MCPB Item No.

Date: 6/25/15

# Preliminary Plan No. 120140130, Randolph Farms

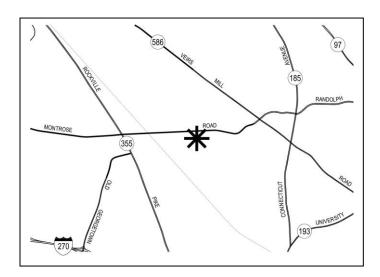
[KA]

Patrick Butler, Planner Coordinator, Area 2 Division, <a href="Patrick.Butler@montgomeryplanning.org">Patrick.Butler@montgomeryplanning.org</a>, 301-495-4561 Khalid Afzal, Planner Supervisor, Area 2 Division, <a href="Khalid.Afzal@montgomeryplanning.org">Khalid.Afzal@montgomeryplanning.org</a>, 301-495-4650 Glenn Kreger, Chief, Area 2 Division <a href="Glenn.Kreger@montgomeryplanning.org">Glenn.Kreger@montgomeryplanning.org</a>, 301-495-4653

**Completed: 6/12/15** 

# **Description**

- Request for resubdivision of one lot into three residential lots;
- 4909 Macon Road, approximately 200 feet east of the intersection of Macon Road and Hunters Lane;
- Zoned R-90; 50,506 square feet;
- Currently one single-family detached dwelling on one lot;
- 1992 North Bethesda/Garrett Park Master Plan;
- Applicant Charles D. Stevens, Charles E. Stevens, and Alice Stevens;
- Filing date: 2/10/2014.



# **Summary**

Staff recommends approval of the Preliminary Plan with conditions.

# PRELIMINARY PLAN RECOMMENDATION AND CONDITIONS

Staff recommends approval of Preliminary Plan 120140130 pursuant to Chapter 50 of the Montgomery County Subdivision Regulations subject to the following conditions:

- 1) Approval is limited to three lots for three one-family detached dwelling units.
- 2) The Applicant must submit a Final Forest Conservation Plan consistent with the approved Preliminary Forest Conservation Plan prior to demolition, clearing or grading.
  - a. The Final Forest Conservation Plan must include a total of 17" caliper of native shade trees, using a minimum 3" caliper tree, as mitigation for the loss of ST-10 and ST-17.
  - b. The Final Forest Conservation Plan must include an ISA-certified arborist's evaluation and recommendations for ST-19, 32" scarlet oak. If ST-19 cannot be retained, the Applicant must amend the variance request and provide an additional 8" caliper of native shade trees, using a minimum 3" caliper tree, as mitigation for the loss of tree ST-19.
  - c. The Final Forest Conservation Plan must include detailed and specific tree protection measures.
- 3) Prior to any use and occupancy certificate, the Applicant must replace the existing 4-foot wide sidewalk with a 5-foot-wide sidewalk with a green panel and street trees along the property frontage of Macon Road, and provide a receiving handicapped ramp on the northwest corner of the Macon Road-Galena Road intersection.
- 4) The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated April 3, 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.
- 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 19, 2014, 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.
- The Property is within the Wheaton High School cluster area. The Applicant must make a School Facilities Payment to MCDPS at the middle 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.
- 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 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) 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.
- 10) The record plat must show necessary easements.

# SITE DESCRIPTION

The Subject Property, outlined in red below (Property) is Lot 7 of the Randolph Farms Subdivision, Plat No. 1719, recorded in April, 1946. It is located on the north side of Macon Road, approximately 200 feet east of its intersection with Hunters Lane, and within the boundary of the 1992 North Bethesda/Garrett Park Master Plan (Master Plan). It is approximately 50,506 square feet in size and is zoned R-90. Currently, the Property is improved with a one-family home. Access to the Property is from Macon Road, and the surrounding land uses are one-family detached houses on lots ranging from 8,175 to 45,000 square feet, in the R-90 Zone. The Property contains several trees throughout the site, contains no known streams or wetlands, is relatively flat, and gently slopes down from the northeast to southwest.

