M E M O R A N D U M

DATE: September 24, 2004

TO: Montgomery County Planning Board

FROM: Catherine Conlon  
Development Review Division  
(301) 495-4542

SUBJECT: Informational Maps for Subdivision Items on the  
Planning Board's Agenda for September 30, 2004.

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Attached are copies of plan drawings for Item #06, #07, #08, #09, #10, #11 and #12. These subdivision items are scheduled for Planning Board consideration on September 30, 2004. The items are further identified as follows:

Agenda Item #06 - Preliminary Plan 1-04049  
North Bethesda Town Center

Agenda Item #07 - Preliminary Plan 1-01031E  
Addition to Cabin John Park

Agenda Item #08 - Preliminary Plan 1-01067E  
East Hampshire Center

Agenda Item #09 - Preliminary Plan 1-04102  
Garrett Park

Agenda Item #10 - Pre-Preliminary Plan 7-04062  
Tapestry

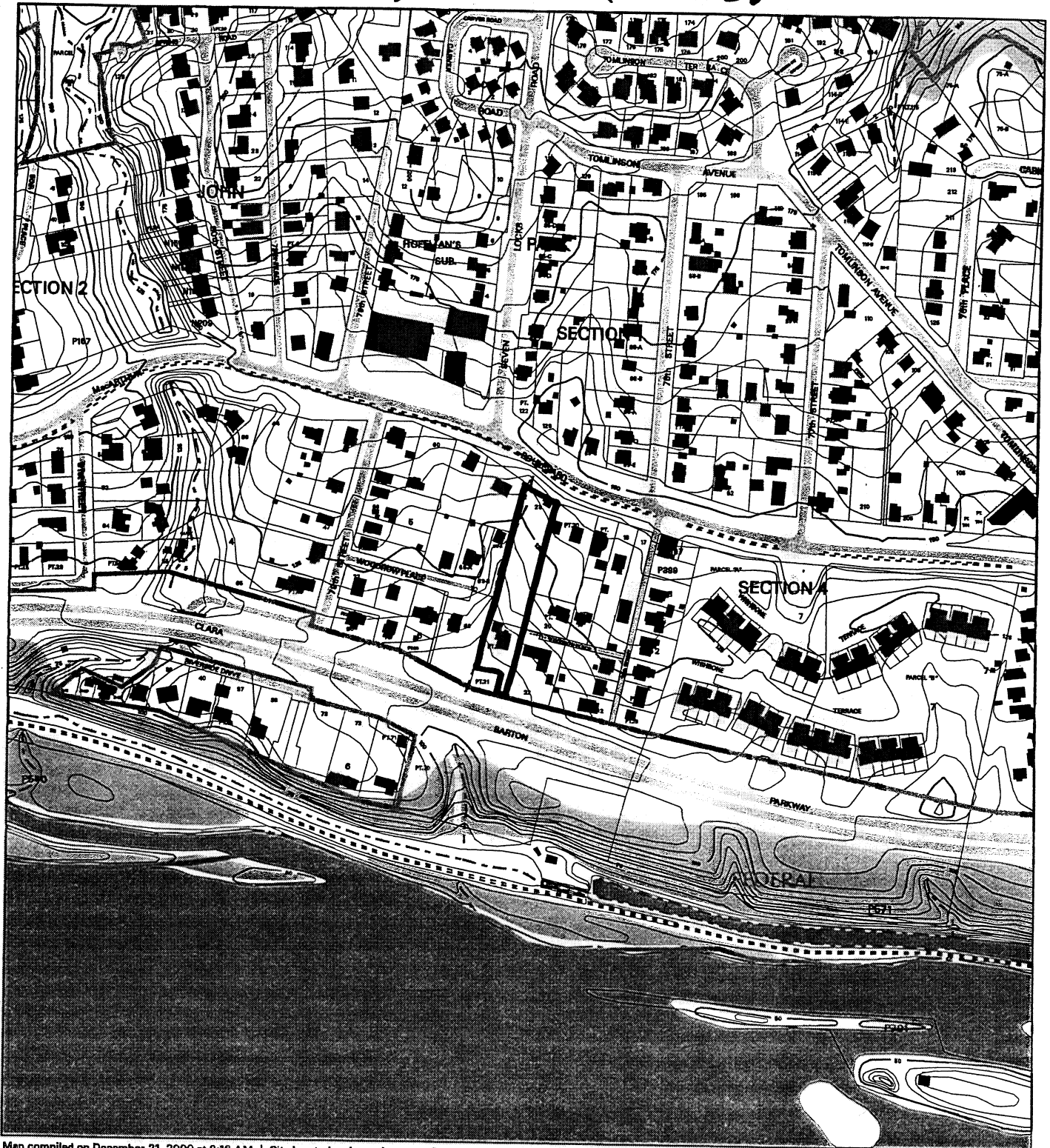
Agenda Item #11 - Preliminary Plan 1-00065E  
Panagos Tract

