: R-60
- Master Plan: North and West Silver Spring
- Property size: 1.56 acres
- Application to subdivide 1.56 acres of land into two lots for two one-family detached dwellings
- Applicant: Glavell, LLC
- Filing date: January 11, 2007
- Chapter 50, Chapter 22A



Summary

- **Staff recommendation: Approval of the preliminary plan and final forest conservation plan with conditions**
- In 2012, over two acres of the subject property was acquired by the Parks Department through the Legacy Open Space program.
- An additional 26,844-square-foot portion of the subject property will be dedicated to the Parks Department with approval of this application.
- The hearing was rescheduled from April 24, 2014, due to concerns from citizens that they had not had sufficient time to review and comment on the application.

RECOMMENDATION: Approval subject to the following conditions:

- 1) This Preliminary Plan is limited to two lots for one dwelling unit on each lot and one parcel to be dedicated to M-NCPPC.
- 2) Prior to any tree impacts or land disturbing activity occurring on the Subject Property, the Applicant must comply with the conditions of approval for the final forest conservation plan ("FCP") approved as part of this Preliminary Plan, subject to the following:
 - a. The revised plan must show all the necessary utility connections and the associated limits of disturbance. Changes to the net tract area and tree save measures must be addressed accordingly.
 - b. Revise the FCP drawing to show the location of an unnumbered 16-inch ash and an unnumbered 18-inch tulip tree, both located on adjacent Lot 23.
 - c. Revise the limits of disturbance ("LOD") so that the LOD is no closer than ten feet to the trees identified in condition 2. b. above.
- 3) Prior to any tree impacts or land disturbing activity, the Applicant must enter into a contract with an appropriate tree care professional to implement the three-year tree maintenance and monitoring for Trees 66, 67, 79, 80, and 84, as noted on the FCP.
- 4) The sediment and erosion control plan and storm water management plan must be consistent with the limits of disturbance and the associated tree/forest preservation measures of the Final FCP.
- 5) The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated November 19, 2010, and hereby incorporates 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 MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 6) Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
- 7) 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 August 28, 2012, and hereby incorporates 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 MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 8) 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.
- 9) At the time of recordation of the plat, the Applicant must dedicate to M-NCPPC the 26,844-square-foot portion of the Subject Property identified as "Parcel A" on the approved

- Preliminary Plan for use as an addition to Rock Creek Stream Valley Unit 1. The land must be dedicated to the Commission through notation on the plat and by conveyance after recordation of the plat in a form of deed approved by the Office of General Counsel. At the time of conveyance, the Subject Property must be free of any trash and unnatural debris.
- 10) The Subject Property is within the Bethesda Chevy Chase School cluster area. The Applicant must make a School Facilities Payment to MCDPS at the high school level at the single-family detached unit rates 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.
 - 11) Prior to certification of the Preliminary Plan, the Applicant must revise the plan drawing to show a building restriction line parallel to the rear lot line of Lot 26, located 90 feet from the rear property line.
 - 12) The record plat must show a building restriction line parallel to the rear lot line of Lot 26, located 90 feet from the rear property line. The plat must contain a note that states that building foundations must not be placed in the area between the rear property line of Lot 26 and the building restriction line.
 - 13) Prior to certification of the Preliminary Plan, the Applicant must remove the note "maintained grass" on Parcel A.
 - 14) The record plat must show necessary easements.
 - 15) 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 one platted lot and one unplatted parcel, which together comprise 1.56 acres (68,151 square feet) in area. The property is located on the south side of Ashboro Drive, 400 feet west of Grubb Road. It is located in the R-60 zone. The property is undeveloped. Surrounding properties to the north, east, and west are developed with one-family detached dwellings in the R-60 zone. Immediately to the south of the property is the existing M-NCPPC Rock Creek Park, officially designated here as the Rock Creek Stream Valley Unit 1. To the south and southeast of the M-NCPPC park, the National Park Service operates Rock Creek Park in the District of Columbia. The subject property is on a ridge overlooking the N-NCPPC and National Park Service portions of Rock Creek Park.

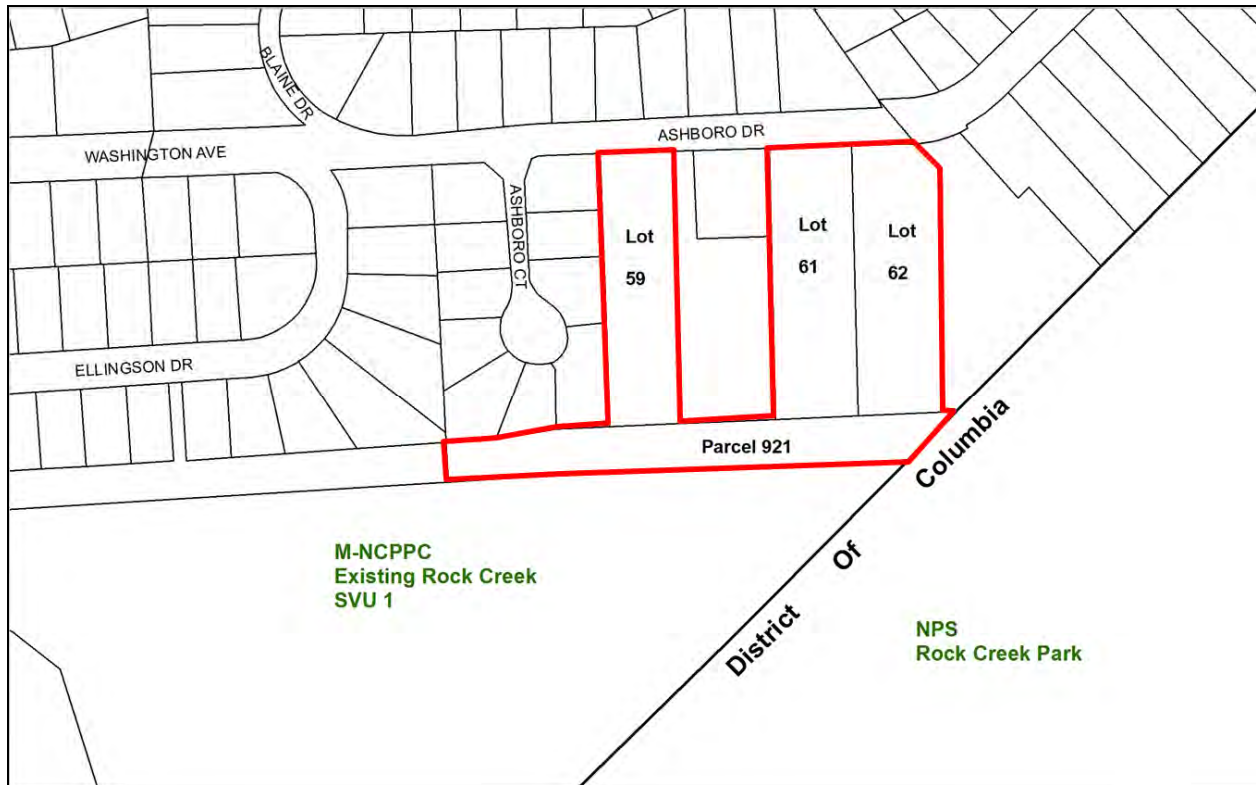
The property is located in the Rock Creek watershed. There are no streams or floodplains on the site. There are 1.48 acres of forest on the property.



PROJECT DESCRIPTION

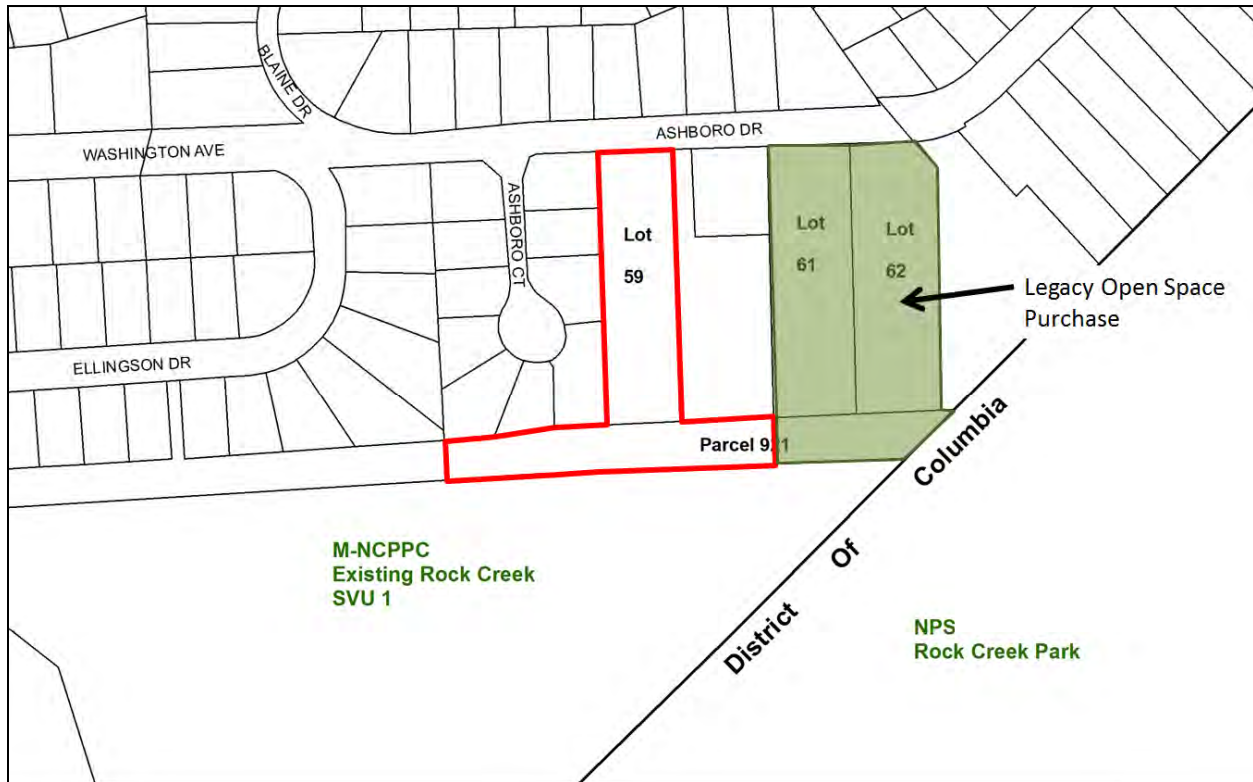
Project History

The application was originally submitted in 2007 as an eight-lot subdivision on a 3.72-acre site. At that time, the subject property consisted of three platted lots (Lots 59, 61, and 62, Hickey & Offutt's Subdivision, Plat A 45, 1889) and one unplatted parcel (Parcel 921).



Subject property of the original application

In 2012, the Montgomery County Parks Department purchased the majority of the subject property through the Legacy Open Space program, as an addition to Rock Creek Park. The acquisition included Lot 61, Lot 62, and an 11,393-square-foot portion of Parcel 921 contiguous to Lots 61 and 62. Thus, the subject property was reduced to Lot 59 and the remainder of Parcel 921. The revised subject property is 1.56 acres in size.



Subject property of the revised application

Proposal

The applicant proposes to resubdivide Lot 59 into two lots for two one-family detached dwellings. Proposed Lot 25 will be 13,225 square feet in area and proposed Lot 26 will be 28,082 square feet in area. The remainder of Parcel 921 that was not acquired as part of the Legacy Open Space purchase (referred to as "Parcel A" on the current preliminary plan) will be dedicated to the Montgomery County Parks Department as an addition to Rock Creek Park.

Vehicular access to the proposed lots will be provided via individual driveways from Ashboro Drive. Pedestrian access will be provided via an existing sidewalk along the subject property frontage.