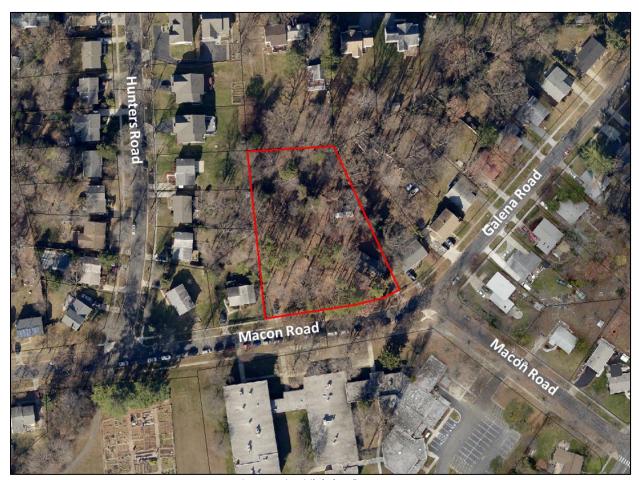


Image 1 - Vicinity-Property

# **PROPOSAL**

Under the R-90 Zone, the Property could have a maximum of five lots based on its size; however, the Applicant is seeking approval of a resubdivision into three lots (Attachment 1 – Preliminary Plan). The Applicant's proposal will create three lots to be served by public water and sewer, and vehicular access to each lot will be provided via individual driveways from Macon Road. Macon Road is a sixty-foot-wide right-of-way, and no additional right-of-way is required. The four-foot-wide sidewalk along the property frontage on the north side of Macon Road is required to be replaced with a five foot-wide sidewalk.

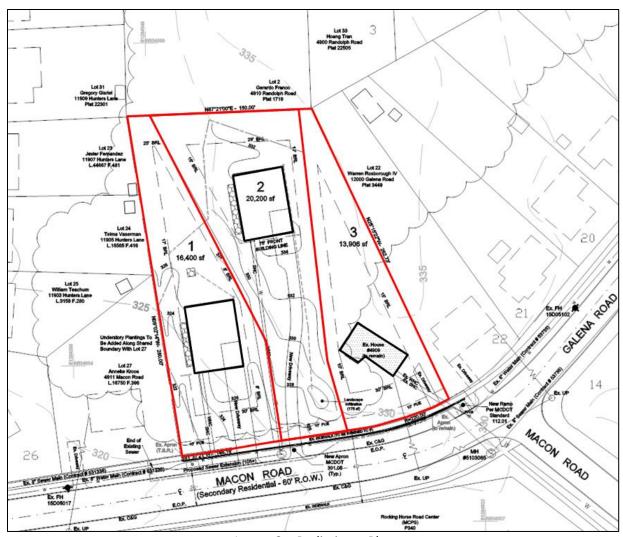


Image 2 - Preliminary Plan

# **COMMUNITY OUTREACH**

The Applicant has complied with all submittal and noticing requirements. Staff has received correspondence from an adjacent property owner requesting additional landscaping for privacy, and additional grading and stormwater management measures to prevent runoff from the improved Property onto the adjoining property. The Applicant has responded to the requests, and has provided the requested screening and grading.

# **ANALYSIS AND FINDINGS**

# **Master Plan Compliance**

The North Bethesda/Garrett Park Master Plan supports the retention and reconfirmation of the R-90 Zone and residential land use for the Property. There are no specific recommendations for the Property or surrounding area that are applicable, but the Master Plan contains a general recommendation regarding vehicular and pedestrian connectivity. The proposed Preliminary Plan satisfies that recommendation by providing adequate vehicular and pedestrian access to the site, and by improving the sidewalk along Macon Road. Staff has reviewed the proposed application and determined that the

proposed use will not adversely impact environmental, land use and zoning, transportation, or community facilities as identified by the Master Plan. The proposed application will create three lots that are consistent with the zoning and residential use identified by the Master Plan. Therefore, as conditioned, the proposed Preliminary Plan conforms to the North Bethesda/Garrett Park Master Plan.

#### **Public Facilities**

# Local Area Transportation Review (LATR)

The proposed three single-family detached units do not generate 30 or more total vehicle trips during the weekday morning or evening peak-hours. Therefore, the application is not required to submit a traffic study to satisfy the LATR test.

# Transportation Policy Area Review (TPAR)

The proposed lots, (one existing, two new units) will generate fewer than three peak-hour trips during the weekday or evening peak-hours, therefore, the TPAR test is not applicable.

# Roads and Sidewalks

Macon Road is a 60-foot-wide Secondary Residential Street. Additional dedication of right-of-way is not required. Per the County Road Code, sidewalks are required for lots in the R-90 Zone. The Applicant is required to replace the existing 4-foot wide sidewalk along the property frontage of Macon Road with a 5-foot-wide sidewalk with a green panel and street trees. In addition, the Applicant is required to provide a receiving handicapped ramp on the northwest corner of the Macon Road-Galena Road intersection.

# Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the proposed dwelling units. The application meets the Montgomery County Fire and Rescue Service requirements for fire and rescue vehicle access. Public facilities and services, such as police stations, firehouses and health services are currently operating within the standards set by the Subdivision Staging Policy currently in effect. Electrical and telecommunications services are also available to serve the Property. It is within the Wheaton High School cluster, which is subject to a School Facilities Payment at the middle school level. Therefore, a school facilities payment related to the Subdivision Staging Policy is required for the two new residential units/lots proposed.

### **Environment**

The Property is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code) and the Applicant has obtained approval of a Natural Resources Inventory/Forest Stand Delineation and submitted a Preliminary Forest Conservation Plan (FCP – Attachment 2) in conjunction with the Preliminary Plan.