Agenda Item #12 - Preliminary Plan 1-04081  
Frye Estates

Attachment

VICINITY MAP FOR

# ADDITION TO CABIN JOHN PARK (1-01031E)



Map compiled on December 21, 2000 at 9:16 AM | Site located on base sheet no - 208NW08

## NOTICE

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

Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14400 scale aerial photography using stereo photogrammetric methods.

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

Key Map



N



Research & Technology Center



1 : 4800

VICINITY MAP FOR

# ADDITION TO CABIN JOHN PARK (1-01031)



Map compiled on December 21, 2000 at 8:25 AM | Site located on base sheet no - 20BNW08

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Key Map



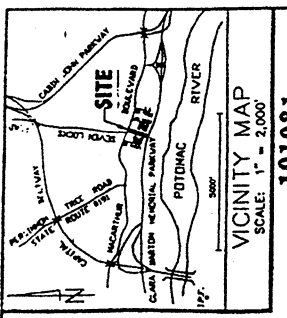
N



Research & Technology Center



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DATUM  
PLAT BOOK 3  
PLAT 231  
SCALE: 1" = 40'

**NOTES**

THE PURPOSE OF THIS PLAN IS TO COMBINE THE REAR PORTION OF LOT 25 WITH THE REAR PORTION OF LOT 21. HOUSES ARE EXISTING ON BOTH LOTS AND NO NEW CONSTRUCTION IS PLANNED.

TOTAL AREA = 1.295 AC. TWO LOTS EXISTING; TWO LOTS PROPOSED.

PROPERTY IS IN POTOMAC/CABIN JOHN PLANNING AREA #29, DN TAX MAP 08-21. ZONING IS R-90.

LOT SIZE: 9,000 SQ. FT. (DN)

SETBACKS: 25' FRONT, 25' REAR, 25' SIDES (TOTAL BOTH SIDES)

