



Lake Potomac: Preliminary Plan No.120130280

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Completed: 05/04/15

Description

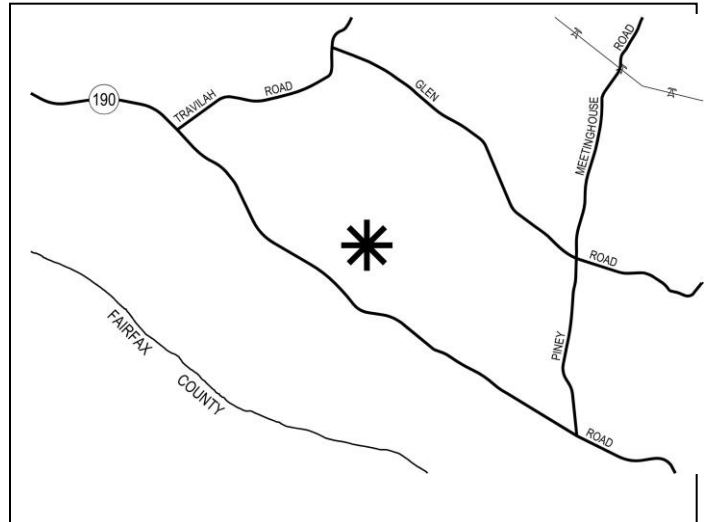
Lake Potomac: Preliminary Plan No.120130280

Request to subdivide three unplatted parcels into four lots; located in the southeast quadrant of the intersection of Stoney Creek Road and Stoney Creek Way; 11.06 acres; RE-2 Zone; Potomac Subregion Master Plan.

Staff Recommendation: Approval with conditions

Applicant: Lowell Baier

Submitted Date: 8/27/2013



Summary

- The application is consistent with the recommendations of the Potomac Subregion Master Plan, and meets the requirements for subdivision in accordance with Chapter 50.
- The proposed lots meet the area and dimensional requirements for standard method development in the RE-2 Zone.
- The application is consistent with the Environmental Guidelines
- In accordance with the *Environmental Guidelines* the application proposes Stream Valley Buffer averaging to compensate for 3,184 square feet of permanent encroachment.
- The Application also includes a Chapter 22a variance for impact to and removal of 11 trees and the impact to three trees 30 inches and greater diameter at breast height (DBH).
- The proposed Preliminary Plan is considerably different from the original application, including eliminating one of the proposed lots, reducing the proposed stream valley buffer encroachment by 6,000 square feet, and changing the layout of the lots to place new homes in an area already

disturbed by an existing house. This Application reflects changes recommended by Staff, the Rustic Road Advisory Committee regarding Stoney Creek Road (Rustic Road), and the community.

- The Applicant is proffering a 45 foot side yard building restriction line on Lot 6 per an agreement with the neighboring property owner.

RECOMMENDATION: Approval, subject to the following conditions:

1. This Preliminary Plan is limited to four lots for four single-family dwelling units.
2. The Applicant must comply with the conditions of approval for the Preliminary Forest Conservation Plan, including:
 - a. Prior to recordation of plat(s), the Applicant must receive Staff approval of a Final Forest Conservation Plan that is consistent with the approved Preliminary Forest Conservation Plan.
 - b. Prior to the earlier of demolition, clearing, or grading, or the recordation of plat(s), a Category I Conservation Easement must be recorded in the Montgomery County Land Records by deed and the liber folio must be reflected on the plat. The deed of easement must be approved by the M-NCPPC Office of the General Counsel.
 - c. Permanent Category I Conservation Easement signs must be placed every 50 feet along the perimeter of the conservation easement boundaries at the time of forest planting.
 - d. Prior to any clearing, grading, or demolition, the Applicant must submit a financial surety and a maintenance and management agreement for the forest planting on the Subject Property, as specified on the approved Final Forest Conservation Plan.
 - e. The Final Forest Conservation Plan must depict the Applicant will plant the 31, 3-inch caliper native trees on the Subject Property to mitigate for the removal of the 11 variance trees.
 - f. The Final Forest Conservation Plan must be corrected (table on sheet 3) to reflect tree ST-17 as "To be removed" as indicated in the variance request.
 - g. The Final Sediment Control Plan must be consistent with the final limits of disturbance as shown on the approved Final Forest Conservation Plan.
3. Record plats must delineate a Category I conservation easement over all areas of forest planting as shown on the approved FFCP, and the Liber and Folio for numbers of the recorded easement must be referenced on the record plat(s).
4. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated August 28, 2014, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
5. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.

6. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated October 1, 2014, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
7. The Planning Board accepts the recommendations of the MCDPS – Well and Septic Section in its letter dated April 3, 2015 for removal of existing wells and septic systems, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Well and Septic Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
8. The Applicant must dedicate and show on the record plat(s) a minimum of thirty-five feet from the centerline along the Subject Property frontage for Stoney Creek Road.
9. 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 and record plat 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.
10. The record plat must show all necessary easements, including common ingress/egress and utility easements over all shared driveways.
11. The record plat must delineate a 45-foot building restriction line along the shared side property line of new Lot 6 and existing Lot 5, Block A. The building restriction line must be substantially the same as shown on the Certified Preliminary Plan.
12. The Adequate Public Facility (“APF”) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of this Planning Board Resolution.

SITE DESCRIPTION

The subject property (Exhibit 1) is north of River Road within the Travilah community area of the 2002 *Potomac Subregion Master Plan* ("Master Plan"). The subject property is located on the south side of Stoney Creek Way in the southeast quadrant of the intersection of Stoney Creek Road and Stoney Creek Way and consists of 11.06 acres comprised of Parcel P384 (0.35 AC), Parcel P426 (6.41 AC) and Parcel P475 (4.30 AC) on Tax Map EQ32 in the RE-2 Zone ("Property" or "Subject Property"). Parcel 426 is improved with an existing house and a private driveway that provides access to Stoney Creek Way. The remaining parcels are unimproved. The surrounding land uses consist entirely of RE-2 zoned property developed with single-family homes.

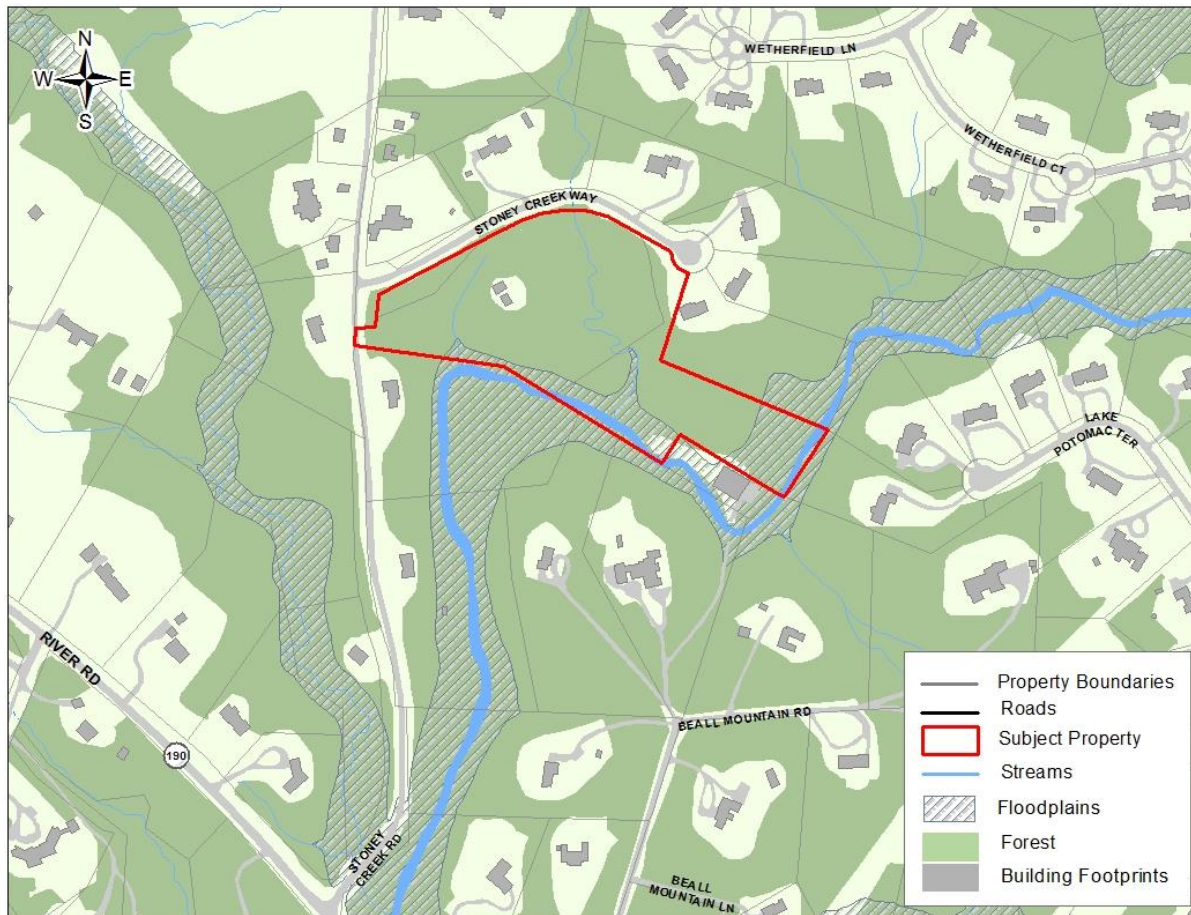


Exhibit 1 - Vicinity Map

The Subject Property is within the Watts Branch watershed, classified by the State of Maryland as Use I/I-P waters. There is a small stream and ephemeral drainage channel on the Property which drain into the lower main stem of Sandy Branch paralleling the southern property line. The Property is largely forested, contains intermittent steep slopes (15-25%) and extensive environmental buffers associated with the streams. As shown on Exhibit 1, a portion of the Property is within the 100-year floodplain associated with Sandy Branch.