# **Environmental Guidelines**

Staff approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD #420140960) on January 24, 2014. There are no forest, streams, wetlands, floodplains, or environmental buffers on the site. The site is located in the Lower Rock Creek watershed. The proposed project is in compliance with the *Environmental Guidelines*.

# **Forest Conservation**

There is no forest on-site but the Applicant is still required by law to submit an FCP. The FCP indicates 0.19-acres of planting is required to meet the requirements of Forest Conservation Law. The Applicant proposes to meet this requirement off-site.

# **Forest Conservation Variance**

Section 22A-12(b) (3) of Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. The law requires a variance to impact trees that: measure 30 inches or greater diameter at breast height (DBH); 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 trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species. Any impact to these trees, including removal 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.

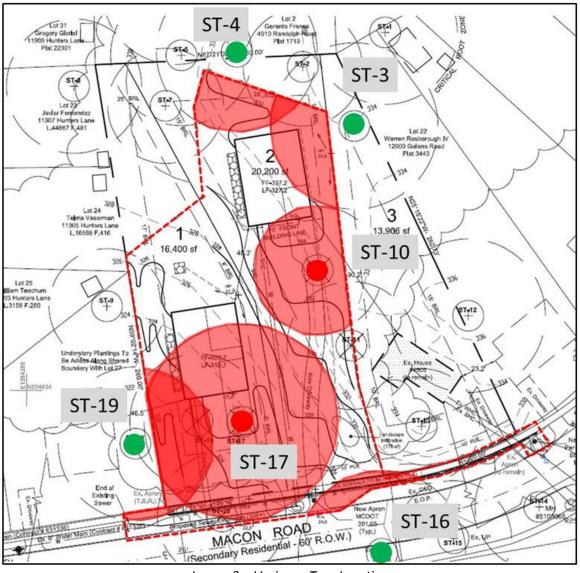


Image 3 – Variance Tree Location

The Applicant submitted a variance request on 1/27/2014 and a revised variance request on 10/21/2015 for the impacts to trees (Attachment 3). The proposed layout will impact, but not remove, four trees and remove two trees that are considered high priority for retention under Section 22A-12 (b) (3) of the County Forest Conservation Law.

| SIGNIFICANT TREE CHART |                         |                      |                  |               |  |  |
|------------------------|-------------------------|----------------------|------------------|---------------|--|--|
| TREE<br>NUMBER         | BOTANICAL NAME          | COMMON<br>NAME       | SIZE<br>(D.B.H.) | CONDITION     | COMMENTS   | STATUS /<br>IMPACTS  |
| ST-3*                  | Liriodendron tulipifera | Tulip Poplar         | 35"              | Moderate-Poor | Poison Ivy and<br>Oriental Bittersweet<br>growth on tree,<br>broken limbs, limbs<br>with decay | Impact from<br>house placement<br>and grading. To<br>be retained.                  |
| ST-4*                  | Fraxinus americana      | White Ash            | 33"              | Good          | Off-site   | Minor grading in<br>CRZ. To be<br>retained.  |
| ST-10**                | Carya tomentosa         | Mockernut<br>Hickory | 27"              | Moderate      | Included bark, trunk<br>wound, co-dominant<br>leader, water<br>sprouts                         | Remove due to<br>grading,<br>driveway,<br>utilities.                               |
| ST-16*                 | Tilia Cordata           | Little Leaf Linden   | 35"              | Moderate      | In Right-Of-Way,<br>multi-stem   | Minor impact<br>within CRZ. To<br>be retained.                                     |
| ST-17*                 | Liriodendron tulipifera | Tulip Poplar         | 41"              | Moderate      | Co-dominant<br>leaders, reactionary<br>wood growth   | Remove due to<br>grading,<br>driveway,<br>utilities.                               |
| ST-19*                 | Quercus coccinea        | Scarlet Oak          | 32"              | Moderate-Poor | Off-site, large canker<br>/ vertical trunk<br>wound, dieback                                   | Impact from<br>house placement<br>and grading.<br>Off-site tree to<br>be retained. |

Table 1 – Variance Tree Table

# <u>Unwarranted Hardship for Variance Tree Impacts</u>

Per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state will result in unwarranted hardship. The requested variance is necessary because of the location of the trees and the need to provide adequate developable area for two additional single-family houses. To the extent practicable, the proposed development has minimized disturbance by retaining trees to the rear of the property. Grading has been minimized but still provides for adequate drainage without impacting neighboring properties.