Proposed Preliminary Plan

(See also Attachment B – proposed plan)

ANALYSIS AND FINDINGS – Chapter 50

Conformance to the Master Plan

The North and West Silver Spring 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.

In addition, on page 84 the Master Plan recommends the acquisition of parcels adjacent to existing urban parks to help meet recreational needs and expand existing urban green space. The preliminary plan is in substantial conformance with this recommendation because the applicant proposes to dedicate the 26,844-square-foot Parcel A to the Montgomery County Parks Department as an addition to Rock Creek Park.

Public Facilities

Roads and Transportation Facilities

Access to the proposed lots will be via individual driveways from Ashboro Drive. Pedestrian access will be provided via an existing sidewalk along the Ashboro Drive frontage.

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 does not generate more than three new vehicle trips in the morning or evening peak hours. Therefore, the application is also not subject to Transportation Policy Area Review.

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 subdivision. The subject 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 subject property. The subject property is within the Bethesda Chevy Chase High School cluster area, which is currently operating between 105-120% of capacity at the high school level, and a school facilities

payment is required. Electrical, telecommunications, and gas services are also available to serve the property.

Environment

Environmental Guidelines and Forest Conservation

Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) #420070800 was originally approved for the site on January 11, 2007. The associated FCP application remained incomplete and the 2007 NRI/FSD expired. A revised NRI/FSD was ultimately approved on September 13, 2010.

The approved NRI/FSD reflects the original subdivision that included additional property toward the east, which has since been purchased by the Montgomery County Parks Department. The remaining property that is under the current application is approximately 1.56 acres in size and is almost completely forested, containing 1.48 acres of forest. The subject property has numerous native trees, many of which are significant or specimen in size. The on-site forest stand is rated as high priority for retention due to presence of mature trees, steep slopes, erodible soils and stream valley buffer. Additionally, there are occurrences of rare, threatened and endangered species (RTES) in the associated off-site forest stand and general vicinity. Two American chestnut trees (*Castanea dentata*) which are classified as RTES were mapped within the forest that has already been acquired by the Parks Department. There is an offsite stream located towards the south of the subject property. A portion of the stream valley buffer extends onto the subject property. An ephemeral channel (which only conveys water in direct response to rainfall) runs off-site towards the east. The ephemeral channel does not meet the definition of a stream and therefore does not have an associated stream valley buffer. The site is located within the Lower Rock Creek watershed, which is a Use I watershed¹. The protection of affected environmental resources is discussed below.

The application is subject to the Chapter 22A Montgomery County Forest Conservation Law and a Final Forest Conservation Plan has been submitted for approval (stamped received on March 26, 2014). The application includes 0.90 acres of on-site forest clearing which is offset by protecting 0.58 acres of forest through dedication to the Montgomery County Parks Department. The Planning Board has accepted dedication of (or expansions to) conservation parks as equivalent to protection by a Category I conservation easement for forest conservation purposes.

The park dedication area satisfies the forest conservation worksheet requirements triggered by the 0.90 acres of forest clearing. Additionally, most of the on-site stream valley buffer occurs within the area to be dedicated to the Parks Department. There are 510 square feet of stream valley buffer

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.

located on proposed Lot 26 outside of the dedication area, and 11,615 square feet of the stream valley buffer are on the land to be dedicated.

Proposed Lot 26 (immediately adjacent to the park dedication area) also contains high priority forest, steep slopes, erodible soils, mature trees, and a minor portion of the stream valley buffer. Because of concern about impacts to these resources, staff has recommended additional protection for the southern portion of proposed Lot 26, beyond the minimum forest conservation requirements met by the Park dedication. As discussed below in the Subdivision Regulations and Zoning Ordinance section of this report in more detail, a building restriction line will be established on the rear of proposed Lot 26. The building restriction line is proposed to be located 90 feet from the rear property line in order to protect the area of steep slopes, highly erodible soils and associated environmentally sensitive features.

Because proposed Lot 26 is less than one acre in area, staff is not recommending that a conservation easement be placed on the retained forest and that all forest be counted as cleared for forest conservation purposes.

Tree Save

The tree preservation measures for the significant and specimen trees are generally addressed by the existing final FCP submission, which was prepared by an ISA certified arborist. However, there are potential LOD and tree save adjustments which may be required for utility connections. The existing gas line is located across Ashboro Drive and outside of the currently proposed LOD; therefore, the LOD will likely need to expand to accommodate the gas connection. Additionally, the electric utilities are underground and not shown on the submitted plans. Therefore, it is not clear where the electrical tie-ins for the proposed residences would occur. Any necessary utility connections along with the associated LOD expansions and associated tree impacts must be reflected on the revised final FCP. Staff has recommended a condition of approval regarding this issue.

Potential off-site LOD expansions for utility connections tied to the project would increase the net tract area and change the forest conservation requirements. However, the park dedication area has approximately 0.03 acres of area that has been encroached by lawn planting and currently does not meet forest definition. The encroached area was not credited towards forest conservation requirements. If minor planting requirements are triggered by an LOD expansion, the additional requirements could potentially be satisfied (or partially satisfied) by replanting of the encroached park dedication. The Parks Department has indicated that they would accept planting on the area to be dedicated.

There are a two edge trees ranging in size from 16 inches to 18 inches DBH that could be impacted by the proposed subdivision. These trees are off-site, occurring a few feet from the subject property. Staff has recommended a condition of approval that these additional tree impacts be minimized by alteration of the LOD.

Forest Conservation Variance

Section 22A-12(b)(3) of the 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.

Since the application includes removals and disturbance of trees that are $\geq 30''$ DBH, a variance is required. The applicant submitted a variance request on March 11, 2014 for the impacts and removals of subject trees (see Attachment C for variance request). The applicant's request is to remove eight subject trees and to impact, (but retain) two subject trees, affecting a total of ten trees that are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law.

Trees to be Removed

TREE No.	TYPE	DBH	Percent of CRZ Impacted by LOD	CONDITION	PROPOSED STATUS
62	Black Oak	34"	X	Good	REMOVE
63	Tulip Tree	16", 30"	X	Good	REMOVE
64	Scarlet Oak	33"	X	Fair/Poor	REMOVE
65	Tulip Tree	50"	X	Good	REMOVE
68	Black Oak	30"	X	Fair	REMOVE
69	Tulip Tree	31"	X	Good	REMOVE
70	White Oak	32"	X	Fair	REMOVE
71	Tulip Tree	36"	X	Good	REMOVE

Trees to be Impacted but Retained

TREE No.	TYPE	DBH	Percent of CRZ Impacted by LOD	CONDITION	PROPOSED STATUS
79	Tulip Tree	41"	27%	Good	SAVE
80	Tulip Tree	32"	19%	Good	SAVE

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 because the property is almost entirely forested and the buildable area is heavily interspersed with subject trees and their associated critical root zones. Therefore, any development of the property would require impacts and removals.

Staff has 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 for granting of the requested variance:

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

The tree impacts and removals associated with the site are within the buildable area established by the setbacks and other site constraints, such as the building restriction lines. 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 on proposed development allowed under the existing zoning and the need to provide usable outdoor space while achieving adequate stormwater management. Staff finds that the variance can be granted under this condition if the impacts are avoided or minimized and that any necessary mitigation is provided. Design changes were incorporated to reduce tree disturbance and removals and mitigation is provided for the resources disturbed.

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 proposed site design and layout on the subject property and not as 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.*

MCDPS staff approved the stormwater management concept for the project on August 28, 2012. The MCDPS review and ultimate approval of the sediment and erosion control and storm water management plans will help ensure that appropriate standards are met. Furthermore, the subject property overlaps a portion of the stream valley buffer, which will be protected from development. There are 510 square feet of stream valley buffer on proposed Lot 26 to be protected by the proposed building restriction line at the rear of proposed Lot 26 and the remaining 11,615 square feet of subject stream valley buffer are on the land to be dedicated into a conservation park. Therefore, the application will not violate State water quality standards or cause measurable degradation in water quality.

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

applicant's request was forwarded to the County Arborist on March 11, 2014. The County Arborist issued a response to the variance request on March 14, 2014 (Attachment D) and recommended that the variance be approved with the condition that appropriate mitigation be provided for the resources disturbed. Additionally, the County Arborist provided general recommendations on tree preservation techniques and calculating required mitigation.

Mitigation for Trees Subject to the Variance Provisions

All of the subject trees removed by the application are contained within the forest boundary. Since the forest clearing which includes the subject trees is to be mitigated by the reforestation requirements (which in this case is satisfied by the Conservation Park dedication) no additional mitigation for the variance tree removals is recommended by Staff.

Staff Recommendation on the Variance

As a result of the above findings, staff recommends that the Planning Board approve the applicant's request for a variance from the Forest Conservation Law to impact (but retain) two subject trees and remove eight subject trees (affecting a total of ten subject trees) associated with the subdivision. The variance approval is assumed into the Planning Board's approval of the Forest Conservation Plan.

Stormwater Management

The MCDPS Stormwater Management Section approved the stormwater management concept on August 28, 2012. The stormwater management concept consists of environmental site design through the use of drywells, rooftop disconnect, and driveway gravel trenches.

Compliance with the Subdivision Regulations and Zoning Ordinance

This 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 proposed lot size, width, shape and orientation are appropriate for the location of the subdivision taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.

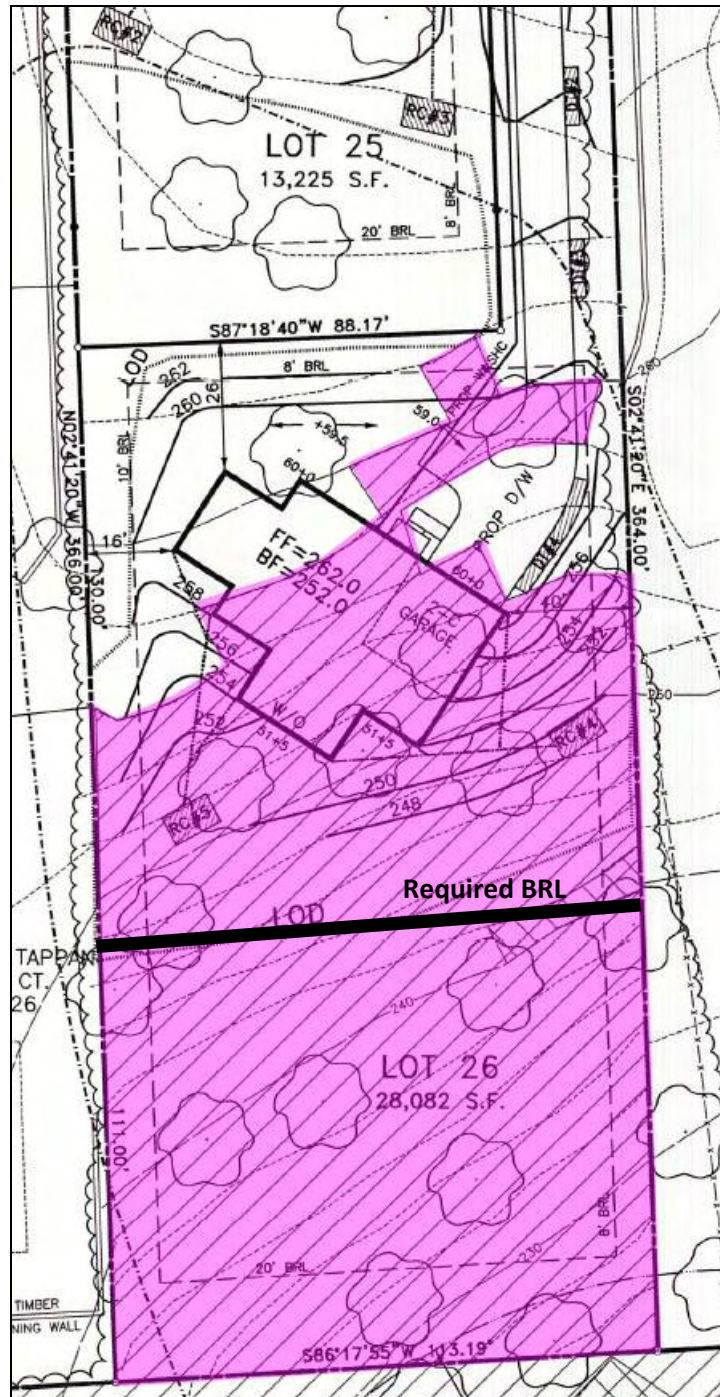
The lots were reviewed for compliance with the dimensional requirements for the R-60 zone as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is included in attached Table 1. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

Conformance with Section 50-32

Section 50-32(c) of the Subdivision Regulations states that "the board may restrict the subdivision of land to achieve the objectives of Chapter 22A relating to conservation of tree and forest resources and to protect environmentally sensitive areas." For purposes of that section,

environmentally sensitive areas are defined to include slopes over 25% or over 15% with highly erodible soils.