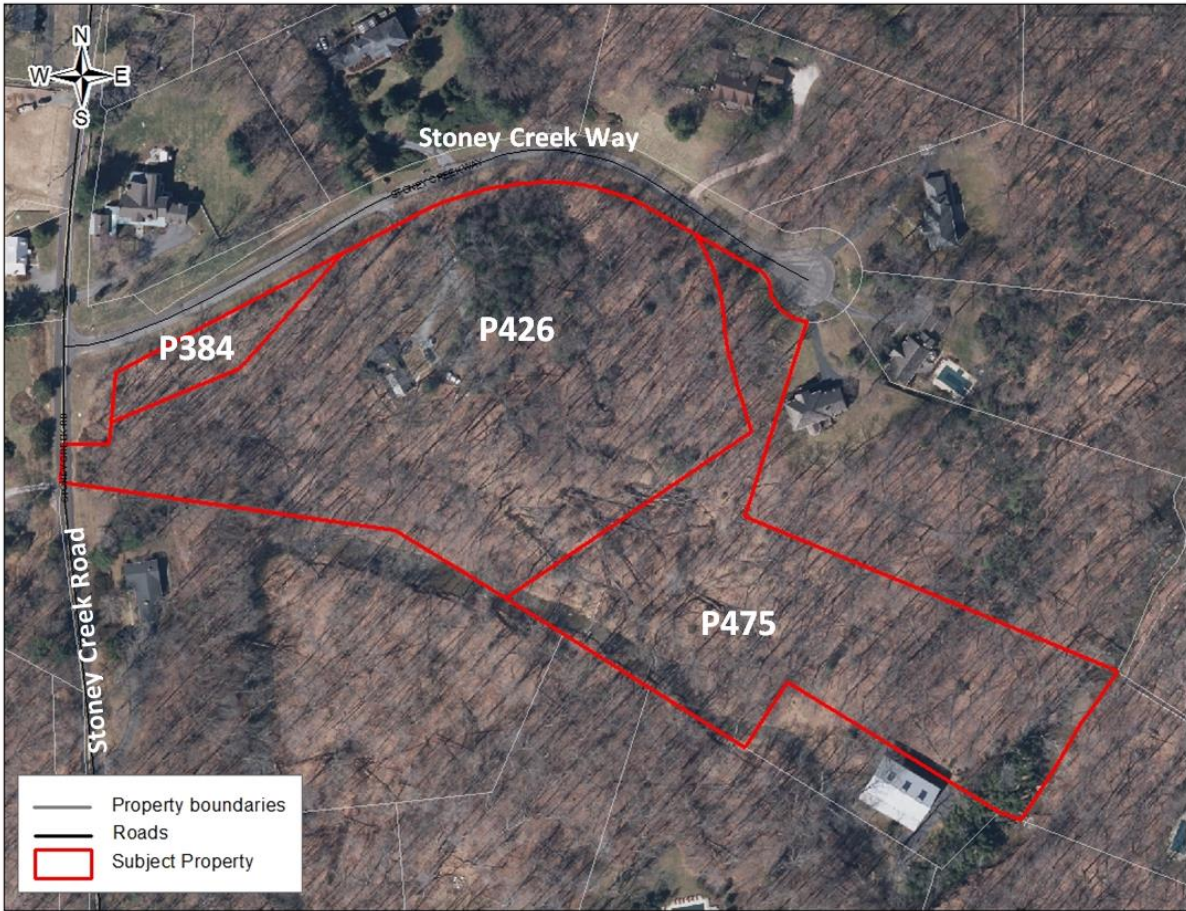


Exhibit 2- Aerial Photo (Existing Parcels)

PROJECT DESCRIPTION

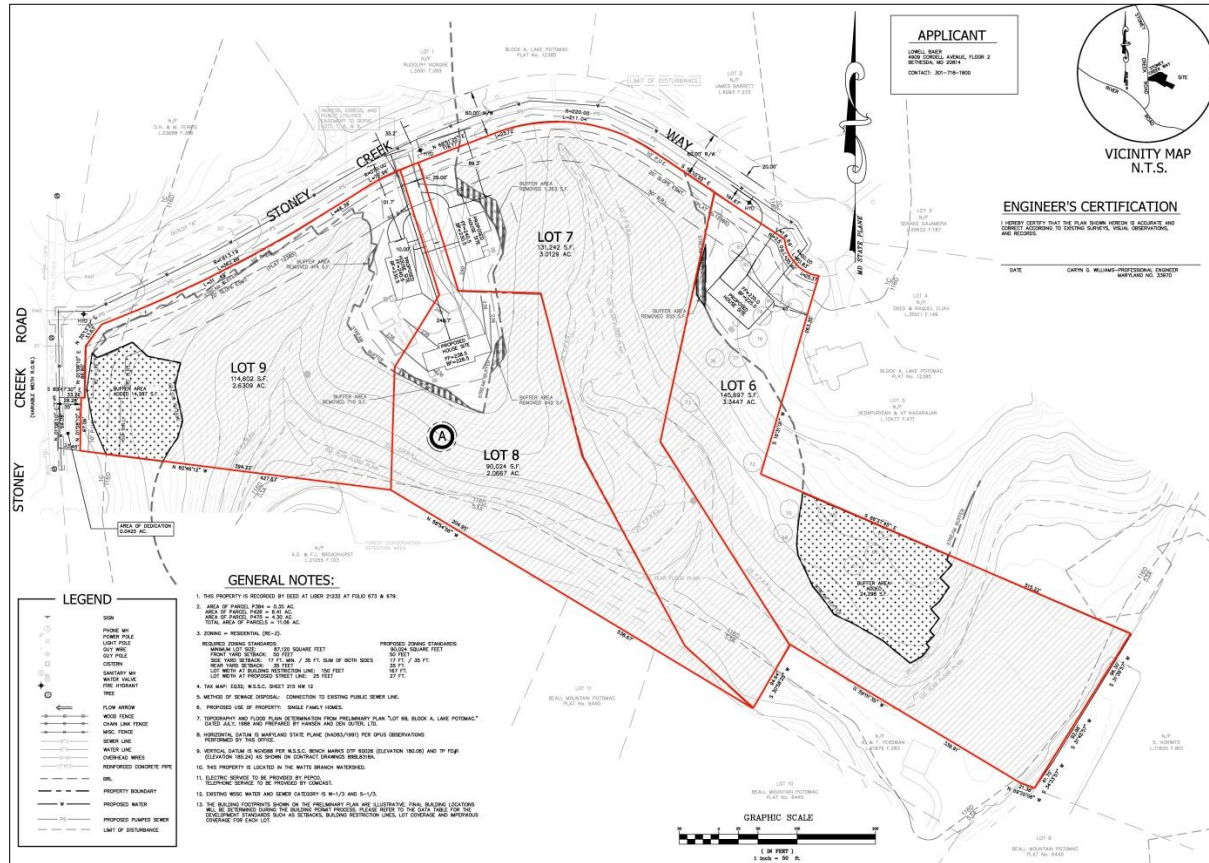


Exhibit 3- Proposed Preliminary Plan

Preliminary Plan No. 120130280 (“Application” or “Preliminary Plan”) proposes four lots (Lots 6-9) for new single-family residential dwelling units under the RE-2 Zone standard method of development. The existing house and driveway on the Property will be removed. The proposed lots will be accessible from the southern side of Stoney Creek Way; proposed Lots 7-9 will be accessed from a share a 20-foot wide private common asphalt driveway and Lot 6 will directly access Stoney Creek Way via driveway from the existing cul-de-sac.

Stoney Creek Way is classified as a tertiary road (60-foot ROW) and Stoney Creek Road is classified as a rustic road (70-foot ROW). The Preliminary Plan includes dedication of 35 feet from the centerline of Stoney Creek Road, to accommodate the Master Plan recommended minimum 70 foot wide ROW. This preliminary plan does not propose any direct access (driveways) to Stoney Creek Road.

Public water and sewer will be extended to serve the proposed lots which will likely utilize grinder pumps. The well and septic system for the existing house on P426 will be removed in accordance with MCDPS requirements. Per the approved stormwater management concept, stormwater quality and quantity will be managed on the individual lots via cisterns.