The Staff makes the flowing findings for granting the requested variance:

1. Granting the variance will not confer on the applicant a special privilege that would be denied to other applicants.

Granting this variance will not confer a special privilege on the Applicant as disturbance of the specified trees is due to the location of the trees and the need to provide adequate developable area for two additional single-family houses. The Applicant could not build two new houses without disturbing the variance trees. ST-3, 35" tulip poplar, is impacted by the house on lot 2 and associated grading. ST-4, 33" white ash, is off-site and impacted by grading to provide positive drainage. ST-10, 27" mockernut hickory is located in the center of lot 2 and will be removed due to the house and driveway location. ST-16, 35" littleleaf linden is located off-site (across the street) and will have minimal impacts due to sidewalk construction. ST-17, 41" tulip poplar, will be removed due to the house and driveway location. ST-19, 32" scarlet oak, is off-site and impacted by the construction and grading for the house on lot 1. ST-19 will be evaluated by an arborist at time of Final Forest Conservation Plan because approximately 33% of the Critical Root Zone will be impacted by the proposed construction.

2. The need for the variance is not based on conditions or circumstances which are the result of the actions by the applicant.

The requested variance is not based on conditions or circumstances that are the result of actions by the Applicant. It is based on the locations of the trees and the need to provide adequate developable area for two additional single-family houses. Disturbance has been minimized as much as possible, through the siting of the house and associated grading. For example, the house on lot 2 could be sited further to the rear of the lot, which would increase the impacts to both ST-3 and ST-4.

The need for the variance 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 location of trees on the property impacted by the need to provide adequate developable area for two additional single-family houses, and not a result of land or building use on a neighboring property.

4. Granting the variance will not violate State water quality standards or cause measurable degradation in water quality.

The proposed development will not impact environmental buffers and will provide plantings to mitigate for the size and function of the lost trees. The proposed development includes on-site stormwater management features. The requested variance will not violate State water quality standards or cause a measurable degradation in water quality.

# Mitigation for Trees Subject to the Variance Provisions

The Applicant is requesting a variance to remove two trees, ST-10, 27" mockernut hickory, and ST-17, 41" tulip poplar, for a total of 68" DBH of variance tree loss. The Applicant will mitigate for this loss by planting 1/4" caliper inch per 1"DBH lost. 17" caliper of native shade trees, using a minimum 3-inch caliper size tree, must be shown on the Final Forest Conservation Plan as mitigation for the loss of ST-10 and ST-17. If ST-19 is determined to require removal, the Applicant will further mitigate for the loss of this tree by planting an additional 8" caliper of native shade trees, using a minimum 3-inch caliper size tree. These trees must also be shown on the Final Forest Conservation Plan.

# 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 in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The County Arborist has reviewed the variance request and recommended approval (Attachment 4).

# Variance Recommendation

Staff recommends that the variance be granted.

# Conclusion

Staff finds that the proposed Preliminary Forest Conservation Plan meets the requirements of Chapter 22A Forest Conservation Law. Staff therefore recommends that the Planning Board approve the Preliminary Forest Conservation Plan and associated variance, with the above conditions.

# **Stormwater Management & Sediment Control**

The MCDPS Stormwater Management Section issued a letter accepting the stormwater management concept for the Randolph Farms site on August 19, 2014. The stormwater management concept proposes to meet required stormwater management goals via Environmentally Sensitive Design through the use of micro-bioretention planter boxes, a dry well, and landscape infiltration.

# **Compliance with the Subdivision Regulations and Zoning Ordinance**

This application has been reviewed for compliance with Chapter 50 of the Montgomery County Code, the Subdivision Regulations. The application meets all applicable sections, including the requirements for resubdivision as discussed below. The proposed lots meet the dimensional requirements of the R-90 Zone. The application has been reviewed by other applicable County agencies, all of whom have recommended approval of the Preliminary Plan (Attachment 5).

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

(Attachment 6 – Neighborhood Map & Resubdivision Data Table.)



Image 3 – Subject Property (Red) and Neighborhood (Yellow)

# A. Statutory Review Criteria

In order to approve an application for resubdivision, the Planning Board must find that the proposed lot(s) comply 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 25 lots, and includes all lots fronting on Macon Road, Galena Road, Randolph Road, and Hunters Lane. All lots within the proposed Neighborhood share the same R-90 Zone classification as the Property. Staff finds the proposed Neighborhood provides an adequate sample of the lots and development pattern of the area.

# C. Analysis

Comparison of the Character of Proposed Lots to Existing Lots in the Neighborhood
In performing the analysis, staff applied the above-noted resubdivision criteria 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. As set forth below, the attached tabular summary and
graphical documentation demonstrate that the proposal complies with Section 50-20(b)(2):

# Frontage:

Lot frontage ranges from 60 feet to 153 feet. The frontage for Proposed Lots 1, 2, and 3 (76 feet, 60 feet, and 87 feet, respectively) clearly fall within the range established by the Neighborhood. Therefore, the proposed lots will be of the same character as existing lots in the Neighborhood with respect to lot frontage.

**Alignment:** All of the lots in the Neighborhood are perpendicular to their respective streets. The three proposed lots will be perpendicular to Macon Road. Therefore, the proposed lots are of the same character as existing lots with respect to alignment.