WATER AND SEWER CATEGORY: V-1 & S-1

**SURVEYOR'S CERTIFICATE**

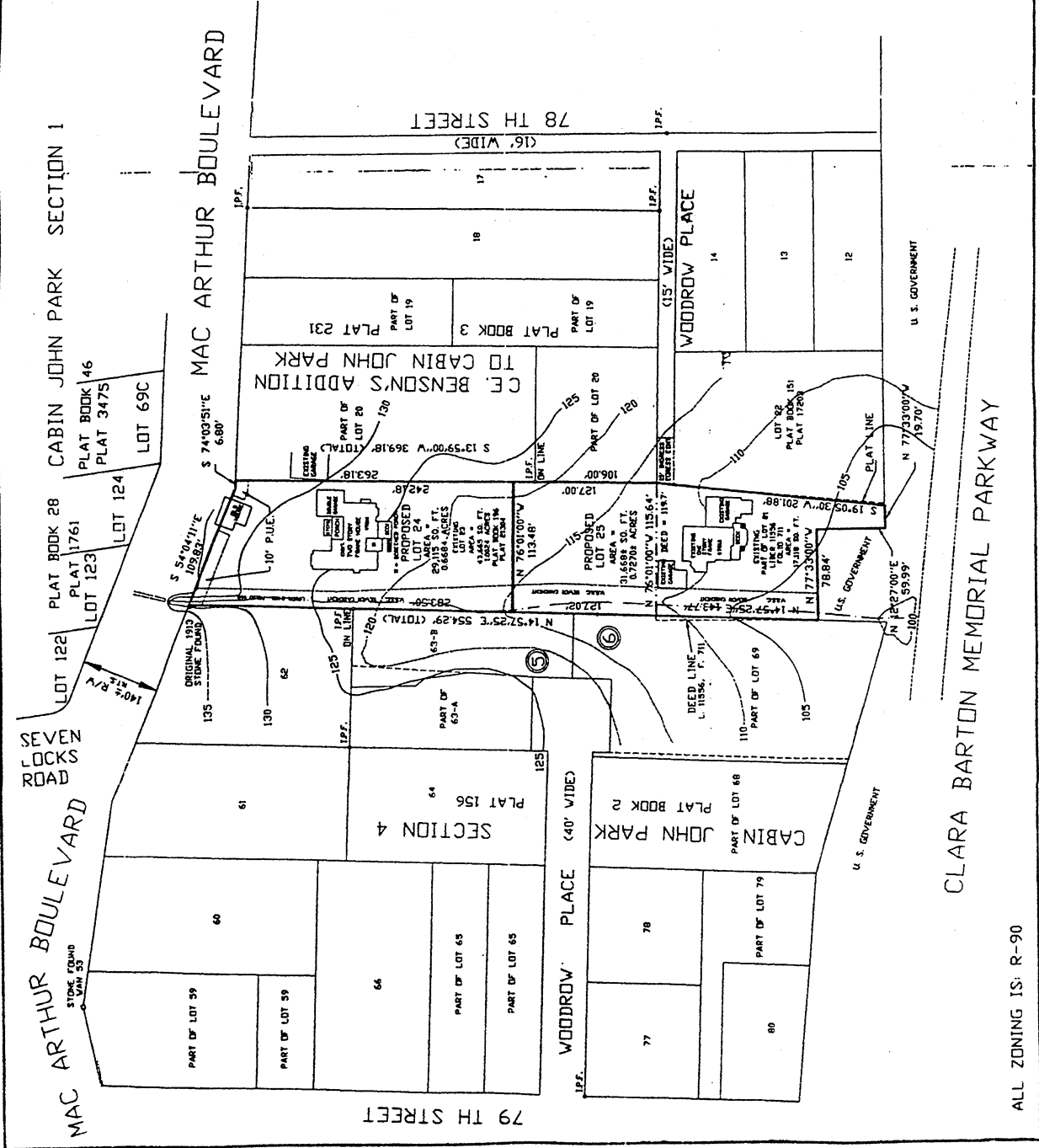
I HEREBY CERTIFY THAT THE BOUNDARIES SHOWN HEREON ARE CORRECT AND ARE THE RESULT OF A FIELD SURVEY PERFORMED BY ME. FIVE FOOT TOPOGRAPHY IS FROM H-MOPPE.

Date: 6/22/00  
 Willian L. Poppe  
 Professional Land Surveyor  
 MD Registration No. 8620



PRELIMINARY PLAN  
 LOTS 24 AND 25  
 C. E. BENSON'S  
 ADDITION TO  
 CABIN JOHN PARK  
 BEING A RESUBDIVISION OF  
 PART OF LOT 21  
 PLAT BOOK 3 PLAT 231  
 LOT 23  
 PLAT BOOK 196 PLAT 21304  
 MONTGOMERY COUNTY, MARYLAND  
 SCALE: 1" = 40'  
 APRIL 2000

**LANIER POPPE ENGINEERING**  
 ENGINEERING + SURVEYING + PLANNING  
 224 North Adams Street  
 Rockville, MD 20850  
 TEL. 301-251-6730 FAX 301-251-6733



ALL ZONING IS: R-90

# HOLLAND & KNIGHT LLP

3 Bethesda Metro Center  
Suite 800  
Bethesda, Maryland 20814-6301

301-654-7800  
FAX 301-656-3978  
www.hklaw.com

**MCPB**  
**Sept. 30, 2004**  
**Item # 7**

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**WILLIAM KOMINERS**  
301-215-6610  
william.kominers@hklaw.com

July 22, 2004

## VIA HAND DELIVERY

Mr. Richard Weaver  
Maryland-National Capital Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Re: Preliminary Plan No. 1-01031  
Extension of Validity Period

Dear Mr. Weaver:

Pursuant to Section 50-35(h)(3) of the Montgomery County Subdivision Ordinance, the applicant under the above-referenced Preliminary Plan hereby requests an extension of the validity period until October 19, 2006. This extension is necessary in order to complete the recordation of the plat and the easements related thereto.