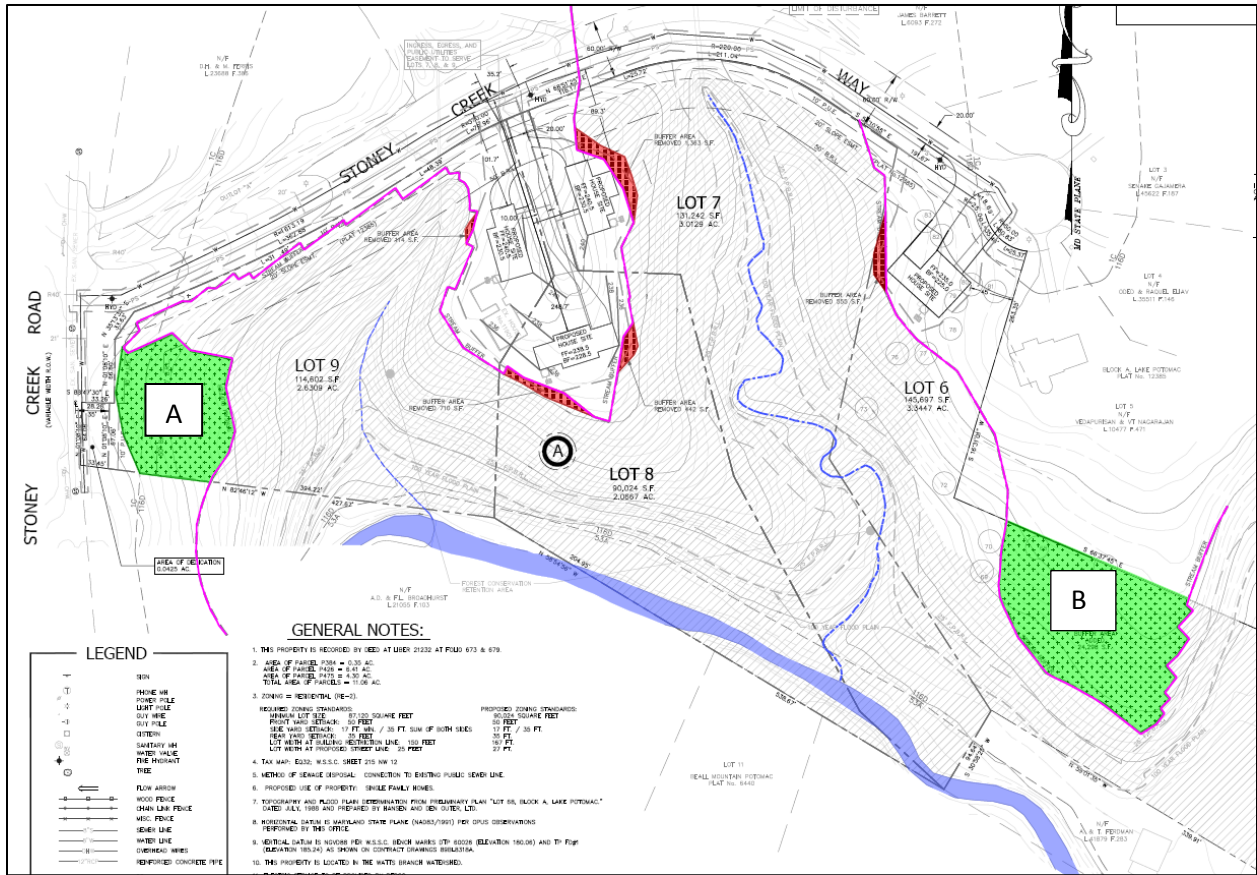


Exhibit 4

The Lot layout has been revised significantly since the submission of the original application. The Applicant has worked with Staff to move one lot and house location (identified as “A” above) that had direct frontage and access to Stoney Creek Road at the corner of Stoney Creek Road and Stoney Creek Way. The usable yard area for this former proposed lot was constrained because of the stream buffer to the rear of the house and setback required from the Stoney Creek Road right-of-way in front of the house. The driveway for this particular lot would have also encroached into the stream buffer. Because of the difficulty in finding a suitable house location, stream buffer encroachment and comments from the Rustic Roads Advisory Committee to consider alternative locations for a home site, Staff and the Applicant investigated other opportunities to locate suitable lot locations.

The original application also proposed two lots in the area identified as “B” above. The driveway that would have been required to serve any house in this location would have severe impacts to the stream buffer and likely require retaining walls to minimize extensive grading into the buffer. The Applicant and Staff also worked to find areas on the Property where development could be accommodated within far less environmental impact.

The solution was to locate three lots on the knoll in the center of the Property where the existing house is located. This area is already impacted by the driveway and amenities of the house. Another developable area was identified on proposed Lot 6 with direct frontage on Stoney Creek Way.

Compromises were made, and given the degree by which the buildable area is limited by environmental constraints as discussed below, the Applicant proposes to use stream buffer averaging in accordance with the Environmental Guidelines.

ANALYSIS AND FINDINGS – Chapter 50

Conformance to the Master Plan

Potomac Subregion Master Plan (2002)

The Subject Property is located in the Potomac Subregion Master Plan, within the Travilah community area as shown on page 5 of the Master Plan. The Master Plan includes general recommendations for the Travilah area but does not make specific recommendations for the Subject Property. According to the Master Plan, the Travilah community:

...is a low-density area that acts as a transition from the higher density of Potomac and North Potomac to lower-densities in Darnestown and the natural environment of the Potomac River. This community is under intense development pressure and contains natural features of County and State significance...Travilah is a more rural portion of the Subregion, and the area's dependence on septic systems has ensured low-density residential neighborhoods...The area is dominated by low-density, single-family detached residential development in the R-200, RE-1, RE-2, and RE-2C Zones. (p.80)

The Property will be developed as single-family residential units, will preserve existing sensitive areas, and do so in a way that maintains the existing rustic character of Stoney Creek Road. As envisioned by the Master Plan, the Application proposes to develop the Property under the RE-2 standard method of development at a density below the maximum permitted in the RE-2 Zone (i.e., 4 lots instead of 5 lots). The Property contains natural features including forest and stream buffer. The proposed development limits the impact to natural environment and preserves the forest by replacing the existing house and locating the new housing on the existing cul-de-sac that is not densely forested. The proposed development also uses stream buffer averaging to allow limited encroachments into the existing stream buffer in exchange for protecting an area of land on the Subject Property as stream valley buffer. The proposed buffer averaging is described in more detail in the Environmental Section of this report

The Sewer Service Policies section of the Master Plan (p. 21-23) allows for limited expansion of community water and sewer service in areas zoned RE-2 which are in close proximity to the sewer envelope. The Subject Property was approved for community water and sewer by the Department of Environmental Protection (DEP) via category change in 1990 and is within the existing sewer envelope.

The Property is located in the Watts Branch Watershed. For this watershed, the Master Plan states:

Watts Branch has the highest concentration of unique environmental features in the Subregion. Although Watts Branch watershed has its headwaters outside the Subregion, it has three significant tributaries-Piney Branch, Greenbriar Branch, and Sandy Branch-that are largely, highly sensitive, and whose headwater lie entirely within the Subregion. Water quality in Watts Branch is generally fair with the exception of two subsheds in Piney Branch and Lower Sandy Branch which have good water quality. A serpentine

outcrop supports a delicate hydrology and unique botanical community. The lower mainstem has rich species diversity and extremely steep slopes to the Potomac River. (p.16)

The steep slopes, mature forest, and other environmentally sensitive areas on the Property make the development of this Property very challenging. In an effort to make best use of the site's limited buildable area while minimizing overall environmental impacts on the Watts Branch Watershed the Applicant proposes to use stream valley buffer averaging. The area of compensation proposed by the Applicant as part the stream valley buffer averaging will significantly increase the total amount of buffer on the Property and adds protections to the existing and proposed buffer area by placing it in a Category 1 conservation easement.

Given the environmental constraints on the Property, the location of the lots shown on the proposed Preliminary Plan shows the ideal lot layout that maximizes the buildable envelope that is outside of the environmentally sensitive areas. When determining the lot layout and house locations, the Applicant worked with Staff and abutting property owners to give considerable thought to the general and environmental recommendations of the Master Plan. The subdivision of the Property using the RE-2 standard method is consistent with the Master Plan.

Rustic Roads Functional Master Plan (1996)

The Rustic Roads Advisory Committee (RRAC) has reviewed the Application to determine if it has any effect on the adjacent Stoney Creek Road, a rustic road. The Applicant presented the RRAC with three development options for them to review, one with 5 lots and two with 4 lots. The proposal showing 5 lots (initial preliminary plan submittal) was not supported by RRAC or Park and Planning staff. The other two options (A&B) proposed 4 lots, one with a driveway accessing Stoney Creek Road and one with the driveway accessing Stoney Creek Way. In its letter dated June 9, 2014, (Attachment A) the RRAC expressed that it preferred the option with driveway access to Stoney Creek Way because it would minimize impact to the rustic road. However, if access to Stoney Creek Way presented safety concerns the RRAC would not object to the alternative option showing a driveway on Stoney Creek Road, subject to a site visit.

Following the RRAC review the Applicant revised the preliminary plan to reflect the RRAC's preferred option proposing access to Stoney Creek Way. Subsequently, the Preliminary Plan was revised with no access on or directly adjacent to Stoney Creek Road and the frontage on Stoney Creek Way is proposed as part of the compensation for stream valley buffer averaging. As revised, the subdivision is consistent with the recommendations of the Rustic Roads Functional Master Plan.

Adequate Public Facilities Review

Roads and Transportation Facilities

Local Area Transportation Review (LATR)

The four proposed lots do not generate 30 or more new vehicle trips during the AM and PM peak-hours. The Application is not subject to LATR.

Transportation Policy Area Review (TPAR)

The Property is located in the Rural West Policy Area, which according to the *2012-2016 Subdivision Staging Policy* is exempt from the roadway and transit test; therefore, no TPAR payment is required.

Road Design:

The Property fronts the entire length of Stoney Creek Way on the south side, which is classified as Open Section Secondary Residential Road (MC-211.02) with 20 feet of pavement and a total right-of-way of 60 feet. The full right-of-way for Stoney Creek Way was previously dedicated and no additional dedication is required as part of this Application.

Stoney Creek Road is classified as a rustic road with a minimum width of 70 feet according to the *Rustic Roads Functional Master Plan*, which was recommended in the *Potomac Subregion Master Plan*. While no improvements are proposed on Stoney Creek Road the Applicant will dedicate 35 feet from centerline which achieves the Master Plan Recommended width. A sidewalk is not required along the Property frontage because it is in the rural policy area. There is no public transportation within two-and-a-half miles of the Subject Property.

The Application has been reviewed by the MCDOT who determined that the Property has adequate vehicular access and sight distance by transmittal letter dated, August 28, 2014 (Attachment B). Proposed vehicle and pedestrian access for the subdivision will be sufficient to serve the lots with the proposed private improvements.