**Size:** Lot sizes in the Neighborhood range from 8,175 square feet to 45,000 square feet. Lot size for Proposed Lots 1, 2, and 3 will be 14,800, 21,800, and 13,906 square feet, respectively. Therefore, the proposed lot sizes are in character with the existing lots in the neighborhood.

**Shape:** The neighborhood is comprised of lots that are rectangular, trapezoidal, and irregular in shape. Proposed Lots 1, 2, and 3 are all irregular in shape, which is consistent with the majority of the lots in the Neighborhood. Therefore, the shape of Proposed Lots 1, 2, and 3 will be in character with shape of the existing lots in the Neighborhood.

**Width:** Lot widths in the Neighborhood range from 60 feet to 153 feet. Proposed Lots 1, 2, and 3 will have a lot width of 76 feet, 75 feet, and 82 feet, respectively. Therefore, the proposed lots will be in character with existing lots in the Neighborhood with respect to width.

**Area:** The buildable area of existing lots in the Neighborhood ranges from 2,616 square feet to 31,294 square feet. Proposed Lots 1, 2, and 3 will have buildable areas of 6,349, 8,005, and 5,763 square feet, respectively. Therefore, the proposed lots will be in character with existing 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 developed for residential use. The lots are therefore in character with the rest of the neighborhood.

# CONCLUSION

Section 50-29(b)(2) of the Subdivision Regulations specifies seven criteria with which resubdivided lots must comply. They are street frontage, alignment, size, shape, width, area and suitability for residential use within the existing block, neighborhood or subdivision. As set forth above, the proposed lots are of the same character as the existing lots in the defined neighborhood with respect to each of the resubdivision criteria. The proposed lots also meet all other requirements established in the Subdivision Regulations and the Zoning Ordinance. The proposed Preliminary Plan is in substantial conformance with the recommendations of the *North Bethesda/Garrett Park Master Plan*. Access and public facilities will be adequate to serve the proposed lots. The application has been reviewed by other applicable County agencies, all of whom have recommended approval of the plan. Therefore, Staff recommends approval of the application with the conditions listed at the beginning of this report.

# Attachments:

Attachment 1 – Preliminary Plan

Attachment 2 - Forest Conservation Plan

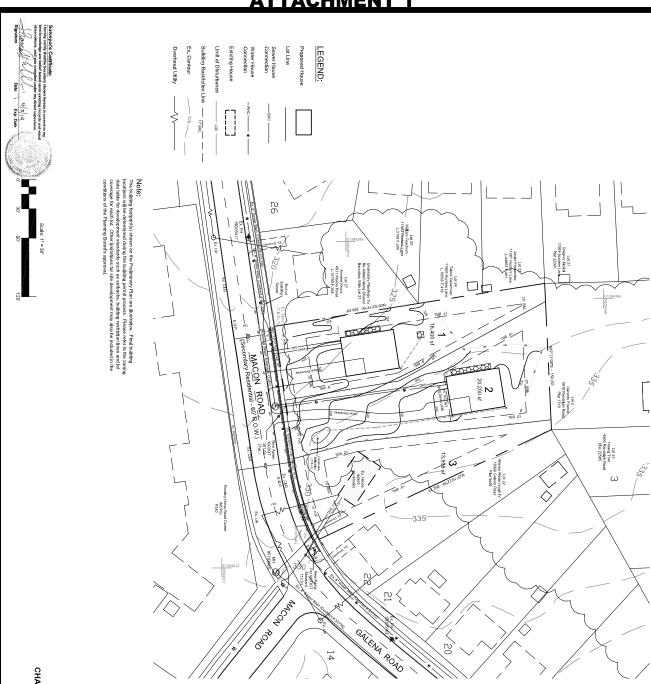
Attachment 3 – Forest Conservation Variance Request

Attachment 4 – County Arborist Letter of Approval

Attachment 5 – Agency Approval Letters

Attachment 6 – Neighborhood Map & Resubdivision Data Table

# <u>ATTACHMENT 1</u>



PREPARED FOR:
CHARLES E. STEVENS, Et AI
4909 MACON ROAD
ROCKVILLE, MD 20852
301-881-4356



VICINITY MAP SCALE: 1" = 2,000'

PRELIMINARY PLAN Randolph Farms Resubdivision of Lot 7, Block 3 Montgomery County, Maryland



Benning & Associates, Inc. Land Planning Consultants 8533 Shady Grove Court Gaithersburg, MD 20877 (301)548-9240

date: 1/22/14 scale: 1" = 30'

Lot Width @ Building Line

Frontage

25' 75

60' 75 Lot Coverage

30% Max.

15%

Building Height

2 ½ storles & 35' to roof peak or 30' to mean height

Will Meet Requirements

Rearyard

25

25'

Front Setback

30'

30'

8' min , 25' total

8' min., 25' total

Lot Size

9,000 sf Req.