The rear of the subject property contains an area of steep slopes and highly erodible soils. Most of the area contains slopes that are between 15% and 25% in gradient, but a small area contains slopes in excess of 25%. Although preliminary plans do not fix the location of proposed dwellings, it is worth noting that the shape of the subject property, the location of the steep slopes, and the location of two trees that are proposed to be saved on proposed Lot 25 necessitate that at least a portion of the footprint of any dwelling on proposed Lot 26 will be built on slopes that are between 15% and 25% gradient on highly erodible soils.



Slopes in excess of 15% with highly erodible soils are shaded. The approximate location of the required 90-foot BRL is shown as the heavy solid line.

In order to protect the remainder of the steep slopes south of (and downhill of) the future dwelling, staff recommends that a building restriction line be established on the rear of proposed Lot 26. Therefore, the staff recommendation includes conditions of approval that require a building restriction

line to be located 90 feet from the rear property line, in conformance with Section 50-32(d) of the Subdivision Regulations.

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 21 lots (Attachment E). The neighborhood includes platted lots in the R-60 zone in the vicinity of the subject property. All the lots share two points of access on Ashboro Drive. 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 21 lots, lot frontages range from 25 feet to 152 feet. Seven of the lots have frontages of less than 60 feet, 12 lots have frontages between 60 and 100 feet, and two lots have frontages of over 100 feet. Proposed Lot 25 will have a frontage of 88 feet, and Proposed Lot 26 will have a frontage of 25 feet. **The proposed lots will be of the same character as existing lots in the neighborhood with respect to lot frontage.**

Alignment:

Sixteen of the 21 existing lots in the neighborhood are perpendicular in alignment, two are corner lots, and three are radial. Both of the proposed lots will be 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 6,023 square feet to 30,638 square feet. Five of the lots are smaller than 7,000 square feet, 12 are between 7,000 and 10,000 square feet, and four are larger than 10,000 square feet. Proposed Lot 25 will be 13,225 square feet, and proposed Lot 26 will be 28,082 square feet in size. **The proposed lot sizes are in character with the size of existing lots in the neighborhood.**

Shape:

Ten of the 21 existing lots in the neighborhood are rectangular, six are irregularly shaped, three are trapezoids, one has a pipestem shape, and one is triangular. Proposed Lot 25 will be rectangular in shape, and proposed Lot 26 will be a pipestem lot. **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 32 feet to 115 feet in width. Seventeen of the lots have widths between 30 and 50 feet, three of the lots have widths between 70 and 100 feet, and the remaining one lot has a width of more than 100 feet. Proposed Lot 25 will have a width of 88 feet, and proposed Lot 26 will have a width of 95 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 1,732 square feet to 20,487 square feet in buildable area. Fourteen of the lots have buildable areas smaller than 4,000 square feet, seven have buildable areas between 4,000 and 10,000 square feet, and one has a buildable area larger than 20,000 square feet. Proposed Lot 25 will have a buildable area of 7,825 square feet in size, and proposed Lot 26 will have a buildable area of 20,487 square feet. **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. Citizen correspondence was received in 2008 regarding the previous eight-lot version of the preliminary plan. In addition, staff has received citizen correspondence on the current version of the application, requesting that the hearing be postponed from April 24, 2014, to May 8, 2014, due to concerns that citizens had not had sufficient time to review and comment on the application.

CONCLUSION

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conform to the recommendations of the North and West Silver Spring 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 two proposed lots are of the same character as the existing lots in the defined neighborhood with respect to each of the resubdivision criteria, and therefore, comply with Section 50-29(b)(2) of the Subdivision Regulations.

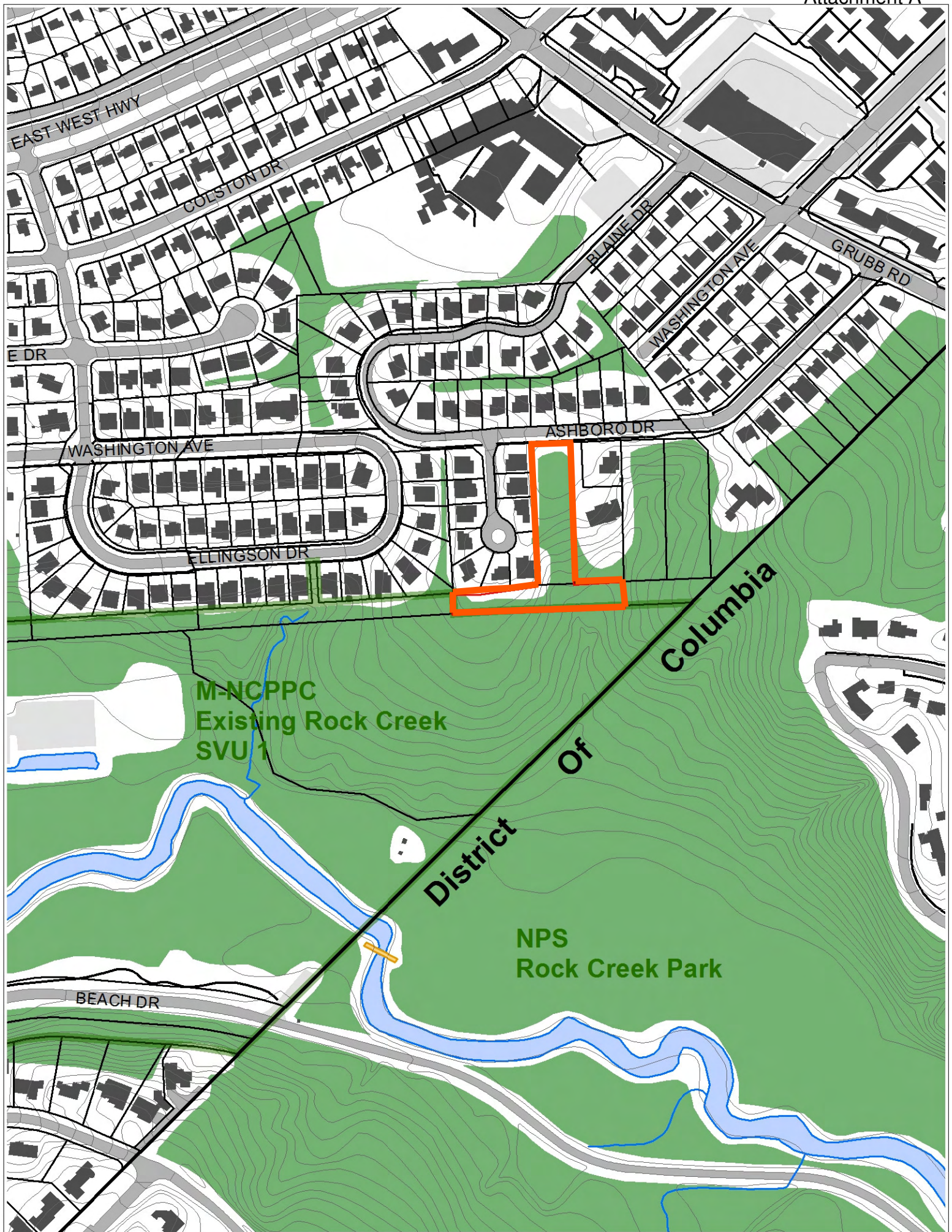
Attachments

Attachment A – Vicinity Development Map
Attachment B – Proposed Preliminary Plan and Forest Conservation Plan
Attachment C – Forest Conservation Variance Request
Attachment D – County Arborist Response
Attachment E – Resubdivision Neighborhood Map
Attachment F – Resubdivision Data Table
Attachment G – Agency Correspondence Referenced in Conditions
Attachment H – Citizen Correspondence

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.	13,225 sq. ft. minimum
Lot Width	60 ft.	88 ft. minimum
Lot Frontage	25 ft.	25 ft. minimum
Setbacks		
Front	28 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	11	2
MPDUs	N/a	
TDRs	N/a	
Site Plan Required	No	

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



1. THE PROPERTY IS LOCATED ON TAX MAP JN-123.
2. THE PROPERTY IS LOCATED ON W.S.S.C. 200 SHEET 210-NW-02

- [illegible]

DEVELOPMENT DATA

ZONING	REQUIRED	PROPOSED
R-60	LOT 25	LOT 26
MINIMUM AREA (S.F.)	6,000	13,225
MINIMUM LOT WIDTH		28.003
MINIMUM LOT DEPTH	60	88
# BUILDING LOTS (TT)	25	113
# STREET LOTS (TT)	25	88
MINIMUM SETBACK FROM STREET (FT)	29*	31
SETBACK FROM ADJACENT LOT		
ONE SIDE (FT)	8	10
TWO SIDES (FT)	16	22
REAR (FT)	16	22
PERFECT F.T.	20	42

*SEE MINIMUM PER ZONING REGULATIONS OR EXISTING ESTABLISHED BUILDING OF 28'

SITE DATA

ZONING: R-60
TOTAL AREA: 68,151 Sq. Ft.
AREA OF LOTS: 41,307 Sq. Ft.
AREA OF PARCEL A: 26,844 Sq. Ft. *

ENGINEER'S CERTIFICATE

I HEREBY CERTIFY THAT THIS BOUNDARY SHOWN HEREON IS CORRECT BASED ON EXISTING DEEDS AND PLATS RECORDED AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND, SUBJECT TO CHANGE UPON FINAL SURVEY, TOPOGRAPHY FROM SOURCES NOTED.

PROFESSIONAL CERTIFICATION

I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME,
AND THAT I AM DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF
THE STATE OF MARYLAND, LICENSE NO. 16518, EXPIRATION DATE: 06/10/2015.

William H. Beckwith

BEAN PICKARD, P.E.