Other Public Facilities and Services

All other public facilities and services including schools, police, health services, electric, and telecommunication are available and adequate to support and serve the proposed dwelling units. The Application has been reviewed by the Montgomery County Department of Fire and Rescue Service, which determined that the Property has adequate access for fire and rescue vehicles by transmittal dated, March 18, 2015 (Attachment C). The Subject Property is in the Winston Churchill School Cluster which is operating at an adequate level according to the current Subdivision Staging Policy. Therefore, the Application is not subject to payment of School Facilities Payment. Other public facilities and services, such as schools, police stations, firehouses and health services are currently operating within the standards set by the Subdivision Staging Policy Resolution currently in effect.

The Subject Property is within the Potomac Sewer Service Envelope. In 1990 DEP granted a water and sewer category change for P426 and P475. The remaining parcel P384 is not proposed for development and will be incorporated into proposed Lot 9. The Subject Property is located in the W-3 and S-3 service category, which is consistent with use of community water and sewer. On-site grinder pump systems and low pressure gravity sewer will be installed to serve the new lots (Attachment D).

The closest sewer infrastructure is a gravity main located in the Stoney Creek Road ROW. In order to provide sewer service to the proposed homes a low-pressure system extending to this existing gravity main will be built. A 600-foot extension along Stoney Creek Way is required to serve Lots 7, 8 and 9 and a further 600-foot extension along Stoney Creek Way will be required to serve proposed lot 6. In its letter, MCDEP's Water and Waste Water Policy Group has stated that connection to sewer for Lot 6 will

be subject to WSSC's evaluation of this project, including compliance with WSSC's grinder pump service policies, primarily due to the length of proposed low-pressure sewer necessary to reach the house.

The Application has been reviewed by Washington Suburban Sanitation Commission, which determined that there is an existing 12-inch water main along Stoney Creek Road that terminates just south of the Stoney Creek Way intersection that will be extended to serve the proposed lots. There is an existing 8-inch gravity sewer main that runs along Stoney Creek Road and will connect to the proposed pressure sewer at the intersection.

Environment

ENVIRONMENTAL GUIDELINES

The Subject Property is located at the downstream tip of the Sandy Branch subwatershed of Watts Branch. The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420130860 for this Property was approved on January 15, 2013. The NRI/FSD identified 10.3 acres of forest (93% of the site), considered high priority due to the sensitive areas, diversity of species (including nearly 100 specimen trees) and the maturity of the forest. The NRI/FSD also identified approximately 8.6 acres, or 78% of the site, of environmentally sensitive areas, including stream valley buffer (8.46 acres), steep slopes, and erodible soils. The environmental constraints are due mainly to the Sandy Branch main stem flowing across the southern property boundary. There are no parklands or conservation easements in the vicinity of the Property.

A drainage channel originates on the Property slightly west of the existing house, and a stream begins approximately 800 feet north of the Property and meanders through the center of the Property. The channel is between 20 and 40 feet wide as it crosses the Property. As is typical close to the Potomac River gorge, the three stream valleys on this site have extremely steep slopes leading down to the stream bed (mainstem of Sandy Branch).

As shown on Exhibit 5, the Subject Property contains intermittent steep slopes (15-25%) that generally follow the stream and drainage channel on the Property. The steep slopes and associated environmental buffers limit the developable area of the Property, restricting development to the knoll occupied by the existing house and the area adjacent to the cul-de-sac.

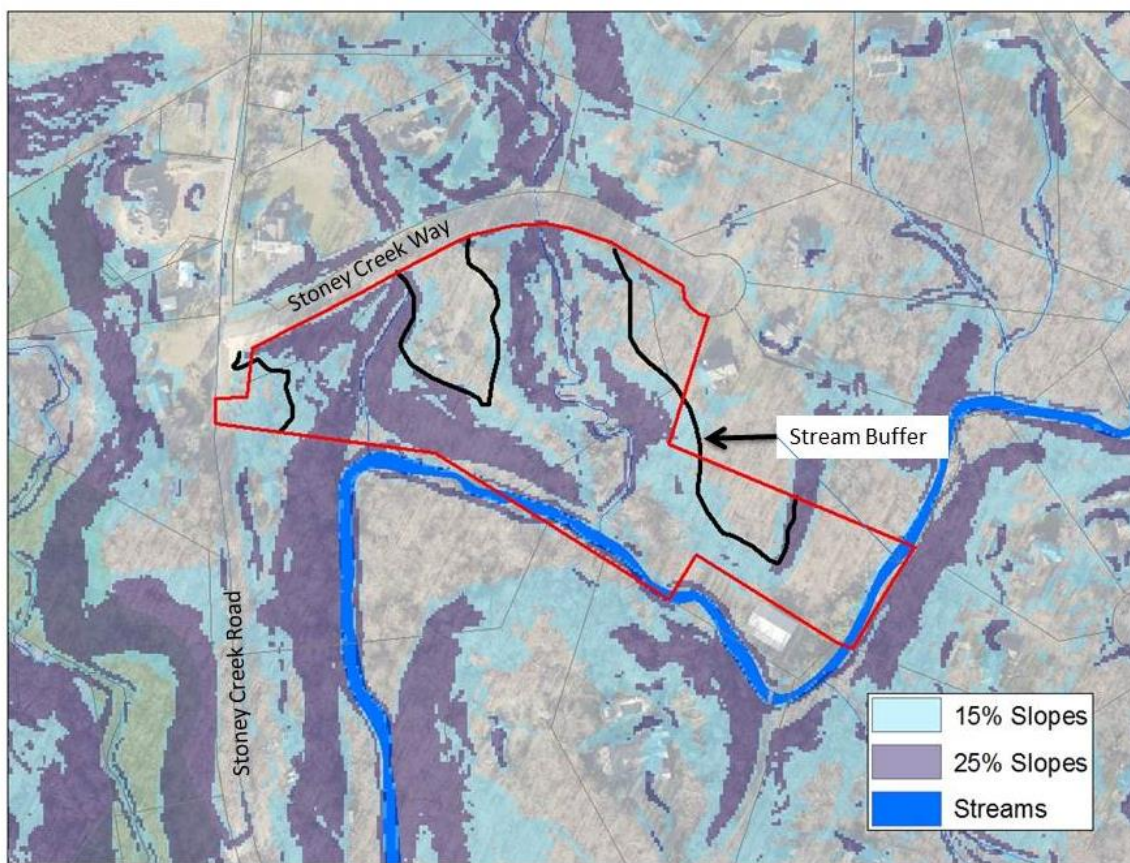


Exhibit 5- Stream Buffer and Steep Slopes

The soil consists predominantly of Blocktown channery silt loam (116D) and limited sections of Gaila (1C) along the frontage of Stoney Creek Road and cradling the existing cul-de-sac. The 1995 Montgomery County Soil Survey shows Blocktown channery soil as having severe limitations for building and development due to slope and depth to bedrock (10-20 inches). This soil also has a severe hazard of erosion when the slopes are in excess of 25 percent.

The forested stream valley, steep slopes and erodible soils associated with the Sandy Branch are the dominant features of the Subject Property and constrain the site for areas available for usable yard space except near the existing home and cul-de-sac.

In applications that include significant areas of stream buffer that restrict development, the *Environmental Guidelines* provide the option for buffer compensation proposals to offset buffer encroachment that are reviewed on a case-by-case basis. One method of compensation is “buffer averaging,” which permanently protects environmentally-comparable on-site areas outside the delineated stream buffer in exchange for the allowance of encroachment elsewhere in the delineated buffer. The following criteria must be met:

1. Reasonable alternative for avoidance of the buffer are not available;

The proposed Preliminary Plan represents a collaborative effort between the Applicant, Staff and adjacent property owners. The version of the Preliminary Plan being presented for consideration has reduced the original proposal by one lot and significantly reconfigures the house locations to the most developable area of the Property. In doing so, buffer encroachments were significantly reduced and minimized the maximum extent practicable.

2. Encroachment into the buffer has been minimized;

The proposed encroachment within the entire subdivision was reduced from 9,500 square feet to approximately 3,184 square feet of the 370 thousand square feet that encumbers the Subject Property. No structures are proposed within the buffer area. The areas of encroachment are to provide a 15-20-foot construction area around each house and to provide reasonable access to a usable rear yard space.