13,900+ SF Prov

ZONE: R-90

ZONING STANDARDS:





1. AREA OF PROPERTY: 50,506 of (1,16 ax)
2. EXISTING ZONING: Rea
3. NO. OF LOT'S REBMITTED: 5
4. NO. OF LOT'S PROPOSED: 3
5. EXISTING SEWERS A WATER SERVICE CATEGORIES: S-1, W-1
6. LOT'S TO BE SERVICE BY PUBLIC WATER AND SERVE,
7. VITILITIES TO BE PROVIDED BY: Washington Joss, Verizon, Papao
8. SOURCE OF FRUE-FOOT CONTOUR-INTERVAL TOPOGRAPHY:
MNC-PPC SHEET 215NW05

# **ATTACHMENT 2**

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| PI   | CHARLES E. STEVENS, Et Al.  ROCKHILE IN 2000  SOLUTION PREPARED FOR STEVENS, Et Al.  RELIMINARY FOREST CONSERVATION PLAN  Randolph Farms  Resubdivision of Lot 7, Block 3  Montgomery County, Maryland | Benning & Associates, Inc. Land Planning Committent Polish Greve Contr Guidenter Guide |

Montgomery County, Maryland







# **ATTACHMENT 3**

# Benning & Associates, Inc.

LAND PLANNING CONSULTANTS 8933 Shady Grove Court Gaithersburg, MD 20877

Phone: 301-948-0240 Fax: 301-948-0241

**To:** Mr. Glenn Kreger, Area 2 Chief, M-NCPPC

From: David W. McKee

**Date:** 1/24/14

**Re:** Randolph Farms (120140130) - Request for Specimen Tree Variance

\_\_\_\_\_

Dear Mr. Kreger,

In accordance with the requirements of Section 22A-21 of the County Code and on behalf of the applicant for this project, I am writing to request a variance from provisions of Chapter 22 as it applies to this project. Specifically, a variance is required in order to impact or remove several large trees.

The trees proposed to be impacted or removed are shown on the pending Preliminary Forest Conservation Plan (PFCP) for the subject project and identified in the chart below. A total of 5 trees will be impacted.

| SIGNIFICANT TREE CHART |                         |                      |          |               |  |  |  |
|------------------------|-------------------------|----------------------|----------|---------------|--|--|--|
| TREE                   |                         | COMMON               | SIZE     |               |  | STATUS /   |  |
| NUMBER                 | BOTANICAL NAME          | NAME                 | (D.B.H.) | CONDITION     | COMMENTS   | IMPACTS  |  |
| ST-3*                  | Liriodendron tulipifera | Tulip Poplar         | 35"      | Moderate-Poor | Poison Ivy and<br>Oriental Bittersweet<br>growth on tree,<br>broken limbs, limbs<br>with decay | Impact from<br>house placement<br>and grading. To<br>be retained.                  |  |
| ST-4*                  | Fraxinus americana      | White Ash            | 33"      | Good          | Off-site   | Minor grading in<br>CRZ. To be<br>retained.  |  |
| ST-10**                | Carya tomentosa         | Mockernut<br>Hickory | 27"      | Moderate      | Included bark, trunk<br>wound, co-dominant<br>leader, water<br>sprouts                         | Remove due to grading, driveway, utilities.  |  |
| ST-16*                 | Tilia Cordata           | Little Leaf Linden   | 35"      | Moderate      | In Right-Of-Way,<br>multi-stem   | Minor impact within CRZ. To be retained.   |  |
| ST-17*                 | Liriodendron tulipifera | Tulip Poplar         | 41"      | Moderate      | Co-dominant<br>leaders, reactionary<br>wood growth   | Remove due to<br>grading,<br>driveway,<br>utilities.                               |  |
| ST-19*                 | Quercus coccinea        | Scarlet Oak          | 32"      | Moderate-Poor | Off-site, large canker<br>/ vertical trunk<br>wound, dieback                                   | Impact from<br>house placement<br>and grading.<br>Off-site tree to<br>be retained. |  |

<sup>\*</sup>Indicates Specimen Trees

<sup>\*\*</sup>Indicates within 75% of the current within 75% of the current County/ State Champion for the species

The subject property which contains an existing residence and includes many large trees is proposed to be subdivided into 3 lots. In order to accomplish the subdivision and the eventual construction of two new homes, some impact to certain trees on or near the property is necessary. However, special care has been taken to protect the two off-site trees included with this variance and to avoid unnecessary tree removal. The house on Lot 1 was located further into the property than otherwise required to minimize impact to one of the off-site specimen trees. The placement of a house on Lot 1 as proposed has a direct impact on the location of the house planned for Lot 2. However, the house on Lot 2 was also carefully placed to minimize impact to another off-site tree.