2/27/14

DATE

VICINITY MAP
SCALE: 1" = 2000'

VICINITY MAP		
SCALE: 1" = 2000'		
1/15/14	ADDED EX FEATURES	GWB
5/17/11	UPDATED PLAN	RK
6/18/10	DEVELOPEd NOW PLAN TO ADDRESS MINOR COMMENTS	DP
5/21/08	ADDRESS AGENCY COMMENTS	KVC
10/16/07	ADDRESS DRC COMMENTS	YMT
5/28/07	ADDRESS DRC COMMENTS	KVC
DATE	DESCRIPTION	BVT
REVISIONS		

CIVIL ENGINEERS * SURVEYORS * LAND PLANNERS

16220 FREDERICK ROAD, SUITE 300
GAITHERSBURG, MARYLAND 20877
PHONE (301) 208-0250 FAX (301) 208-1270



MINOR & 1ST FILE NO. 120070330

**PRELIMINARY PLAN
PROPOSED LOTS 25, 26 & PARCEL A
ROCK CREEK FOREST**

A RE-SUBDIVISION OF LOT 59
HICKEY & OFFUTT'S SUBDIVISION,
RECORDED IN P.B. A AT PLAT 45,
AND PART OF PARCEL 921, RECORDED IN L. 43925 F. 471
WHEATON ELECTION DISTRICT NO. 13 MONTGOMERY COUNTY, MARYLAND

SCALE 1" = 30'	DRAWN RK
REVISION	DATE 11/11/13

LEGEND

- EXISTING PROPERTY
- EXISTING CONTOUR
- PROPOSED CONTOUR
- LIMIT OF DISTURBANCE
- ROOF TOP DISCONNECT FLOW PATH
- FOREST EDGE
- EXISTING OVERHEAD LINES
- EXISTING TREE W/2% W/2% (WITH "X" TO BE REMOVED)

- [illegible]

SIGNIFICANT/SPECIMEN TREE SUMMARY 24" •

- | LOCATION | COMMENTS |
|----------|--------------------------------|
| | WEEPING PRESSURES AT BASE |
| D | BROKEN LIMBS |
| D | DEAD/HELL/17 SNAG |
| | EXPOSED ROOTS WITH WATER, PEEL |
| POOR | BARK |
| D | SPLITS @ 8" |
| D | VINES |
| | BROKEN LIMBS INCLUDED BARK |

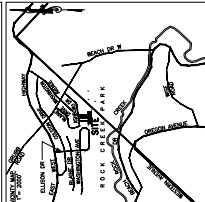


FINAL
FOREST CONSERVATION PLAN

PROPOSED LOT 25, 26 & PARCEL A
ROCK CREEK FOREST
HICKEY & OFFUTT'S SUBDIVISION

PREPARED FOR

NORTON LAND DESIGN
LANDSCAPE ARCHITECTURE + ENVIRONMENTAL PLANNING
17830 NEW HAMPSHIRE AVENUE, SUITE 101 ASHTON, MD 20861
P 240.342.2329 F 240.342.2632 WWW.NORTONLANDDESIGN.COM



REVISIONS	DATE	BY	DESCRIPTION
12.13.2013	PER		
	MEETINGS WITH		
	STAFF		
2.10.2014	PER		
	STAFF COMMENTS		
2.3.2014			
3.26.2014	PER		
	STAFF COMMENTS		

WATER CLASS	I/P-P	WATERSHED	FEW FLOODPLAIN
TRIBUTARY	UNNAMED	ROCK CREEK	MAP PANEL #
AX MAP	JN123	200 SHEET	210 NW 02
SCALE AS SHOWN	DATE DEC. 2013	ADJ MAP PAGE	36
		PROJ. NO.	12-064
		SHEET NO.	L-1.1

[illegible]

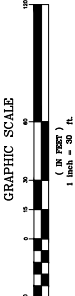
SITE TABULATIONS:

1.43	ACREAGE OF TRACT	REMAINING IN AGRICULTURE	
0	ACREAGE OF TRACT	REMOVED FROM AGRICULTURE	
0	ACREAGE OF TRACT	TO BE IMPROVED AS PART OF REV. APPLICATION	
1.49	ACREAGE OF TOTAL FOREST RETENTION:		
0.58	ACREAGE OF TOTAL FOREST RETENTION:		
0.90	ACREAGE OF TOTAL FOREST CLEARED:		
0.24	ACREAGE OF TOTAL FOREST CLEARED:		
0.33	CONSERVATION THRESHOLD		
0.00/0.00/0.00	PLANTED WITHIN WETLANDS, CLEARED, AND		
0.00/0.00/0.00	ACREAGE OF FOREST RETAINED, CLEARED, AND		
0.00/0.00/0.00	ACREAGE OF FOREST RETAINED, CLEARED, AND		
0.33/0.00/0.00	PLANTED WITHIN STREAM BUFFERS		
0.33/0.00/0.00	PLANTED WITHIN STREAM BUFFERS		
0.33/0.00/0.00	PLANTED WITHIN RICH PRAIRIES, CLEARED, AND		
0.7/25	UNLATE OBST. INCHES OF STREAM BUFFER		
292*	NUMBER OF SPECIMEN TREES REMOVED		
	*NO MITIGATION IS PROPOSED FOR THE REMOVAL OF WARMWATER TREES		
	IN THE PRAIRIE AREA. MITIGATION IS MITIGATED BY THE FOREST		
	PRESERVATION BUFFER DESIGN AREA.		

CERTIFICATION OF QUALIFIED PROFESSIONAL

I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON HAS BEEN PREPARED IN ACCORDANCE WITH MARYLAND STATE AND MONTGOMERY COUNTY FOREST CONSERVATION LAWS, AND M-NCP&PC GUIDELINES.

MICHAEL A. NORTON
MDNR / COMAR 08.19.06.01
QUALIFIED PROFESSIONAL
REGISTERED LANDSCAPE ARCHITECT #3310
ISA CERTIFIED ARBORIST



MISS UTILITY

CALL "MISS UTILITY" AT 1-800-257-7777, 72 HOURS PRIOR TO THE START OF WORK. THE EXCAVATOR MUST NOTIFY ALL PUBLIC UTILITY COMPANIES WITH UNDERGROUND FACILITIES IN THE AREA OF PROPOSED EXCAVATION AND HAVE THOSE FACILITIES LOCATED BY THE UTILITY COMPANIES PRIOR TO COMMENCING EXCAVATION. THE EXCAVATOR IS RESPONSIBLE FOR COMPLIANCE WITH REQUIREMENTS OF CHAPTER 36A OF THE MONTGOMERY COUNTY CODE.





December 18, 2013

Revised February 14, 2014

Revised March 10, 2014

Mr. Robert Kronenberg
Maryland National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Md. 20910-3760

Re: Preliminary Plan of Subdivision No.120070550 -Hickey & Offutt's Subdivision of Rock Creek Forest - A Re-Subdivision of Lot 59, Block M and Part of Parcel P921
Request for a Specimen Tree Variance

Dear Mr. Kronenberg:

Norton Land Design hereby requests a Specimen Tree Variance for the property identified as Lot 59, Block M, Hickey & Offutt's Subdivision of Rock Creek Forest (the "Subject Property" or "Lot 59") pursuant to Section 22A-21 of Chapter 22A of the Montgomery County. This Variance request is submitted on behalf of Preliminary Plan Applicant Glavell & Associates, LLC, the owner of the Subject Property in connection with the coordinated review of the above referenced Preliminary Plan of Subdivision and the Preliminary Forest Conservation Plan.

I. Background Information

In order to secure approval of the removal or disturbance of certain identified trees that are considered priority for retention and protection under State law and the Montgomery County Code, Norton Land Design hereby requests a Specimen Tree Variance for the of the property identified as Lot 59, Block M, Hickey & Offutt's Subdivision of Rock Creek Forest ("Lot 59").

This Variance request is submitted pursuant to Section 22A-21 of Chapter 22A of the Montgomery County Code and Section 5-1607(c) and Section 5-1611 of Title 5 of the Natural Resources Article of the Maryland Annotated Code, (the "Natural Resources Article"). This Variance request is submitted on behalf of Preliminary Plan Applicant Glavell & Associates, LLC, the owner of the Subject Property in connection with the coordinated review of Preliminary Plan of Subdivision No.120070550 (the "Preliminary Plan") and the Final Forest Conservation Plan.

The Preliminary Plan properties include one recorded lot, Lot 59, Block M and a portion of the adjacent tax parcel, Parcel P921 ("Pt.921"). Pt.921 shares a common boundary with Lot 59 and the lots adjacent to Lot 59 on the east and west sides. The southern boundary of Pt.921 binds on Rock Creek Park. The entirety of Parcel P921 is also known as "Callaghan's Discovery. (Lot 59 and Pt.921 are collectively the "Subject Properties") The Subject Properties are located on the south side of Ashboro Drive in the Chevy Chase area of Montgomery County, Maryland. The currently vacant Lot 59 was originally platted in 1889 by a plat recorded in Plat book "A" as "Plat 45." In 1889 Ashboro Drive was part of a public way known then as Washington Avenue.

The plat records of Montgomery County reveal that Parcel P921 ("Callaghan's Discovery") and the adjacent parcel west of Pt.921 that was previously dedicated to the Maryland National Capital Park and Planning Commission ("M-NCPPC") was created by an unrecorded 1931 plat as a 50-foot wide building restriction line between Hickey & Offutt's Subdivision and what is now Rock Creek Park (then owned by John Marshal Brown). The 50-foot wide strip of land extended from the D.C. line west to what was then Lot 38 and then curved to the northwest toward Lot 24 and then intersecting with what is now known as East-West Highway (then "Bethesda-Silver Spring Highway).

Subsequent to 1889, all but three of the lots in the Hickey & Offutt's Subdivision between Grubb Road to the east, Rock Creek Park to the south, Ellingson Drive to the west and Blaine Drive and the MCPS property to the north have been re-subdivided. Today Lot 59 is the only remaining privately owned and undeveloped lot depicted on the 1889 plat, Plat 45. The other two lots and the portion of Parcel P921 east of the Subject Properties were conveyed to Montgomery County, Maryland pursuant to a Land Purchase Agreement executed by the Applicant on October 12, 2012.

Development of parcel 59 by this resubdivision application will require the removal of eight (8) specimen trees and the disturbance of the critical root zone of an additional two (2) specimen trees. The existing forest on Pt.921, the trees on Lot 59 and the moderate slopes along with a very narrow band of steep slopes 5 foot wide in the vicinity of trees 78 and 80 in the southern portion of Lot 59 are all depicted on the Natural Resources Inventory/Forest Stand Delineation No.420070800 that was approved on January 11, 2007 and recertified as revised on September 13, 2010.

The Preliminary Plan proposes to divide Lot 59 into two R-60 residential lots and to establish Pt.921 as Outlot "A" dedicated to M-NCPPC for perpetual preservation of the retained forest in order to satisfy the forest retention requirements for the Subdivision. As shown on the Forest Conservation Plan, the forest retention requirements of Chapter 22A of the County Code applicable to the resubdivision of Lot 59 are fully satisfied by the retained forest on future Outlot "A" (Pt.921). In fact, by retaining all of the existing forest on Pt.921 the Applicant has achieved the intended primary purpose of a forest conservation plan "to retain existing forest and trees and avoid reforestation..." (See Sect. 22A-12 (b)(1). Reforestation will not be required.

II. Unique adjacency relationships.

The unique location of the Subject Properties on a fully developed residential street sandwiched between two improved R-60 lots that are each part of previously developed subdivisions results in adjacency relationships that constitute special circumstances justifying approval of a Chapter 22A Specimen Tree Variance permitting the removal of the trees located within the two proposed building envelopes and the disturbance of the critical root zones of two (2) other specimen trees in proximity to those building envelopes. It is not possible to construct either of the two proposed houses unless the identified trees are removed and the two critical root zones disturbed.

III. Tree Removal and Critical Root Zone Disturbance.

It is noteworthy that if Lot 59 were to be developed under the R-60 Zone as a single lot it would be exempt from the requirements of Chapter 22A of the County Code. As a result of the approval of the requested resubdivision of Lot 59 into two lots and the dedication of Pt.921 as a forest retention outlot, all of the existing forest on Pt.921 will be retained and except for those trees that must be removed for development to occur, all of the remaining trees on Lot 59 will be saved and protected during construction by the Final Forest Conservation Plan.

As detailed above, the two lot development proposed by this Resubdivision application requires approval of a Specimen Tree Variance pursuant to Section 22A-21 of Chapter 22A of the County Code. Approval of the requested Specimen Tree Variance will allow the removal of eight (8) trees and the disturbance of the critical root zone of an additional two (2) trees. Approval of the Specimen Tree Variance Request will enable the Applicant to develop the Subject Properties in a manner consistent with the resubdivided character of the two adjacent subdivisions in a neighborhood that has been completely resubdivided since it was originally plated in 1889.