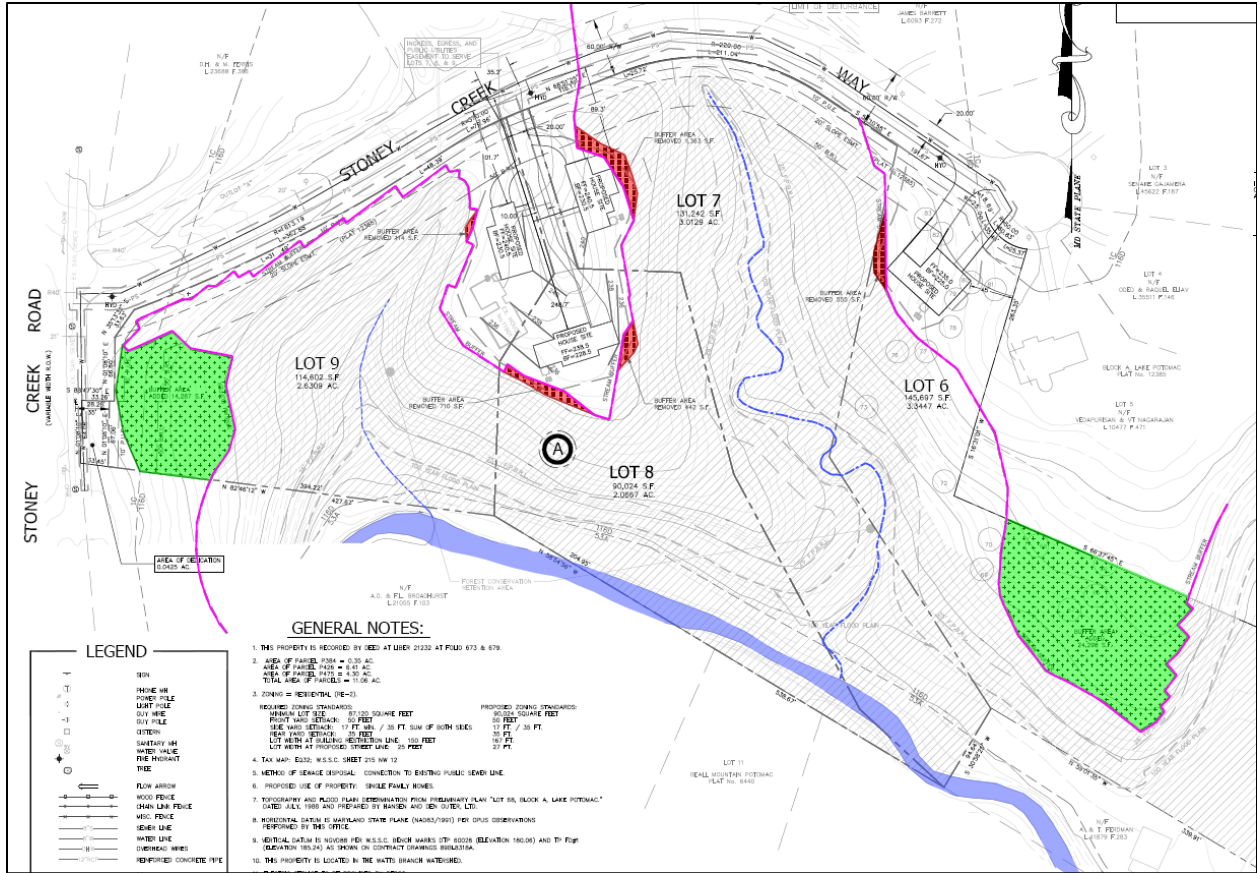
3. Existing sensitive areas have been avoided (forest, wetlands and their state-designated buffers, floodplain, steep slopes, habitat for rare, endangered, and threatened species and their associated buffers);

The majority of the sensitive areas on the Property have been avoided by redesigning the subdivision and clustering three of the proposed dwelling on the central knoll with a shared driveway. While approximately one third of the proposed encroachment area is forested and on steep slopes, no clearing or grading is currently proposed in those areas as part of construction. There is no encroachment into the 100 year floodplain proposed. The Property does not contain any rare, endangered, or threatened species that could be impacted by the proposed buffer encroachment.

4. The proposed use is consistent with the preferred use of the buffer; and

No structures or retaining walls are proposed within the stream buffer encroachment area. The proposed plan removes an existing septic field from Property that could otherwise pollute the stream if it were to fail. In addition an approved septic reserve area on Lot 5 (for the use of the Subject Property) will also be abandoned.

5. The plan design provides compensation for the loss of buffer function.



■ SVB Compensation
 ■ Buffer Encroachment
 — Stream Valley Buffer

Exhibit 6- Proposed Stream Valley Buffer Averaging

The Applicant proposes to use “stream buffer averaging” to compensate for the encroachment into 3,184 square feet of stream valley buffer area on the Property. As compensation the Applicant proposes to place 38,585 square feet of additional forested area outside of the stream buffer into a Category 1 Conservation Easement which equates to a 12:1 replacement ratio far in exceedance of the standard ratio of 2:1. The area added as compensation is primarily forested, consisting of one-third acre of pioneer upland forest and a half-acre of mature upland forest. By compacting development to the central knoll area, the plan design reflects an extremely low imperviousness of four percent, which exceeds even the most stringent impervious caps in other parts of the county and is well below what is normally associated with residential development in the RE-2 zone. The Application minimizes overall encroachment by limiting it to small portions of rear yard and does not propose any roads, driveways or utilities within the stream buffer area.

The proposed plan meets all applicable requirements for protection of environmentally sensitive areas.

FOREST CONSERVATION

The Application meets all applicable requirements of the County Forest Conservation Law. The Forest Conservation Plan (FCP) contains 11.07 acres of net tract area. The FCP proposes clearing of 1.34 acres of forest and retention of 8.94 acres of existing forest which will be placed in a conservation easement. For forest conservation purposes the Application falls within the Medium-Density Residential Landuse, for which the Property has a 2.77-acre conservation threshold. No forest mitigation (planting) is required as part of this FCP because the proposal is above the break-even point, which is the amount of clearing permitted without mitigation relative to the landuse category and size of the Property.

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. The law requires no impact to trees that: measure 30 inches or greater, DBH ("Protected Tree"); are part of a historic site or designated with an historic structure; are designated as a national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species. Any impact to a Protected Tree, including removal or disturbance within the Protected 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. In the written request for a variance, an applicant must demonstrate that strict adherence to Section 22A-12(b)(3), i.e. no disturbance to a Protected Tree, would result in an unwarranted hardship as part of the development of a Property.

Unwarranted Hardship

This 11.06 acre Property currently has only one house built on site. The proposal to remove the existing house and build four new homes will require improvements that will encroach into forested areas and completely clear the yard of the existing house. Since the existing house was built more than forty years ago the trees around the house and the surrounding forest have had a chance to grow and mature. It will not be possible to redevelop this site without impact to specimen trees.

Variance Request

On April 20, 2015, the Applicant requested a variance for removal of 11 variance trees and impacts to 3 variance trees (Attachment E). These trees are listed on the chart below.

Table 1- Variance Tree List

TREE NUMBER	BOTANICAL NAME	COMMON NAME	SIZE (D.B.H.)	TREE CONDITION	% CRZ IMPACTED	STATUS	REASON FOR IMPACTS
ST-2	Quercus velutina	Black Oak	30"	Moderate	90.1%	To be removed	Construction of proposed house, driveway, installation of water and sewer lines and P.U.E
ST-3	Quercus coccinea	Scarlet Oak	39"	Poor-Hazard	36.7%	To be removed	To remove a hazardous tree
ST-4	Liriodendron tulipifera	Tulip Poplar	35"	Moderate	10.9%	To be retained	Construction of proposed house, driveway, P.U.E and grading easement for public road
ST-8	Liriodendron tulipifera	Tulip Poplar	33"	Good	39.8%	To be removed	Construction of proposed house
ST-9	Quercus rubra	Northern Red Oak	35"	Moderate	68.8%	To be removed	Construction of proposed house, driveway, installation of water and sewer lines

ST-10	Liriodendron tulipifera	Tulip Poplar	31"	Poor-Hazard	100%	To be removed	Construction of proposed house, driveway, installation of water and sewer lines
ST-17	Liriodendron tulipifera	Tulip Poplar	39"	Moderate	46.3%	To be removed	Construction of proposed driveway, installation of water and sewer lines
ST-19	Liriodendron tulipifera	Tulip Poplar	36"	Good	28.6%	To be removed	Construction of proposed house and driveway, installation of water and sewer lines
ST-41	Quercus sp.	Oak species	33"	Dead	4.7%	To be retained	Construction of proposed house
ST-42	Quercus sp.	Oak species	32"	Dead	19.0%	To be removed	Construction of proposed house
ST-78	Quercus coccinea	Scarlet Oak	33"	Moderate	100%	To be removed	Construction of proposed house and driveway, installation of water and sewer lines
ST-82	Quercus coccinea	Scarlet Oak	32"	Moderate	100%	To be removed	Construction of proposed house, driveway, installation of water and sewer lines, P.U.E and grading easement for public road
ST-83	Quercus coccinea	Scarlet Oak	32"	Good	100%	To be removed	Construction of proposed house, P.U.E and grading easement for public road
ST-86	Quercus coccinea	Scarlet Oak	36"	Moderate-Poor	0.1%	To be retained	Installation of sewer

Based on the following justifications, the Applicant has met all criteria required to grant the variance for the removal of ten trees and the impact to five trees subject to the variance provision.

Variance Findings

The Planning Board must make findings that the Application has met all requirements of section 22A-21 of the County Code before granting the variance. Staff has made the following determination on the required findings for granting the variance:

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

Land disturbing activities associated with any type of development including demolition of existing buildings, grading and building on sites with mature forest sites will impact large trees. In this case, the proposal to remove the existing house and build four new homes will require improvements that will encroach into forested areas and clear the yard of the existing house. Since the existing house was built

more than forty years ago the trees around the house and the surrounding forest have had a chance to grow, mature and likely grow around the foundation of the house. Demolition of the house and the areas required for maneuvering construction equipment will damage many of the variance trees. It is not be possible to redevelop this site without impact to specimen trees. Therefore, granting of the variance is not unique to this Applicant and the variance will not confer on the Applicant a special privilege that would be denied to other applicants.

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

The variance is not based on conditions or circumstances which are the result of the action by the Applicant, but rather on the site conditions and the zone for this area. The Property is zoned RE-2 which could yield five units given the size of the Property; however the Application only proposes Four lots. In addition to proposing a density lower than what is allowed, the Applicant is also removing an existing dwelling and redeveloping the area in a compact cluster which minimizes forest clearing, land disturbing activity, and makes the most efficient use of driveway pavement. All efforts have been made to limit the number of trees affected by this Application. There are no feasible options to reconfigure this four-lot subdivision further, to avoid impact to the specimen trees.

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 not related in any way to a condition on a neighboring property.

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

Although four of the ten trees being removed are within the County required stream buffer, the Applicant will mitigate for these as well as the loss of specimen trees located outside of forested areas. Therefore the variance will not violate State water quality standards.

County Arborist's Recommendation on the Variance

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist for a recommendation prior to acting on the request. In a letter dated April 23, 2015, the County Arborist recommended the variance be approved with mitigation (Attachment F).