ST-3, a 35" Tulip Poplar is located on the property towards the rear of proposed Lot 3. The tree will be impacted by the placement of a home on Lot 2 and approximately 22% of its critical-root-zone will be disturbed. The placement of the house on Lot 2 is a result of zoning requirements for lot width and the placement of the house on Lot 1 in relation to another tree. ST-3 is proposed to be retained due to the limited impact proposed.

ST-4, a 33" White Ash in good condition, is located just beyond the northern boundary of the site. The tree will be impacted by minor grading within 20% of its critical-root-zone. With appropriate tree protection at the time of construction, ST-4 is proposed to remain.

ST-10, a 27" Mockernut Hickory, is centrally located on the site on proposed Lot 2. The tree is proposed to be removed due to major impacts from driveway construction, grading, and utility installation. Approximately 70% of the tree's critical-root-zone is impacted by the development of proposed Lot 2.

ST-16, a 35" Little Leaf Linden, is located within the right-of-way, on the opposite side of Macon Road. The tree will be impacted by improvements made to the existing sidewalk, widening the width from 4' to 5'. Approximately 7% of the tree's critical root-zone will be disturbed. ST-16 is proposed to be retained due to the limited impact proposed.

ST-17, a 41" Tulip Poplar, is located in the area of proposed Lot 1. The tree is directly in line with the proposed driveway for Lot 1 and is proposed to be removed. The tree is also affected by the driveway planned for Lot 2, utilities for Lot 1 and Lot 2, grading, and the location of the house on Lot 1. Approximately 90% of its critical-root-zone will be disturbed.

ST-19, a 32" Scarlet Oak located on an adjacent lot, will be affected by the development of proposed Lot 1. To minimize impact to the tree, the house proposed for Lot 1 was placed further back into the property. Approximately 23% of the critical-root-zone of this tree will be impacted by grading and utility installation. With appropriate tree protection at the time of construction, ST-19 is proposed to remain.

# **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 peculiar to the property which would cause unwarranted hardship should the variance not be approved. The property is zoned R-90 and is located in an area where resubdivisions have been common. The property is 50,506 square feet in size which is uniquely large within the immediate area of the site. The R-90 zone permits lots as small as 9,000 square feet but the lots proposed average nearly twice this area at more than 16,800 square feet. The larger lot size in this case allows for many trees to remain without major impact including 3 of the 5 specimen trees which are the subject of this variance request. However, given the location of certain large trees surrounding the site or located centrally on the property, impacts to specimen trees are unavoidable and a variance is needed for this reason.

Should this variance not be approved, the <u>property owner would be deprived of rights commonly enjoyed by others in similar circumstances.</u> As noted above, this site cannot be developed without the requested variance. The property has been designed to meet all applicable zoning regulations. is proposed to be developed in accordance with the R-90 zone.

The granting of a variance to remove specimen trees <u>will not result in a violation of State water quality</u> <u>standards or any measurable degradation in water quality</u>. There are no environmentally sensitive features on or near the property such as streams, floodplains, wetlands, or steep slopes which would be impacted. The planned development which includes two new homes and their associated driveways will provide onsite Environmental Site Design features including micro-bioretention areas.

# In addition to the above, 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 <u>will not confer a special privilege that would be denied to other applicants.</u> Approval of the requested variance will allow the property owner to develop the property in a manner appropriate for the R-90 zone.

This variance request is not <u>based on conditions and circumstances which are the result of actions by the applicant.</u> The applicant is proposing to develop the site in accordance all rules and regulations governing development of property in the location of the site.

The request for a variance does not <u>arise from a condition relating to land or building use, either permitted or nonconforming on a neighboring property.</u>

Granting this variance request <u>will not violate State water quality standards or cause measureable</u> <u>degradation in water quality.</u> As stated earlier, there are no environmentally sensitive features on or near the

property such as streams, floodplains, wetlands, or steep slopes which would be impacted. The planned development which includes two new homes and their associated driveways will provide on-site Environmental Site Design features including micro-bioretention areas.

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 regarding this request, please do not hesitate to contact me.

Sincerely,

David W. McKee

# ATTACHMENT 4



# DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett County Executive

Lisa Feldt Director

June 4, 2015

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

RE: Randolph Farms, ePlan 120140120, NRI/FSD application accepted on 12/6/2013

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 <u>can be granted</u> 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 <u>can be granted</u> 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

\_ Nila

cc: Amy Lindsey, Senior Planner



DEPARTMENT OF TRANSPORTATION

Isiah Leggett County Executive Arthur Holmes, Jr. Director

April 3, 2014

Mr. Patrick Butler, Senior Planner Area 2 Planning Division The Maryland-National Capital Park & Planning Commission 8787 Georgia Avenue Silver Spring, Maryland 20910-3760

RE:

Preliminary Plan No. 120140130

Randolph Farms

Dear Mr. Butler:

We have completed our review of the preliminary plan dated January 22, 2014. This plan was reviewed by the Development Review Committee at its meeting on March 24, 2014. 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. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
- 2. The sight distances study has been accepted. A copy of the accepted Sight Distances Evaluation certification form is enclosed for your information and reference.
- 3. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
- The storm drain capacity and impact analyses have been accepted. Therefore, no improvements to the downstream public storm drain system are required by the applicant.
- 5. 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.