IV. Proposed Lot 26 .

Proposed Lot 26 contains a sloping rear yard with both native trees and a significant quantity of invasive species. As both the Preliminary Plan and the Forest Conservation Plan illustrate, the Lot 26 rear yard is sandwiched between the maintained lawns of its two neighboring residential lots based on visual observations it appears that there has been an encroachment by one of the neighboring lots into what is currently Lot 59 and that the ground cover in that area has been disturbed.

We have given considerable thought to the question of whether any portion of the rear yard of proposed Lot 26 should be subject to either a Category I or Category II Conservation Easement. In my professional opinion, the imposition of a conservation easement on a relatively small and isolated portion of the rear yard of proposed Lot 26 would, in this instance, be inappropriate and extremely difficult for MNCPPC to enforce.

In my professional judgment it would be appropriate to prohibit the type of land disturbing activities that are associated with building construction in that portion of proposed lot 26 that includes Tree 79 and Tree 80 extending to the common boundary of proposed Lot 26 and proposed Outlot "A". This would be accomplished by a Planning Board requirement for the establishment of a Limits of Disturbance Line beyond which such land disturbing activities would be prohibited.

Even though certain trees not shown as removed that are located outside of the Limits of Disturbance ("LOD") boundary line may have critical root zone impacts from future development, none of those trees are proposed for removal. All of the trees that are within the area between the LOD Line and the southern property line will be saved and the trees closest to the LOD Line will be protected during construction by a "Tree Save Plan." Those trees, in addition to those other priority trees that require removal in order to construct two one-family detached dwelling are the subject of this Chapter 22A Specimen Tree Variance.

V. The Variance Requirements

Section 5-1607 of the Natural Resources Article requires a variance for the removal or disturbance of trees having a diameter of 30 inches when measured at 4.5 feet above the ground. Section 5-1611 of the Natural Resources Article authorizes a local jurisdiction to grant a variance:

"where owing to special features of a site or other circumstances, implementation of this subtitle would result in unwarranted hardship to the applicant."

Chapter 22A of the County Code specifies the circumstances when a Specimen Tree Variance, a variance from Chapter 22A, is required. Section 22A-21(a) of the County Code establishes the "minimum criteria" for securing a Specimen Tree Variance. Applicants seeking a variance from any Chapter 22A requirement must:

- (1) describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) describe how enforcement of this Chapter will deprive the landowner of rights commonly enjoyed by others in similar areas;
- (3) verify that State water quality standards will not be violated and that a measurable degradation in water quality will not occur as a result of granting the variance; and
- (4) provide any other information appropriate to support the request."

A Specimen Tree Variance that meets the "minimum criteria" set out in Section 22A-21(a) of the County Code may not be approved 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 result from the actions by the applicant;
- (3) is based on 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.

The following paragraphs illustrate the factual basis supporting the approval of this Specimen Tree Variance by the Planning Board. Technical information for this request has been provided by P. G. Associates.

A. The special conditions that are peculiar to the Subject Property that would cause the unwarranted hardship are described as follows:

The Subject Property is the last remaining privately owned, undeveloped property on Ashboro Drive in Chevy Chase. It is within a priority funding area served by public water and sewer adjacent the urban centers of Bethesda-Chevy Chase and Washington D.C. Development of the subject Property at a density compatible with its surroundings is consistent with smart growth policies and the North and West Silver Spring Master Plan. Five of the existing trees that must be removed in order for the Subject Property to be developed are located within the building envelope for proposed Lot 25 and would have to be removed even if the Subject Property were developed as an out of character elongated, 1889 style lot. The eight (8) trees that require removal in order to develop proposed Lot 25 & 26 are the only obstacle to a development proposal that furthers the county's housing goal of avoiding sprawl by locating greater density in developed, urban communities. The Applicant would suffer unwarranted hardship if the removal and disturbance of the designated trees were not allowed.

Unwarranted hardship is demonstrated, for the purpose of obtaining a Specimen Tree Variance when an applicant presents evidence that denial of the Variance would deprive the Applicant of the reasonable and substantial use of the property. The resubdivision of Lot 59 into two conforming and compatible R-60 lots in a fully developed urban community of similar lots is clearly within the class of reasonable and substantial uses that justify the approval of a Specimen Tree Variance for the Subject Property. If the requested Variance were denied the Applicant would be precluded from developing the Subject Property for a reasonable and significant use commonly enjoyed by virtually all other private property owners in the community.

B. The following paragraphs describe how enforcement of Chapter 22A will deprive the landowner of rights commonly enjoyed by others in similar areas.

If the requested Variance were denied, the Applicant would suffer unwarranted hardship and would be deprived of rights commonly enjoyed by other property owners in the R-60 Zone in areas similar to the location of the Property. If the requested variance were denied, the Applicant would be denied the right enjoyed by other similarly situated property owners to develop their R-60 zoned property in a manner permitted by the zoning ordinance that is consistent with the development history of the neighborhood, block and subdivision.

If the variance were not granted the trees identified on the attached chart would have to remain and the Applicant would be unable to develop the property as either one lot or as two lots resulting in the disparate treatment of the Applicant in comparison the exercise of rights commonly enjoyed by others in the same area and in similar R-60 zoned areas.

C. State water quality standards will not be violated and that a measurable degradation in water quality will not occur as a result of granting the variances.

A Stormwater Management Concept Plan has been approved (SM File 230550, Dated: August 28, 2012) for the Subject Property using environmental site design techniques to the maximum extent practicable and the proposed development will meet State water quality standards. The approval of the requested Variance will not result in any measurable degradation in water quality standards.

The placement of the LOD Line 110 linear feet north of the common boundary separating proposed Lot 26 from the forested park dedication area and approximately 100+/- feet beyond the stream valley buffer assures adequate separation between the building envelope and the intermittent stream thereby protecting water quality and preventing measurable water quality degradation. The area south of the LOD Line on proposed Lot 26 is characterized by moderate slopes and existing trees and vegetation. The removal of invasive species and planting of additional native ground cover will facilitate water quality control and protect water in a manner that meets or exceeds standards. Land disturbing activities are not permitted south of the LOD Line and the removal of specimen trees in that area will also be prohibited. Additional water quality protection is provided by the dedication of a portion of Parcel P921 for passive use purposes that do not contemplate the disruption of the natural environment.

A copy of the approved Stormwater Management Concept Plan is included in the resubmittal of the Final Forest Conservation Plan.

D. Other information that supports the requested variances:

The Approved and Adopted trees Technical Manual lists several factors for consideration when reviewing applications for clearing that now require the approval of a Specimen Tree Variance. Generally the Technical Manual recognizes that clearing is appropriate for street and driveway

construction to provide access to new development and to create a building envelope for development. Among the development factors that the Technical manual considers appropriate for consideration when a Variance request is before the Planning Board is whether an urban form of development is desired at a particular location. The area in which the subject Property is located, with its high density residential zoning is far more appropriate for an urban form of development than for a large lot suburban pattern and the approval of the requested Variance furthers that county policy favoring urban development in the Chevy Chase, West Silver Spring planning areas.

The Technical Manual also acknowledges that well planned clearing balances the public policies of preserving forest and funneling development into appropriate locations. The Technical Manual provides that one factor to be considered.

“The extent to which the actual or intended use of the property, as developed or as proposed to be developed in accordance with the regulations of the Zoning Ordinance and/or area master plans, require clearing of trees.”

The proposed resubdivision of the subject Property into two conforming and locational desirable urban style R-60 lots fully complies with the specific regulations of the Zoning Ordinance and the land use recommendations and intend of the Master Plan.

As further basis for its variance request, the applicant can demonstrate that it meets the Section 22A-21(d) *Minimum criteria*, which 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;

Response: The development follows very closely to development that has occurred in the surrounding neighborhood. As such, this is not a *special privilege* to be conferred on the applicant.

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

Response: The Property Owner has taken no *actions leading to the conditions or circumstances* that are the subject of this variance request.

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

Response: The surrounding land uses (residences) do not have any inherent characteristics or conditions that have created or contributed to this particular need for a variance.

- (4) Will violate State water quality standards or cause measurable degradation in water quality.

Response: Granting this variance request will not violate State water quality standards or cause measurable degradation in water quality.

Below is a list of specimen trees with a status that indicating impacts but are to be saved or specimen trees to be removed.

SPECIMEN TREE SUMMARY							
TREE #	SPECIES	DBH (INCHES)	TREE CONDITION	COMMENTS	STATUS	VARIANCE REQUEST	%CRZ IMPACTS
62	BLACK OAK	34	GOOD	VINES/BROKEN LIMBS	REMOVE	YES	
63	YELLOW POPLAR	16,30	GOOD	DEAD LIMBS	REMOVE	YES	
64	SCARLET OAK	33	FAIR/POOR	CAVITY @ BASE	REMOVE	YES	
65	YELLOW POPLAR	50	GOOD	TRIPLE STEM	REMOVE	YES	
68	BLACK OAK	30	FAIR	DEAD BROKEN LIMBS/DIEBACK	REMOVE	YES	
69	YELLOW POPLAR	31	GOOD	DEAD BROKEN LIMBS	REMOVE	YES	
70	WHITE OAK	32	FAIR	EXPOSED ROOTS/INCLUDED BARK	REMOVE	YES	
71	YELLOW POPLAR	36	GOOD	DEAD SCAFFOLD	REMOVE	YES	
79	YELLOW POPLAR	41	GOOD		SAVE & PROTECT	YES	27
80	YELLOW POPLAR	32	GOOD	VINES/BROKEN LIMBS	SAVE & PROTECT	YES	19

Conclusion:

For the above reasons, the applicant respectfully requests that the Planning Board APPROVE its request for a variance from the provisions of Section 22A of the Montgomery County Forest Conservation Ordinance, and thereby, GRANTS permission to impact/remove the specimen trees in order to allow the construction of this vital project.

The recommendations in this report are based on tree conditions noted at the time the field work was conducted and updated for specific construction measures prior to the submittal of the forest conservation plan. Tree condition can be influenced by many environmental factors, such as wind, ice and heavy snow, drought conditions, heavy rainfall, rapid or prolonged freezing temperatures, and insect/disease infestation. Therefore, tree conditions are subject to change without notice.

The plans and plotting of tree locations were furnished for the purpose of creating a detailed Tree Protection Plan. All information is true and accurate to the best of my knowledge and experience. All conclusions are based on professional opinion and were not influenced by any other party.

Sincerely,



Michael Norton

Page 9

Copy to:

Mr. Stephen Orens, Esq., Miles & Stockbridge

Mr. Bob Glaser, Representing Glavell & Assoc. LLC (Property Owner)



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Robert G. Hoyt
Director

March 14, 2014

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

RE: Rock Creek Forest, DAIC 120070550, application for revisions to an NRI/FSD accepted on 7/9/2010

Dear Ms. Carrier:

All applications for a variance from the requirements of Chapter 22A of the County Code submitted after October 1, 2009 are subject to Section 22A-12(b)(3). 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, interpreted as a condition or circumstance that is the result of the actions by the applicant. Therefore, the

Division of Environmental Policy & Compliance

variance can be granted under this criterion, as long as appropriate mitigation is provided for the resources disturbed.

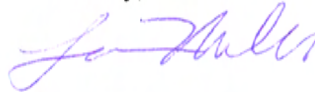
3. The disturbance of trees, or other vegetation, by the applicant does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. Therefore, the variance can be granted under this criterion.
4. The disturbance of trees, or other vegetation, 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 minor revisions to the impacts to trees subject to variance provisions 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.