Mitigation

As mitigation for the removal of the 11 variance trees, totaling 93 caliper inches (372 inches DBH), the Applicant will be required to plant approximately 31, three-inch caliper native canopy trees on the Subject Property. Particular emphasis on the placement of trees on or adjacent to the steeply sloping areas of the Subject Property will be important. The proposed planting location will be shown on the Final Forest Conservation Plan for Staff review and approval.

Variance Recommendation

Staff recommends that the variance be granted with mitigation. The submitted FCP meets all applicable requirements of the Chapter 22A of the County Code (Forest Conservation Law).

Stormwater Management

MCDPS approved a stormwater management concept on October 1, 2014 (Attachment G). The concept proposes to meet the required stormwater management goals via cisterns and pervious pavement located on the individual lots.

Compliance with the Subdivision Regulations and Zoning Ordinance

The Application has been reviewed for compliance with the Subdivision Regulations and meets all applicable sections. The Master Plan recommends low-density single-family residential zoning and preservation of the natural environment in the Travilah area. The Application proposes four lots on 11.06 acres under the standard development procedures of the RE-2 Zone, a low-density zone. The smallest lot proposed is 90,024 square feet in size which exceeds the minimum size required in the RE-2 Zone. The density of the proposed development is one lot below the maximum permitted under the RE-2 Zone, given the size of the Property.

The proposed development is low-density, and reflects a layout that addresses the fact that the vast majority of the Property is environmentally constrained. The size, shape, width and orientation of the proposed lots are appropriate when considering the location of the subdivision and the environmental sensitivity of the Property. The lots minimize disturbance of the sensitive environmental features as recommended by the Master Plan.

Table 2: Preliminary Plan Data Table (RE-2 Zone)

Plan Data	Zoning Ordinance Development Standard	Proposed for Approval by the Preliminary Plan
Minimum Net Lot Area	87,120 sq. ft.	90,024 min.
Lot Width @ building line	150 ft. min.	150 ft. min.
Lot Frontage	25 ft. min.	25 ft. min.
Setbacks		
Front	50 ft. min.	50 ft. min.
Side	17 ft. min./ 35 ft. total	17 ft. min./ 35 ft. total
Rear	35 ft. min.	35 ft. min.
Building Coverage	25% max.	25% max.
Building Height	50 ft. max.	50 ft. max.
Maximum Residential Dwelling Units	5	4

The four proposed lots were reviewed for compliance with the dimensional requirements for the RE-2 Zone as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and establishment of the required setbacks in that zone. A summary of this review is included in the Table 2 above. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

Citizen Correspondence and Issues

This Application was submitted and noticed in accordance with all required procedures. Signs referencing the Application were posted along the Property's frontage on Stoney Creek Road and Stoney Creek Way.

The Applicant held a pre-submission meeting on May 14, 2013 at Potomac Elementary School (10311 River Road) at 6:30pm. However, it was brought to the Applicants attention that the notice list was incomplete and the signage was inadequate (signs missing or on the ground). Subsequently, the Applicant posted new signs and held a second pre-submission meeting on March 6, 2014 at 6:30 p.m. at Potomac Elementary School satisfying outreach requirements.

To date, Staff has received several community inquiries and correspondence regarding the Application:

- Members of the West Montgomery County Citizens Association inquired about the proposed lots connecting to community water and sewer, as most of the surrounding area is in a service category that requires the use of well and septic. Staff explained that according to MCDEP, a service category change was approved for the Property in 1990 and connection to community water and sewer is consistent with the W-3 and S-3 service category.
- An adjoining property owner (Metody Tilev) sent a letter (Attachment H) regarding inadequate notice and opposition to the original plan which showed a new home adjacent to their property with a driveway crossing through the stream valley buffer. Mr. Tilev has met on numerous occasions with Staff with respect to a house proposed adjacent to his on Stoney Creek Road. The Applicant is no longer proposes a house in that location. Regarding the signage, Staff notified the Applicant that the signage and noticing requirements were not met, subsequently new signs were posted and the Applicant held additional meetings. Therefore, the issues outlined in the letter have been resolved.

Staff also met with an adjoining property owner (Lot 5, Block A), both in the office and on-site to discuss their concerns regarding setbacks and house location. The home on Lot 5 was built within the 17-foot side- yard setback mandated by the zone, which in turn required a variance of 4 feet which the County approved in 1991 when the house was purchased. However, the reduced setback and the proposed placement of a new house on proposed Lot 6 concerned the property owner.

To satisfy the concerns raised by the owner of the neighboring Lot 5, Block A, the Applicant has agreed to construct the house on Lot 6 no closer to the Property line with adjacent Lot 5, Block A than 45 feet. While not a Planning Board required setback, Staff recommends that the record plat reflect a 45 foot building restriction line along the shared side property line of Lot 6 and existing Lot 5, Block A in order to recognize this mutual agreement reached between the Applicant and adjacent property owner.

CONCLUSION

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conform to the recommendations of the Potomac Subregion 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.

Attachments

- A. Rustic Roads Advisory Committee
- B. MCDOT
- C. Fire and Rescue
- D. DEP
- E. Variance Request
- F. Arborist Letter
- G. DPS SWM
- H. Correspondence

**RUSTIC ROADS ADVISORY COMMITTEE**

June 9, 2014

Ms. Katherine Holt, Lead Reviewer
Maryland-National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20902

Re: RRAC's Review of the proposed Lake Potomac Subdivision
Preliminary Plan 120130280

Dear Ms. Holt:

We are writing to thank you for referring Maddox Engineers & Surveyors to our Committee for review of the proposed Lake Potomac Subdivision plans, on Stoney Creek Road, a Rustic Road, and Stoney Creek Way. The Committee reviewed three options for the subdivision.

The Committee understands from Maddox Engineers that the first option, with five houses proposed, has been reviewed by Park and Planning staff, and will not be supported. Therefore, we offer no comment.

The Committee reviewed option A, with four houses proposed, all with access from Stoney Creek Way, and was of the opinion that they this would offer minimal impact to Stoney Creek Road which has a designation of a Rustic Road. The driveways on this option were all placed on Stoney Creek Way which is not designated as Rustic or Exceptional Rustic therefore the only impact to the Rustic Road would be the additional traffic which will be minimal.

Last, the Committee reviewed option B, with four houses, one with access on Stoney Creek Road and three with access on Stoney Creek Way. While the Committee generally prefers access to be taken from the non-rustic road on corner lots, it was of the opinion that a single driveway would have a minimal impact to Stoney Creek Road, if access cannot be taken from Stoney Creek Way. The only concern was the location of the proposed driveway and it was suggested that if this was the option preferred that the Committee would like to have the driveway staked so they could make a field visit and see where it would be located and request that it be moved to a different location if necessary (with the understanding that safety comes first and if this was the only location where they had the required clearance from the intersection of Stoney Creek Road and Stoney Creek Way the driveway would remain as proposed).

The Rustic Roads Advisory Committee would support either proposed options for the Lake Potomac Development. Thank you for providing us with the opportunity to review this preliminary plan and provide comments.

Sincerely,



Greg Deaver, Chair
Rustic Roads Advisory Committee

Committee Members: Christopher Marston, Jane Thompson, Marc Miller
Greg Glenn, Eric Spates, Angela Butler

Cc: Maddox Engineers & Surveyors
Leslie Saville, M-NCPPC (non-voting member)
Greg Leck MCDOT



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

August 28, 2014

Arthur Holmes, Jr.
Director

Mr. John Carter, Chief
Area 3 Planning Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan No. 120130280
Lake Potomac

John:
Dear Mr. Carter:

We have completed our review of the revised preliminary plan submitted on June 4, 2014. This plan was originally reviewed by the Development Review Committee at its meeting on September 23, 2013. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Department of Permitting Services 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. Necessary dedication of Stoney Creek Road in accordance with the master plan (Rustic Road).
2. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
3. The sight distances study has been accepted. A copy of the accepted Sight Distances Evaluation certification form is enclosed for your information and reference.
4. Record plat to reflect a reciprocal ingress, egress, and public utilities easement to serve the lots accessed by each common driveway.
5. Private common driveways shall be determined through the subdivision process as part of the Planning Board's approval of a preliminary plan. The composition, typical section, horizontal alignment, profile, and drainage characteristics of private common driveways and private streets, beyond the public right-of-way, shall be approved by the Planning Board during their review of the preliminary plan.
6. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.

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



Mr. John Carter
Preliminary Plan No. 120130280
August 28, 2014
Page 2

7. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operations Section at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
8. Trees in the County rights of way – spacing and species to be in accordance with the applicable MCDOT standards. Tree planning within the public right of way must be coordinated with the Department of Permitting Services' Right-of-way Plan Review Section.
9. Stoney Creek Road is classified as a "Rustic Road" under Section 49-78 of the Montgomery County Code. As such, every effort must be made to preserve the significant features within the right of way of that roadway.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Monet L. Lea, our Development Review Area Engineer for this project at monet.lea@montgomerycountymd.gov or (240) 777-2197.