**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. Patrick Butler Preliminary Plan No. 120140130 April 3, 2014 Page 2

- 6. Permit and bond will be required as a prerequisite to DPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
  - \* NOTE: the Public Utilities Easement is to be graded on a side slope not to exceed 4:1.
- A. Across the Macon Road site frontage, widen the existing sidewalk to 5 feet in accordance with current ADA standards.
- B. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.
- C. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.
- D. Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the MCDOT Division of Traffic Engineering and Operations.

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,

gulach

Gregory M. Leck, Manager Development Review Team

m:/subd/MonetL/03312014 Randolph Farms Preliminary Letter

# Enclosure

cc: Charles Stevens, Et Al
David W. McKee, Benning & Associates, Inc.
Ed Axler; M-NCPPC Area 2
Preliminary Plan folder
Preliminary Plan letters notebook

cc-e: Catherine Conlon, M-NCPPC DARC Atiq Panjshiri, MCDPS RWPR Sam Farhadi, MCDPS RWPR Monet L. Lea, MCDOT DTEO



# DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett

County Executive

Diane R. Schwartz Jones

Director

August 19, 2014

Mr. Peter Staley Benning & Associates 8933 Shady Grove Court Gaithersburg, MD 20877

Re:

Stormwater Management CONCEPT Request

for Randolph Farms

Preliminary Plan #: 120140130

SM File #: 260895

Tract Size/Zone: 1.16 Ac/R-90 Total Concept Area: 1.22 Ac.

Lots/Block: 7/3

Watershed: Lower Rock Creek

Dear Mr. Staley:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept proposes to meet required stormwater management goals via ESD by the use of micro-bioretention planter boxes, a dry well, and landscape infiltration.

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.
- 5. The landscape infiltration must be sized to provide treatment for the off site drainage area coming to it unless this can be diverted safely around.
- 6. You must divert as much driveway as you can on Lot 2 to the landscape infiltration.
- 7. When Lot 3 proposes future improvements you will need to address stormwater management at that time.

8. Provide a berm/swale along west side of lot one to help divert onsite drainage from going onto the adjacent lot.

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 office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

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

Sincerely,

Mark C. Etheridge, Manager Water Resources Section

Division of Land Development Services

MCE: me CN260895 Randolph Farms.DWK

cc: C. Conlon

SM File # 260895

ESD Acres:

1.22

STRUCTURAL Acres:

0.00

WAIVED Acres:

0.00

ATTACHMENT 6



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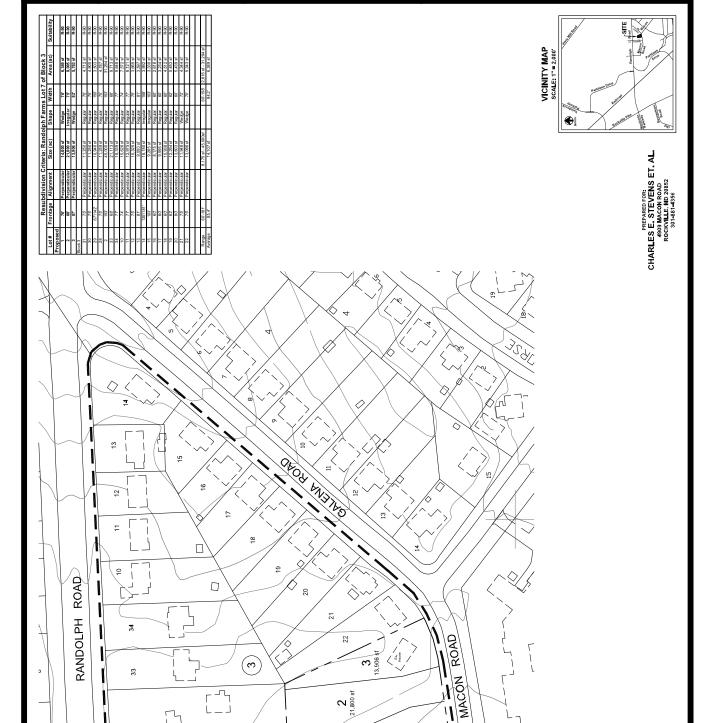


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Senning & Associates, Inc. Lead Planning Consultants 8-53 Shady Grove Court Gaithersburg, MD 20877 (301)-48-0240



NEIGHBORHOOD MAP Randolph Farms
Resubdivision of Lot 7, Block 3
Montgomery County, Maryland



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