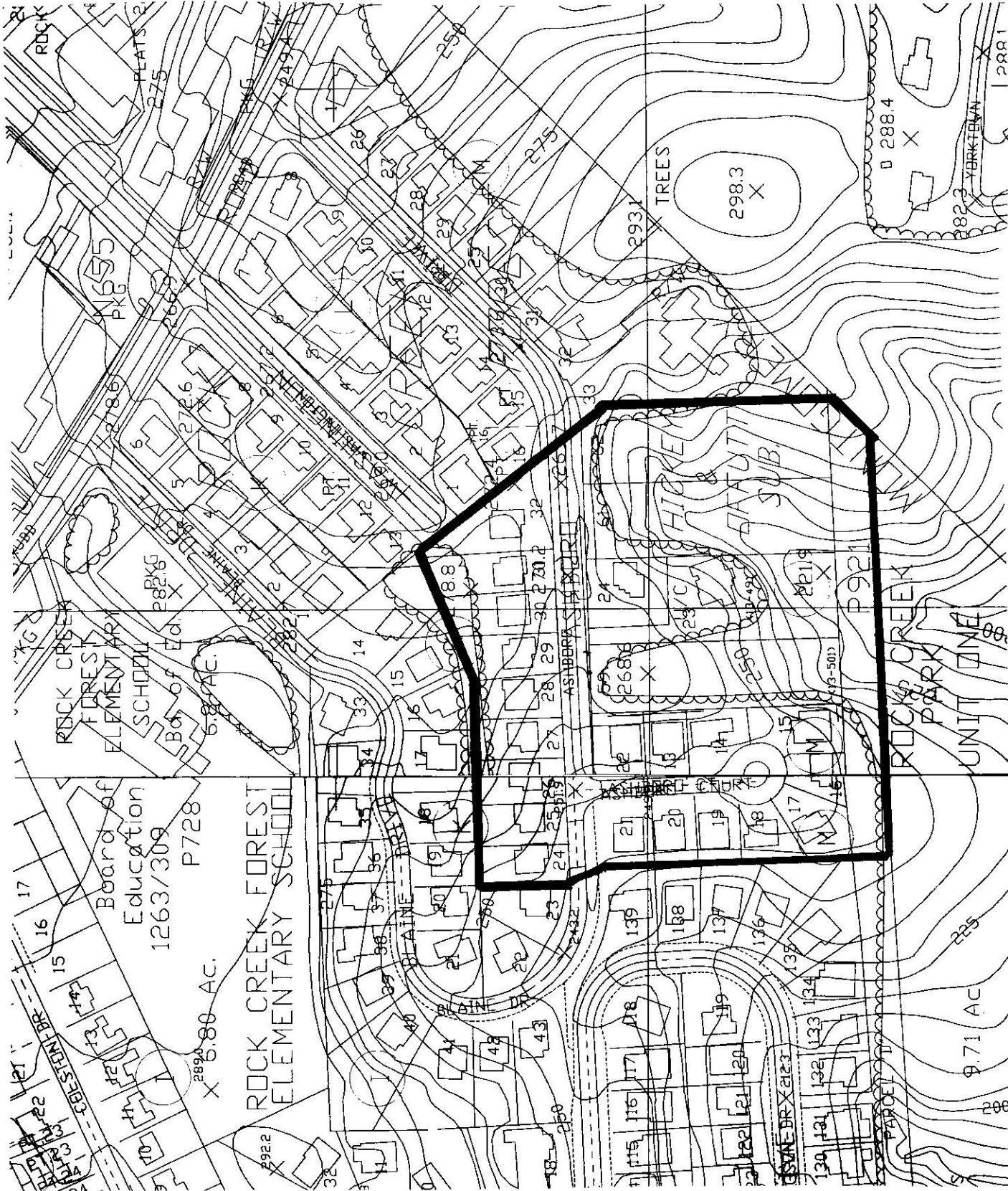
Sincerely,



Laura Miller
County Arborist

cc: Marco Fuster, Senior Planner

RESUBDIVISION NEIGHBORHOOD
ROCK CREEK FOREST
SCALE 1" = 200'



Preliminary Plan 120070550
Resubdivision Data Table

Attachment F

Lot	Block	Plat	Date Recorded	Frontage	Alignment	Size	Shape	Width @ BRL	Buildable Area
18	M	16274	1986	52	Perpendicular	6,023	Irregular	48	1,732
13	M	16274	1986	62	Perpendicular	6,126	Rectangular	44	2,365
19	M	16274	1986	65	Perpendicular	6,203	Irregular	46	2,468
20	M	16274	1986	64	Perpendicular	6,308	Rectangular	46	2,463
16	M	16274	1986	44	Radial	6,443	Irregular	32	2,540
22	M	16274	1986	50	Corner	7,080	Rectangular	42	2,250
21	M	16274	1986	52	Corner	7,277	Rectangular	44	2,633
24	K	16274	1986	60	Perpendicular	7,280	Rectangular	42	3,206
25	K	16274	1938	60	Perpendicular	7,280	Rectangular	42	3,206
26	K	16274	1938	60	Perpendicular	7,280	Rectangular	42	3,206
27	K	16274	1938	60	Perpendicular	7,280	Rectangular	42	3,206
28	K	16274	1938	60	Perpendicular	7,280	Rectangular	42	3,206
14	M	16274	1986	107	Perpendicular	7,371	Irregular	85	2,864
29	K	16274	1938	60	Perpendicular	7,976	Trapezoidal	42	3,584
17	M	16274	1986	31	Radial	8,244	Irregular	32	5,228
15	M	16274	1986	48	Radial	9,011	Irregular	37	5,439
30	K	16274	1938	60	Perpendicular	9,367	Trapezoidal	42	4,557
24	M	17433	1986	88	Perpendicular	10,648	Rectangular	70	5,304
31	K	16274	1938	60	Perpendicular	10,758	Trapezoidal	42	6,580
25	M	Proposed	Lot	88	Perpendicular	13,225	Rectangular	88	7,825
32	K	16274	1938	152	Perpendicular	15,762	Triangular	115	8,337
26	M	Proposed	Lot	25	Perpendicular	28,082	Pipestem	95	20,140
23	M	17433	1986	25	Perpendicular	30,638	Pipestem	95	20,487



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

November 19, 2010

Ms. Catherine Conlon, Subdivision Supervisor
Development Review Division
The Maryland National-Capital
Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

RE: Preliminary Plan #1-20070550
Rock Creek Forest
(Hickey & Offutt Subdivision)

Discussion Item

Dear Ms. Conlon:

We have completed our review of the above referenced preliminary plan revision that was signed on September 20, 2010. This plan was reviewed by the Development Review Committee at its meeting on November 8, 2010. The comments in our July 17, 2008 approval letter remain applicable, as amended below.

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to DPS in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. Show all existing planimetric and topographic details (existing monumental mailboxes) on the preliminary plan.
2. After further review, we have decided to delete the previous recommendation to require the applicant to reconstruct the existing four foot wide concrete sidewalk across the site frontage (comment no. 12 A in our July 17, 2008 letter) – with the exception of the need to reconstruct same in the vicinity of the proposed eastern driveway.

Thank you for the opportunity to review this revised preliminary plan. If you have any questions or comments regarding this letter, please contact Ms. Dewa Salihi, our Development Review Area Engineer for this vicinity, at (240) 777-2173 or at dewa.salihi@montgomerycountymd.gov.

Sincerely,

Gregory M. Leck, P.E., Manager
Development Review Team

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. Catherine Conlon
Preliminary Plan No. 1-20070550
November 19, 2010
Page 2

M:\subdivision\SALIHD01\Preliminary Plans\1-20070550 Rock Creek Forest\120070550Revision.doc

cc: Dean Packard, PG Associates Inc
Neil Braunstein, M-NCPPC DRD
Shahriar Etemadi, MNCPPC TPD
Preliminary Plan Folder
Preliminary Plan Notebook

cc-e: Sarah Navid, MCDPS RWPPR
Henry Emery, MCDPS RWPPR
Sam Farhadi, MCDOT DTEO
Dewa Salihi, MCDOT DTEO



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Diane R. Schwartz Jones
Director

August 28, 2012

Mr. Dean Packard
PG Associates, Inc.
16220 Frederick Rd
Gaithersburg, MD 20877

Re: Stormwater Management **CONCEPT** Request
for Rock Creek Forest
Preliminary Plan #: 120070550
SM File #: 230550
Tract Size/Zone: 1.56 acres/R-60
Total Concept Area: 1.56 acres
Lots/Block: proposed 25 & 26
Parcel(s): A
Watershed: Rock Creek

Dear Mr. Packard:

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 rooftop disconnect, drywells, and driveway gravel trenches.

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

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. Landscaping shown on the approved Landscape Plan as part of the approved Site Plan are for illustrative purpose only and may be changed at the time of detailed plan review of the Sediment Control/Storm Water Management plans by the Mont. Co. Department of Permitting Services, Water Resources Section.
6. Sub-drainage area #1 does not meet the requirements of the rooftop disconnection credit. However, the area may combined with sub-area #6 and directed to the proposed drywell to meet stormwater management requirements.
7. A two foot grass buffer will be required between the driveway and the proposed gravel trenches.

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

255 Rockville Pike, 2nd Floor • Rockville, Maryland 20850 • 240-777-6300 • 240-777-6256 TTY
www.montgomerycountymd.gov

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 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 William Campbell at 240-777-6345.

Sincerely,



Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB: tlm 8/29/12

cc: C. Conlon
SM File # 230550

ESD Acres:	1.56
STRUCTURAL Acres:	0
WAIVED Acres:	0



MONTGOMERY COUNTY DEPARTMENT OF PARKS
MARYLAND-NATIONAL CAPITAL PARK & PLANNING COMMISSION

March 27, 2014

TO: Neil Braunstein, Planning Department
FROM: Dominic Quattrocchi, AICP, Park Planning and Stewardship

SUBJECT: ROCK CREEK FOREST PRELIMINARY PLAN 120070550

Department of Parks Review

Hickey and Offutt was designated a Legacy Open Space Natural Resources Property in January, 2008 by the Montgomery County Planning Board. The Board recommendation was to seek dedication or easement of important forested areas through the development review process, or pursue partial to full acquisition, if dedication did not achieve adequate resource protection. Lot 59 was included in the designation.

Located on Ashboro Drive near its intersection with Grubb Road in Silver Spring, Hickey and Offutt contains 3.7 acres of high quality forest (Parcel P921, Lots 59, 61, and 62). Within the West Silver Spring Master Plan area, the properties are notable as undeveloped woodland contiguous to the largest urban forest in the United States – Rock Creek Park. On-site forest contains steep slopes immediately upslope of sensitive hydrologic resources and adjacent to an established trail within the National Park System. The forest contains specimen trees and comprises a mature oak/tulip tree woods. These woods are adjacent to a known population of a nationally rare copepod living in the springs on the nearby Park property (See National Park Service testimony and letter to the Planning Board and Development Review Committee). State-listed American Chestnut (*Castanea dentata*) has been documented on the Hickey and Offutt property and confirmed by Parks and Planning staff.

Parks purchased the majority of the Hickey and Offutt Property as an extension of Rock Creek Park in 2012 (Lots 61 and 62 and 11,393 square feet of Parcel P921). The remainder of Parcel 921 was to be available for dedication when Lot 59 is subdivided. A fee-simple acquisition of Lot 59 was not pursued at the time. Because of the narrow nature of the lot (decreased resource benefit) and because Lot 59 fronts 6 existing homes, park managers didn't want the potential maintenance burden associated with future hazardous trees and pruning requests, encroachments, etc. Based on DRC discussions, Park staff understood there would be some forest preservation through subdivision review and a resulting conservation easement area or dedication on the rear portion of Lot 59. The Department of Parks Staff Memo to the Planning Board (12NOV2012) for the Hickey and Offutt acquisition stated:

While the Hickey and Offutt property as designated in the Legacy Open Space Master Plan included those parcels/lots outlined on Figure 1, staff made the determination that Lot 59 and a portion of P921 could go through the subdivision process and achieve an adequate level of resource protection through an on-site conservation easement and/or dedication.