Sincerely,



Gregory M. Leck, Manager
Development Review Team

m:/corres/FY15/Traffic/active//120130280, Lake Potomac, MCDOT plan review ltr

Enclosure

cc: Lowell Baier
John Blades Maddox Engineers & Surveyors
Robert R. Harris Lerch, Early & Brewer
Greg Deaver Rustic Roads Advisory Committee
Preliminary Plan folder
Preliminary Plan letters notebook

cc-e: Catherine Conlon M-NCPPC DARC
Atiq Panjshiri MCDPS RWPR
Brian Jeeves MCDPS RWPR
Monet L. Lea MCDOT DTEO



MONTGOMERY COUNTY, MARYLAND
DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION
DEPARTMENT OF PERMITTING SERVICES

SIGHT DISTANCE EVALUATION

Facility/Subdivision Name: LAKE POTOMAC Preliminary Plan Number: 1-20130280

Street Name: STONE CREEK WAY Master Plan Road Classification: TERTIARY

Posted Speed Limit: 25 mph

Street/Driveway #1 (LOT #6) Street/Driveway #2 (LOT #8) 7-9

Sight Distance (feet) OK? *md*
Right 290' *md*
Left 290' *md*

Sight Distance (feet) OK? *md*
Right 275' *md*
Left 490' *md*

Comments: AT CUL-DE-SAC

Comments: EXISTING DRIVE

GUIDELINES

Classification or Posted Speed (use higher value)	Required Sight Distance in Each Direction*
Tertiary - 25 mph	150'
Secondary - 30	200'
Business - 30	200'
Primary - 35	250'
Arterial - 40	325'
(45)	400'
Major - 50	475'
(55)	550'

Sight distance is measured from an eye height of 3.5' at a point on the centerline of the driveway (or side street) 6' back from the face of curb or edge of traveled way of the intersecting roadway where a point 2.75' above the road surface is visible. (See attached drawing)

*Source: AASHTO

ENGINEER/ SURVEYOR CERTIFICATE

I hereby certify that this information is accurate and was collected in accordance with these guidelines.

[Signature] 6-25-13

Signature

11014

PLS/P.E. MD Reg. No.



Montgomery County Review:

Approved

Disapproved:

By: [Signature]

Date: 8/22/2014



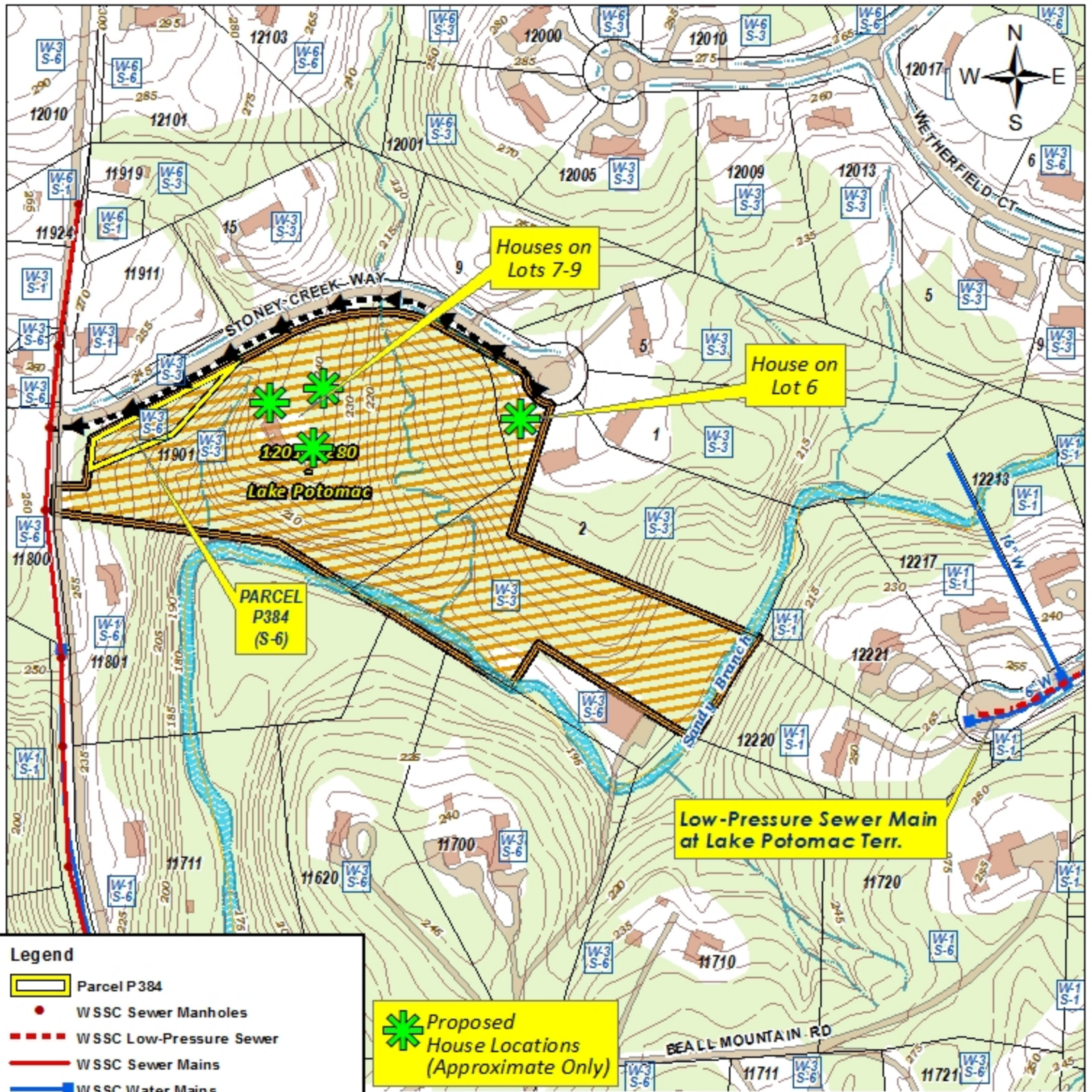
FIRE MARSHAL COMMENTS

DATE: 18-Mar-15
TO: Caryn Williams - cgwilliams@maddoxinc.com
Maddox Engineers & Surveyors, Inc
FROM: Marie LaBaw
RE: Lake Potomac
120130280

PLAN APPROVED

1. Review based only upon information contained on the plan submitted **18-Mar-15** .Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

Revised Preliminary Plan 120130280 "Lake Potomac" DEP-WWPG: Development Review Cases



Legend

- Parcel P384
- WSSC Sewer Manholes
- WSSC Low-Pressure Sewer
- WSSC Sewer Mains
- WSSC Water Mains
- Proposed Sewer Mains**
- Gravity Sewer Ext.
- Low-Pressure Sewer Ext.
- Water/Sewer Service Area Categories
- Topography (5 ft. c.i.)
- Subdivision Sites (DEP-Mapped)
- Woodlands

★ Proposed House Locations (Approximate Only)



SCALE (Feet)

Montgomery County, Maryland
Draft 2014 Comprehensive Water Supply
and Sewerage Systems Plan



DEP
Water and Wastewater
Policy Group
11/24/14

Benning & Associates, Inc.

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

To: M-NCPPC / Area 3 Plan Reviewer
 From: Joshua O. Maisel
 Date: April 20, 2015
 Re: Lake Potomac - Request for Specimen Tree Variance

Dear Area 3 Plan Reviewer,

In accordance with Chapter 22A-21 of the Montgomery County Code, I am writing to request a variance from Chapter 22A-12 of the Forest Conservation Law to allow the removal of 11 specimen trees and to allow the root zones of 3 additional specimen trees to be impacted. Below is a table identifying the trees associated with this request:

SPECIMEN TREE CHART							
TREE NUMBER	BOTANICAL NAME	COMMON NAME	SIZE (D.B.H.)	TREE CONDITION	% CRZ IMPACTED	STATUS	REASON FOR IMPACTS
ST-2	Quercus velutina	Black Oak	30"	Moderate	90.1%	To be removed	Construction of proposed house, driveway, installation of water and sewer lines and P.U.E
ST-3	Quercus coccinea	Scarlet Oak	39"	Poor-Hazard	36.7%	To be removed	To remove a hazardous tree
ST-4	Liriodendron tulipifera	Tulip Poplar	35"	Moderate	10.9%	To be retained	Construction of proposed house, driveway, P.U.E and grading easement for public road
ST-8	Liriodendron tulipifera	Tulip Poplar	33"	Good	39.8%	To be removed	Construction of proposed house
ST-9	Quercus rubra	Northern Red Oak	35"	Moderate	68.8%	To be removed	Construction of proposed house, driveway, installation of water and sewer lines

ST-10	Liriodendron tulipifera	Tulip Poplar	31"	Poor-Hazard	100%	To be removed	Construction of proposed house, driveway, installation of water and sewer lines
ST-17	Liriodendron tulipifera	Tulip Poplar	39"	Moderate	46.3%	To be removed	Construction of proposed driveway, installation of water and sewer lines
ST-19	Liriodendron tulipifera	Tulip Poplar	36"	Good	28.6%	To be removed	Construction of proposed house and driveway, installation of water and sewer lines
ST-41	Quercus sp.	Oak species	33"	Dead	4.7%	To be retained	Construction of proposed house
ST-42	Quercus sp.	Oak species	32"	Dead	19.0%	To be removed	Construction of proposed house
ST-78	Quercus coccinea	Scarlet Oak	33"	Moderate	100%	To be removed	Construction of proposed house and driveway, installation of water and sewer lines
ST-82	Quercus coccinea	Scarlet Oak	32"	Moderate	100%	To be removed	Construction of proposed house, driveway, installation of water and sewer lines, P.U.E and grading easement for public road
ST-83	Quercus coccinea	Scarlet Oak	32"	Good	100%	To be removed	Construction of proposed house, P.U.E and grading easement for public road
ST-86	Quercus coccinea	Scarlet Oak	36"	Moderate-Poor	0.1%	To be retained	Installation of sewer

Project Description

The subject property consists of 3 parcels, P384, P426, and P475, totaling approximately 11.11 acres in size located at 11901 Stoney Creek Way in Potomac, Maryland. One house currently exists on the property and the remainder of the site is forested. Based on the property's RE-2 zoning, the Development Regulations allows for a total density of 5 residential lots. To allow for further development of the site, the owner of the property, Lowell E. Bair, has submitted a Preliminary Plan of subdivision to MNCPPC to subdivide the property into 4 lots.

The Preliminary Plan proposes to remove the existing house and construct four new homes. As typical for new developments, a certain amount of improvements must be provided to accommodate the new homes. These improvements include driveways, expansion of an existing sewer line and water line, stormwater management facilities. Since the existing forest is dominated by significant and specimen trees, construction impacts to these trees are unavoidable. For this reason, a variance from the Forest Conservation Law is requested to allow for impacts to specimen trees.

Requirements for Justification of Variance:

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

1. Describe the special conditions peculiar to the property which would cause unwarranted hardship;
2. Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
3. Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of granting of the variance; and
4. Provide any other information appropriate to support the request.

There are special conditions unique to the property which would cause unwarranted hardship should the variance not be approved. Over 92% of the property is forested and a significant portion of the forested areas are encumbered by streams and stream buffers. Because of the streams and associated buffers, the configuration of the lots and site development is planned to minimize construction impacts to environmentally sensitive areas. The Forest Conservation Plan for the subdivision proposes to place approximately 87.8% of the on-site forest into a Category I conservation easement. Only a limited amount of forest will be cleared and the clearing is minimized to the areas necessary to construct four houses and the associated site improvements. If the variance is not approved, locations suitable for development would be severely impacted and a significant part of the property would not be usable.

Should this variance not be approved, the property owner would be deprived of rights commonly enjoyed by others in similar circumstances. This project has been designed to meet or exceed all development standards of the RE-2 zone and Zoning Ordinance in general. Other requirements such as stormwater management and forest conservation have also been met. In this case, the property cannot be developed as planned without approval of the variance due to the presence of the specimen trees.

The granting of a variance will not result in a violation of State water quality standards or any measurable degradation in water quality. Prior to site development, both a sediment control and stormwater management plan will be approved. These plans will propose measures ensuring the development complies with the State's erosion control and stormwater management laws, and that no measurable degradation in water quality will occur.

Other information in support of the variance request is provided in the project description part of this letter.

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

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

This request for a variance will not confer a special privilege that would be denied to other applicants. An 11.11 acre subdivision for 4 lots is permitted in the RE-2 zone, Zoning Ordinance and the Development Regulations. No waivers of any zoning, development, or forest conservation standard are requested.

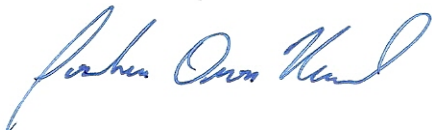
This variance request is not based on conditions and circumstances which are the result of actions by the applicant. The applicant has prepared and submitted plans which meet all applicable development standards and requirements. The variance request is based upon plans which meet all requirements but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

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

As previously mentioned, granting this variance request will not violate State water quality standards or cause measurable degradation in water quality.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Joshua O. Maisel".

Joshua O. Maisel, RLA
ISA Certified Arborist # MA-4514A
ISA Tree Risk Assessment Qualified Exp. 05-15-2019

April 23, 2015

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

RE: Lake Potomac, ePlan 120130280, NRI/FSD application accepted on 11/26/2012

Dear Mr. Anderson:

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

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

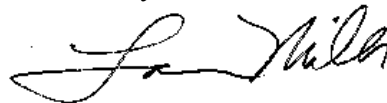
3. The disturbance of trees, or other vegetation, by the applicant does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. Therefore, the variance can be granted under this criterion.
4. The disturbance of trees, or other vegetation, 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: Katherine Nelson, Planner Coordinator



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Diane R. Schwartz Jones
Director

October 1, 2014

Mr. John Blades
Maddox Engineers and Surveyors
3204 Tower Oaks Boulevard, Suite 200-A
Rockville, MD 20852

Re: Stormwater Management **CONCEPT** Request
for Lake Potomac - Lowell Baier Property
Preliminary Plan #: 120130280
SM File #: 247451
Tract Size/Zone: 11.11 acres/ RE-2
Total Concept Area: 11.11 acres
Lots/Block: proposed 6,7,8,9
Parcel(s): 384,426,475
Watershed: Watts Branch

Dear Mr. Blades:

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 cisterns and pervious pavement.

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

1. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
2. An engineered sediment control plan must be submitted for this development.
3. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
4. 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.

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

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

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

Mr. John Blades
October 1, 2014
Page 2

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,



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

MCE: wrc

cc: C. Conlon
SM File # 247451

ESD Acres:	11.11
STRUCTURAL Acres:	0
WAIVED Acres:	0

Casey, Jonathan

From: Murray, Callum
Sent: Friday, September 20, 2013 8:42 AM
To: Weaver, Richard; Holt, Katherine; Saville, Leslie
Subject: FW: Lake Potomac, Application No. 120130280
Attachments: ltrDRCLakePotomac.doc

Hello people:

FYI.

Callum

From: Metody Tilev [<mailto:tilev@sp-law.com>]
Sent: Thursday, September 12, 2013 10:19 AM
To: Murray, Callum
Subject: Lake Potomac, Application No. 120130280

Dear Mr. Murray,

I am following up on our e-mail correspondence regarding the above-referenced application. The plan has finally been uploaded and the DRC meeting is set for September 23, 2013. I have a meeting at 1:30 today with Leslie and Katherine. Attached is a draft letter with my comments and concerns. Would it be helpful if I meet with you or talk on the phone.

Thank you,
Metody Tilev

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Susan Silber
Linda S. Perlman
Kenneth T. Sigman
Metody A. Tilev*



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September 11, 2013

Development Review Committee
Montgomery County Park and Planning
8787 Georgia Avenue
Silver Spring, MD 20902

**Re: Lake Potomac
Plan Number: 120130280**

Dear Sir/Madam:

I write to submit my comments on and objections to the above-referenced plan application. My wife and I own the property at 11801 Stoney Creek Road, Potomac, MD 20854, which is directly adjacent to the above-referenced subdivision.

I. The application is misleadingly labeled as “original”.

The owner, Mr. Baier, seeks to establish five lots out of 11 acres. The sought subdivision is, in fact, the second phase of a prior subdivision, completed under application No 1198801190 by the owner who had bought a large piece of land many years ago. Said application was only partially approved. Mr. Baier now seeks to obtain additional lots in the current subdivision application.

II. The owner has proceeded without sufficient notification.

On May 14, 2011, the owner held a pre-submission meeting. My wife and I never received a notification letter. Upon understanding and belief, other property owners on the notification list had not received such notices either. We learned about the meeting from a sign that was posted on the property. Said sign lacked visibility and has since been taken off (See photograph attached). We only noticed it by walking by it.

Further, while the pre-submission application was filed on August 6, 2013, the supporting documentation was not available on the site until about a month later. As of today, there is no posting of the Development Review Committee (DRC) meeting on September 23, 2013. A person looking at the application would not have been able to learn of such meeting, unless he/she separately looked up the DRC schedule.

III. The owner has omitted to submit relevant documentation

1. There is no vicinity map provided with the application. Said map provides relevant information of the adjacent properties and the possible negative effect from the proposed subdivision on them. A copy of the map is enclosed.
2. There are no previous plans accompanying previous applications so that the DRC could develop an understanding of the dynamics of the area and relevant issues and considerations. For example, proposed lots 9 and 10 have previously been set as one lot. Copies of such plans are enclosed.

IV. Proposed Lot 10 substantially violates the M-NCPPC's environmental guidelines

1. The proposed driveway from the side of Stoney Creek Way almost entirely lies in the stream buffer zone.
2. At the location contours of the proposed house on Lot 10, the stream buffer line is reflected favorably to the owner by the retained by him engineering company, as compared to the way it is reflected on a previous adjacent property subdivision application. See attached plans for adjacent property application Number 7-03017 for comparison.
3. The proposed house, driveway and any necessary backyard lie upon a heavily forested area. See attached photographs.
4. The proposed driveway encroaches on a previously dedicated for public use on the side of Stoney Creek Way, P384.

V. Proposed Lot 10 would substantially negatively affect the directly adjacent property at 11801 Stoney Creek Road.

1. The market value of said property would be substantially negatively affected. See attached real estate agent Affidavit.
2. The proposed house on Lot 10 sits less than 30 feet away from the property line with 11801 Stoney Creek Road, a property of 5 acres. The proposed house would be in direct close view of the existing house on 11801 Stoney Creek Road, thus eliminating the privacy of the latter.
3. My wife and I purchased the property in reliance on preserving such privacy in the future, given that previous subdivision plans reflected the current proposed Lots 9 and 10 as one. See attached plan.

VI. An approval of the proposed Lot 10 would violate the Equal Protection Clause, as the previous proposed subdivisions have been denied for similar environmental considerations.

1. In said subdivision No. 7-03017, the DRC was unwilling to apply its discretion and allow the proposed house to sit partially in the stream buffer zone. See application plan attached.
2. In said previous application DRC did not even factor in the following mitigating circumstances:
 - a/ the proposed house would sit on an already asphalted and disturbed area and would not require any deforestation. In contrast the proposed house and driveway on Lot 10 of Lake Potomac subdivision would require heavy deforestation of the whole area;

b/ the subdivision would actually decrease the environmentally disturbed area by eliminating the approximately 150 foot long existing approximately driveway and replace it with a short common driveway for the two proposed lots.

3. At the DRC public hearing on July 8, 2004 on Application No. 7-03017, in support to their opposition to said application, the environmental staff submitted documentation on Application No. 119891310. In the latter, the DRC disapproved the proposed additional lot, because the proposed house and driveway were within the stream buffer zone and allowed only two lots out of the whole piece of land of approximately 9 acres.

Based on the above-outlined considerations, my wife and I respectfully request that the DRC disapprove the proposed Lot 10 on Plan Number 120130280. I kindly request the opportunity to develop further my arguments orally at the hearing on September 23, 2013.

Very truly yours,

Metody A. Tilev

Cc: adjacent and confronting property owners