The Department of Parks supports the dedication of Parcel 921 as an important extension of Rock Creek Park. Because of the existing LOS Master Planned designation on Lot 59, adjacency to Rock Creek SVU1 and Rock Creek National Park, the Department of Parks supports additional protections of the rear portion of Lot 59 deemed appropriate by Planning staff.

cc: Dr. John E. Hench, Chief, Park Planning and Stewardship
Brooke Farquhar, Master Planner/Supervisor, Park Planning and Stewardship
Douglas Powell, Planner Coordinator, Park Planning and Stewardship
Brenda Sandberg, PPSP, Legacy Open Space Program Manager

RECEIVED
0252
APR 16 2014**MCP-CTRACK**

From: dlwarden@starpower.net
Sent: Wednesday, April 16, 2014 8:34 AM
To: MCP-Chair
Subject: MCP Project 120070550

OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

To: Francoise Carrier, Chair of the Montgomery County Planning Board

From: Neal D. Epstein MD., and Deborah Warden MD., owners of land abutting project: 120070550.

Dear Chairperson:

We are writing regarding the scheduled hearing on project 120070550 to be held on the 24th of This April. We have just received a notice of this hearing dated April 14, 2014. As you are aware, the same land owners/developers proposed a plan in 2008 to be carried out on nearby adjacent land known as lots 61 and 62. At that time, the surrounding community was notified much earlier relative to the public hearing. This earlier notification allowed the interested neighbors to meet as a group and gain input into the final plan. This resulted in the change of a proposed plan to build 8 homes on lots 61 and 62 to a more realistic and environmentally consistent plan of 5 homes; ultimately resulting in Montgomery County purchasing the 2 lots under a land legacy program as one of the last opportunities to add to and protect the existing lands of Rock Creek Park.

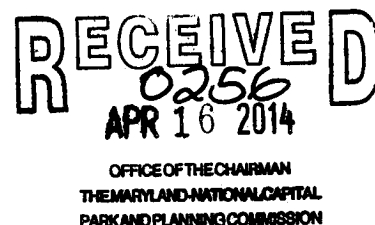
This time however, it seems that community input has been deliberately thwarted by the same developers, whom we know have this time, considered community outreach on the proposal check list to be "Not Applicable."

Therefore, respectfully request that you postpone the scheduled April 24th consideration of the aforementioned proposal in order to allow the neighbors who will be affected to study it in greater depth.

Thank you for your consideration of our request.

MCP-CTRACK

From: BeachB <beachb@aol.com>
Sent: Wednesday, April 16, 2014 2:03 PM
To: MCP-Chair
Cc: Ray & Fruzsina Garcia; Ed Gray; Sherry Blount
Subject: Hickey-Offut development planning hearing



Dear sir,

I own a house at 8009 Ashboro Court which directly abuts the proposed development of Lot 59 of Hickey-Offut parcel. I am currently in the Middle East and have just learned from my neighbors that there is a planning board hearing scheduled for April 24th. I do not understand why I had received no prior notification of the revised plans or the hearing prior to my departure last week.

I am particularly concerned about the storm runoff and water table issues for my home and the others on our street. It is difficult not to feel that the developers are trying to slip these revisions past the community and abutting owners and the County is doing nothing to protect our rights and interests. It is imperative that this hearing be postponed until we, the interested parties, have a chance to properly review the new plans.

I hereby lend support to the efforts of Ed Gray, Ray Garcia and the other adjacent owners to delay any hearings or decisions until we have a chance to fully review this latest proposal.

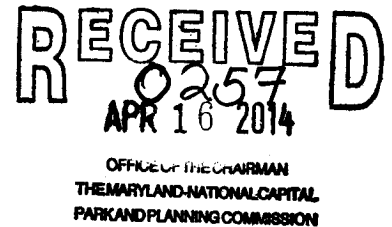
Thank you,

William B. Carter

Sent from my iPad



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND



Date: April 16, 2014

To: Francoise Carrier, Planning Board Chair, Maryland-National Capital Park and Planning Commission

From: Cherri Branson, Councilmember – District 5

Re: **Request to delay discussion on Preliminary Plan 120070550 Rock Creek Forest**

It is my understanding the Planning Board is currently scheduled to discuss Preliminary Plan 120070550 Rock Creek Forest on Thursday, April 24. After having multiple discussions with constituents living in the surrounding neighborhood, I am concerned that there has not been enough time for residents to properly prepare responses to the plan.

This community has a long history working with the County and MNCPPC on this property and is appreciative of previous efforts to include them in the development review process. As you know, most of the Hickey Offut site was recently designated for Legacy Open Space status, but that did not include Lot 59. Community members have reached out to my office with concerns about the preliminary plan and feel that they need additional time to adequately review it and respond to staff recommendations.

As the Councilmember representing District 5, I request that you delay the preliminary discussion of 120070550 Rock Creek Forest plan that is scheduled for the April 24 meeting, so that community members have sufficient time to review this plan and the opportunity to provide detailed feedback on its potential impact on their neighborhood.

If you have any questions regarding this request, please feel free to contact Benjamin Fulton in my office at 240-777-7957 or benjamin.fulton@montgomerycountymd.gov. Thank you very much for your time and consideration.

Sincerely,

Cherri Branson
Councilmember – District 5

c: Marye Wells-Harley, Planning Board Vice Chair and Commissioner, MNCPPC
Casey Anderson, Planning Board Member and Commissioner, MNCPPC
Norman Dreyfus, Planning Board Member and Commissioner, MNCPPC

Amy Presley, Planning Board Member and Commissioner, MNCPPC
Gwen Wright, Director of Planning, MNCPPC
Rose Krasnow, Deputy Director of Planning, MNCPPC
Neil Braunstein, AICP, Area One, MNCPPC
Robert Kronenberg, Chief, Area One, MNCPPC

RECEIVED
0258
APR 17 2014

MCP-CTRACK

OFFICE OF THE CHAIRMAN
THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

From: Cathy Silverstein <casilverstein@gmail.com>
Sent: Wednesday, April 16, 2014 10:56 PM
To: MCP-Chair
Cc: Braunstein, Neil; Kronenberg, Robert; DeOcampo, Marc; Reed, Rosemary; Quattrocchi, Dominic; Berliner's Office, Councilmember; Fulton, Benjamin
Subject: NEIGHBORHOOD CONCERN / REQUEST TO POSTPONE PLANNING BOARD HEARING 4/24 ON PRELIMINARY PLAN 120070550 Rock Creek Forest

Dear Chairman,

I represent the 35 households of the Rock Creek Forest Neighbors Coalition residing along Ashboro Drive in Chevy Chase MD. I write with deep concern regarding subdivision efforts for Preliminary Plan 120070550 in our Rock Creek Forest Neighborhood.

Our community, and this organization has been directly engaged with the County since 2007 over the property in question (Lot 59) as part of the Hickey & Offutt development. It is a matter of public record that our prior community efforts were successful in having the Hickey & Offutt properties (including Lot 59) designed as Legacy Open Space back in 2008. Further, in 2012 the County successfully purchased Lots 60 and 61 and designated these properties to Rock Creek Park. At that time the future status of Lot 59 was pending.

Given our 7 year history of concern over Lot 59 - and our prior and very public efforts to have it successfully designated as Legacy Open Space, **WE ARE DUMBFOUNDED TO LEARN THAT THE PLANNING DEPARTMENT HAS PROCEEDED TO FINALIZE A PRELIMINARY PLAN for LOT 59 WITHOUT ANY COMMUNITY INVOLVEMENT IN DEVELOPMENT REVIEW.**

We are also stunned to learn that **A STAFF RECOMMENDATION WAS SUBMITTED on 4/14 WITHOUT COMMUNITY INPUT; THAT A PLANNING BOARD HEARING HAS BEEN SCHEDULED FOR APRIL 24 WITHOUT PRIOR COMMUNITY NOTIFICATION UNTIL THIS WEEK; AND THAT ADJOINING NEIGHBORS HAVE STILL NOT RECEIVED A COPY OF THE PRELIMINARY PLAN AS OF TODAY.** Adjoining neighbors also include the National Park Service (DC side of Rock Creek Park) which has not been notified.

What's more, the checklist for the preliminary plan application dated 5/17/2012 under the "outreach" section in Section 2.3 Pre-Submission Meeting information indicates "N/A" with a STRIKETHROUGH LINE. This would imply INTENTIONAL OMISSION of engaging in community outreach.

Lastly, p. 17 of the the April 14 Staff Recommendation to the Planning Board, under the "Citizen Correspondence Issues" section makes the disingenuous and self-serving observation that "The applicant has complied with all submittal and noticing requirements. Although citizen correspondence was received in 2008 regarding the previous eight-lot version of the preliminary plan, **staff has not received correspondence from any community groups or citizens relating to the current version of the plan, as of the date of this report.**"

TO BE CLEAR: THE ONLY REASON STAFF HAS NOT RECEIVED CORRESPONDENCE ON PRELIMINARY PLAN 120070550 IS THAT TO DATE, OUR COMMUNITY HAS NOT BEEN OFFICIALLY NOTIFIED OF THE PLAN!

We believe these omissions and misstatements show an intentional effort to avoid community engagement on Preliminary Plan 120070550, and a bad faith effort overall.

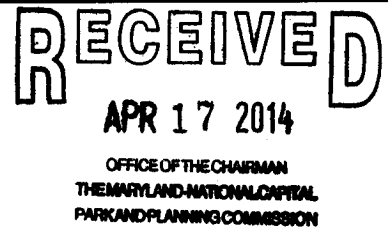
As a result, we feel it only fair to request that at the least, the Planning Board delay the Planning Board Hearing on 4/24 to allow sufficient time for Staff to hear, and appropriately respond to specific community concerns.

We greatly appreciate your time and attention in this matter.

Sincerely,
Cathy Silverstein, Chair
Rock Creek Forest Neighbors Coalition
301-613-0070

MCP-CTRACK

From: Raymond Garcia <raygar33@hotmail.com>
Sent: Wednesday, April 16, 2014 9:19 PM
To: MCP-Chair
Subject: FW: Preliminary Plan 120070550 Rock Creek Forest



From: raygar33@hotmail.com
To: -chair@montgomeryplanning.org
CC: neil.braunstein@montgomeryplanning.org; robert.kronenberg@montgomeryplanning.org; marc.deocampo@montgomeryplanning.org; rosemary.reed@montgomeryplanning.org
Subject: Preliminary Plan 120070550 Rock Creek Forest
Date: Wed, 16 Apr 2014 21:10:26 -0400

Dear Madam Chair:

As the homeowners of 8007 Ashboro Court in Chevy Chase, on a lot that directly abuts the proposed development of Lot 59 of the Hickey-Offut parcel, **we urge the Planning Board to delay its planned April 24, 2014 hearing on the Preliminary Plan. That date is too early to allow sufficient review of the Plan by affected homeowners in the neighborhood.**

The Planning Department's staff claims on page 17 of the Plan that "The applicant has complied with all submittal and noticing requirements. Although citizen correspondence was received in 2008 regarding the previous eight-lot version of the preliminary plan, **staff has not received correspondence from any community groups or citizens relating to the current version of the plan, as of the date of this report.**" THIS IS BECAUSE CITIZENS WERE NOT MADE AWARE OF THE EXISTENCE OF THE NEW PLAN AND THE HEARING DATE UNTIL AN OFFICIAL COMMISSION WEB ANNOUNCEMENT WAS ISSUED ON APRIL 11, 2014 AND POSTCARDS SENT TO SOME HOMEOWNERS, WHICH THEY RECEIVED IN THEIR MAILBOXES YESTERDAY. FOUR HOMEOWNERS ON ASHBORO COURT WILL NOT RECEIVE POSTCARDS UNTIL THE END OF THIS WEEK, BECAUSE THE APPLICANT OMITTED THEM FROM THE LIST THAT WAS GIVEN TO THE STAFF.

In light of the very brief time we've had to review the Staff Plan, we have some serious concerns about the Plans recommendations that could negatively affect our homes. We need more time to study them.

We appreciate your consideration of our request.

Sincerely,

Raymond Garcia
Fruzsina Harsanyi
8007 Ashboro Court
Chevy Chase, MD 20815

RECEIVED
0261
APR 18 2014

MCP-CTRACK

OFFICE OF THE CHAIRMAN
THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

From: Joanne Lynn <drjoannelynn@gmail.com>
Sent: Thursday, April 17, 2014 10:58 PM
To: MCP-Chair
Cc: Braunstein, Neil; Kronenberg, Robert; DeOcampo, Marc; Reed, Rosemary; Cathy Silverstein; Edward W. Gray
Subject: REQUEST TO POSTPONE PLANNING BOARD HEARING 4/24 ON PRELIMINARY PLAN 120070550

Dear Chair,

I live near the proposed development and I am writing to request your urgent reconsideration of the proposed plan.

First, the neighborhood was not notified in a timely way, and we have not had the opportunity to examine the plan and to ask appropriate officials about various elements. I received a card only today. The Board should certainly delay the hearing and any decisions.

Second, the history of problems faced by the family that lives in the lot that is back from the road and down the slope alongside the proposed second lot should give planners substantial concern that they may be creating an unbuildable lot, or one that will give any future owner and the County no end of concerns. The main problems arise from the steepness of the slope, which requires a sewer pump, multiple retaining walls, and ongoing maintenance to reduce the harms from erosion.

Third, that same steepness of slope raises the problems of run-off into the lowland area alongside Rock Creek in the Park, which is a special habitat for salamanders and tree frogs. The County could not allow grading to create an even steeper slope near the Park, and building on the existing slope, with the increased run-off from driveways and roofs, will be very difficult to manage. Indeed, it may not be possible.


Fourth, siting two houses near the crown of the hill without killing or cutting down the very large trees there seems quite unlikely. The planning report seems to say it is possible, but that is for a speculative second house, back from the road. Once one has to deal with the details of house design, I'm concerned that any real house in that location will require losing a number of strong trees, making the water issue even more troublesome (and losing a much loved element of the Rock Creek Forest neighborhood).

Clearly, the owner can build one house up near the road, and the lot is already created to allow that. The question is whether there is any design that would allow construction of a second house behind that one. It seems to me that the planners and permitters would want to see that a real plan was possible before taking up the question of allowing the lot to be split.

But first, please delay the decision until the neighbors have had an opportunity to understand the issues much better.

--

Joanne Lynn
2318 Ashboro Dr, Chevy Chase, MD 20815

mobile 202-297-9773 

MCP-CTRACK

RECEIVED

From: A. Moira Hopkins <hopkinsm@yahoo.com>
Sent: Friday, April 18, 2014 3:24 PM
To: Braunstein, Neil; MCP-Chair
Subject: Preliminary Plan # 120070550

APR 18 2014

OFFICE OF THE CHAIRMAN
THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

0264

Dear Chair,

I received by U.S post yesterday, Thursday, April 17th a notice for a public hearing in regards to the subdivision of property located on Ashboro Drive. This hearing is scheduled for Thursday, April 24th a week from when I received this notice. I respectfully request the meeting be postponed and more notice be given to all parties affected by this potential subdivision of a singular lot. I have not had an opportunity to study the report and will not have the chance to rearrange my schedule in order to be at the hearing.

I have serious concerns regarding the development of that piece of property since it is a steeply graded area with potential for erosion and soil loss.

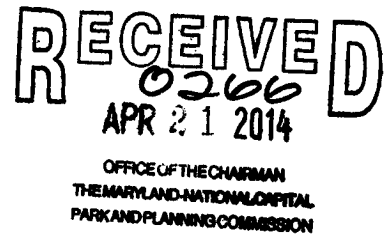
Thank you for your consideration of this request.

Sincerely,

A. Moira Hopkins

MCP-CTRACK

From: keovlk6 <keovlk6@gmail.com>
Sent: Friday, April 18, 2014 5:11 PM
To: MCP-Chair; Braunstein, Neil
Subject: Public Hearing on Preliminary Plan # 120070550



Dear Members of the Montgomery County Planning Board ,

I am writing to bitterly protest the scheduled public hearing for Thursday the 24th of April. I received notice of this meeting on April 17th. One week is not "reasonable" notice for a public hearing on a development project with such potentially dire consequences. I demand a delay in order to fully participate.

Any cursory look at the lot makes clear that a one week window to assess a proposal of this consequence is absurd, unjust, and suggests bad faith by parties eager to accelerate the process and silence valid concerns and reasonable objections.

It is clear the proposal will have significant environmental impact on adjacent Montgomery County Park(s) and Rock Creek National Park. The area is on a very steep grade and water runoff and soil erosion are an acute concern. The top soil is loose, the trees and their root systems are crucial. Upsetting the natural condition of the area will clearly put downstream flora and fauna (including already stressed salamanders and frogs) at considerably accelerated risk.

Setting aside the unreasonable timetable for the public hearing, this project clearly runs contrary to the expressed goals of the State of Maryland and Montgomery County to protect as much green space as possible around the County, State and Federal parks.

I'm a national journalist and cannot make next Thursdays hearing. I hope the above concerns will be entered into the record and my complaint about the inadequate notice are registered.

Rest assured no attempt to ram this project through without adequate public input will go unnoticed. This community cares deeply about the surrounding environment, we do volunteer cleanups and keep close eye on development. This is sad development indeed.

Please delay the hearing and provide us a chance to illustrate that with even minimal consideration of the topography, trees, water runoff, soil erosion, and animal habitat, that it is clear this project would do serious damage and should not go forward.

Sincerely,

Karl Lamberg-Karlovsky

8006 Ashboro Court

Chevy Chase, Md 20815

(AKA)

Carl Cameron

Chief Political Correspondent

FOX NEWS CHANNEL



Stephen J. Orens
301-517-4828
sorens@milesstockbridge.com

April 22, 2014

**VIA HAND DELIVERY
& ELECTRONIC MAIL**

The Honorable François Carrier, Chair
The Montgomery County Planning Board
The Maryland-National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Preliminary Plan No. 120070550 -Rock Creek Forest Subdivision
Applicants' Consent to Rescheduled Hearing on May 8, 2014

Dear Madame Chair:

On behalf of Glavell LLC we hereby withdraw our opposition to the requested postponement of the Planning Board hearing on Preliminary Plan No. 120070550 and consent to the rescheduled hearing date of May 8, 2014.

We would strenuously object to any further delay in the Board's consideration of this two lot resubdivision. We note for the record that on March 7, 2014, the Community's designated spokesperson and representative, Ms. Cathy Silverstein, was informed of the April 24th hearing date as well as the status of the proposed resubdivision via an email to her from Senior Planner Neil Braunstein. Mr. Braunstein was responding to an email to Deputy Planning Director Krasnow when he communicated the date of the Planning Board hearing to Ms. Silverstein. Copies of Ms. Silverstein's email and Mr. Braunstein's response informing her of the hearing date, the Staff Report publication date and relate information are attached for your convenience.

The March 7th email stream coupled with Ms. Silverstein's acknowledgement that she was well aware of the Lot 59 Plan when she testified before the Planning Board on November 1, 2012 regarding the Parks Department's acquisition of Lots 61 and 62 from Glavell LLC; along with the 2012 notice of filing that included a copy of the Lot 59 plan mailed to adjoining and confronting property owners in December 2012 should put in proper context the assertion repeated in each of the postponement requests that the community was unaware of the plan.

We look forward to appearing before the Planning Board on May 8, 2014.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Stephen J. Orens', is written over the word 'Sincerely,'.

Stephen J. Orens

Encl.

Page 2

cc: Rose Krasnow, Deputy Planning Director
Carol S. Rubin , Esquire Associate General Counsel
Robert Kronenberg, Chief Planning Area One Division
Neil Braunstein, A.I.C.P.
Glavell LLC
Casey L. Cirner, Esquire

Orens, Stephen J.

From: Krasnow, Rose <rose.krasnow@montgomeryplanning.org>
Sent: Friday, April 18, 2014 4:40 PM
To: Orens, Stephen J.
Subject: FW: Community Concern RE: Preliminary Plan 120070550

From: Braunstein, Neil
Sent: Friday, March 07, 2014 2:18 PM
To: casilverstein@gmail.com
Cc: Krasnow, Rose; Kronenberg, Robert; Wright, Gwen
Subject: RE: Community Concern RE: Preliminary Plan 120070550

Dear Ms. Silverstein,

Your email has been forwarded to me for response. I am the lead reviewer for this application. The preliminary plan has not been approved, and there has not been a hearing yet. It is scheduled for a Planning Board hearing on April 24. Adjacent and confronting property owners and surrounding homeowners associations will be notified by postcard of the hearing date. A staff report will be available to review on the Montgomery County Planning Board website by April 14. You (and any other interested people) can submit written testimony up to 48 hours before the hearing or provide verbal testimony at the hearing. Or, if you have more specific questions, please feel free to contact me.

Neil Braunstein, AICP
Planner Coordinator
Area One
Montgomery County Planning Department - M-NCPPC
8787 Georgia Avenue
Silver Spring, Maryland 20910
Phone: (301) 495-4532
Fax: (301) 495-1306
Email: neil.braunstein@mncppc-mc.org

From: Cathy Silverstein [<mailto:casilverstein@gmail.com>]
Sent: Friday, March 07, 2014 1:47 PM
To: Wright, Gwen; Kronenberg, Robert; Krasnow, Rose
Subject: Community Concern RE: Preliminary Plan 120070550

Dear Ms. Wright, Mr. Kronenberg and Ms. Krasnow:

I write on behalf of the Rock Creek Forest Neighbors Coalition representing 35+ neighbors residing in Rock Creek Forest, Chevy Chase Maryland, including Ashboro Drive. It has only come to our attention yesterday that Preliminary plan 120070550 was approved by Development Review for Lot 59 in our neighborhood WITHOUT OUTREACH TO AND INPUT FROM our community.

We are very concerned about this.

Can you kindly confirm:

1. Whether or not Preliminary plan 120070550 has been approved?

2. And if so, why our community, including adjacent neighbors have NOT been contacted or advised of the plan? What is the justification for proceeding without community engagement?

Our neighborhood, and this Coalition, has a deep history engaging with the County on this parcel (Lot 59) since 2007 as part of the Hickey & Offut development. There is a long and well-documented history of neighborhood concern over this property. Our Coalition was successful in obtaining Legacy Open Space status for Hickey & Offut (including Lot 59). Up to now, we have been included and engaged in the development review process for this Lot. We have had prior assurances from Cathy Conlon and Erin Grayson at Development Review that our community would be kept informed about any further steps taken toward subdivision of Lot 59. **We are stunned that Development Review has possibly proceeded to approve the latest Preliminary Plan 120070550 without ANY neighbor notification.**

We would like an explanation of why we have not been notified.

I would be happy to speak with anyone on the phone if you prefer. I appreciate if we could set up a time to speak in the next day or two. Please advise best time for you. Otherwise, you may call my 301-613-0070 anytime, and kindly leave a message letting me know the best time to reach you.

Thank you for your assistance in this matter.
Sincerely

Cathy A. Silverstein
Chair, Rock Creek Forest Neighbors Coalition
301-613-0070

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Cathy A. Silverstein