Background. The subject Preliminary Plan was approved by the Planning Board at a public hearing on January 25, 2001. The Plan provides for the resubdivision of the two existing lots, Lots 21 and 23, into two new lots, Lots 24 and 25 by adjusting the common lot line to shift approximately 14,000 square feet between the properties. Each lot is already improved with a single-family dwelling and no new construction is contemplated. A corrected Opinion was mailed on September 19, 2001 and you recently confirmed that the validity period will expire on October 19, 2004 unless plats are recorded by that date.

The Opinion included the requirement to establish "appropriate flood plain and/or conservation easements. The area of environmental sensitivity

Mr. Richard Weaver

July 22, 2004

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previously identified on Pre-Preliminary Plan No. 7-95053 shall be included as an easement area. . .” Unfortunately, the Pre-Preliminary Plan file was not available in the files at Park and Planning and, therefore, the area of “environmental sensitivity” referred to by the Planning Board could not be located with any certainty. Since the Opinion was issued, various staff members from the environmental division visited the property to identify the “environmentally sensitive areas.”

Staff concluded that a drainage channel on the two properties should be subjected to protection under the Planning Board’s instruction. Staff then indicated that a modified Category II Conservation easement should be placed over the channel and portions of the properties to satisfy the conditions of the Preliminary Plan Opinion. Because the property owners also desire to make periodic repairs to the channel to counteract the effects of erosion, environmental Planning Staff requested that a plan for such efforts be developed. The owners’ consultant developed such a plan and have proceeded through review with staff of the Environmental Planning Division and County, including several visits to the site. However, the final details of the easement and integration of the “channel protection plan” into the easement, have not been ultimately resolved between environmental staff and the property owners.

In addition, during the time following the Preliminary Plan approval, one of the owners was required to reside out of the County for business for an extended period. This made communication more difficult and made more time-consuming the owners’ review of plans and response to changing conditions in the discussions with Staff. This residency was business-related and not within the control of these owners.

In order to allow additional time to resolve these issues, we are requesting the aforementioned extension of the validity period. We believe that the easement terms can be resolved in a limited period of time, but expect that additional time will be necessary to prepare and process the plat and are asking for a two year extension to accommodate the particular circumstances. (Specifically, we anticipate that having two different residential lenders sign the plat will be a time-consuming process.) This two year extension will not extend the Preliminary Plan beyond the previously established APFO validity period.

Grounds for Extension. An extension must be submitted to the Planning Board and Technical Staff in writing prior to the expiration of the existing Preliminary Plan validity period. This extension request is timely submitted, as the validity period does not expire until October.

The Planning Board may grant an extension of the Preliminary Plan validity period upon a finding that

- i. delays, subsequent to the plan approval by the government or some other party, essential to the applicant's ability to perform terms or conditions of the plan approval, have materially prevented applicant from validating the plan, provided such delays are not created or facilitated by the applicant, or
- ii. the occurrence of significant, unusual or unanticipated events, beyond applicant's control and not facilitated or created by applicant, have substantially impaired applicant's ability to validate its plan and that exceptional or undue hardship (as evidenced, in part, by the efforts undertaken by applicant to implement the terms and conditions of the plan approval in order to validate its plan) would result to applicant if the plan were not extended. Mont. Co. Code Section 50-35(h)(3)(d).

In this instance, the loss of the Pre-Preliminary Plan records were an event beyond the applicants' control and created the delay in preparing the plat for recordation. In addition, there were several staff changes within the past two years which further delayed the ultimate resolution of the environmentally sensitive area identified by the Opinion and affected the review and processing of the channel protection plan and the easement text revisions. This circumstance satisfies both grounds for the grant of an extension: (1) the identification of this area was "essential" to the applicants' ability to meet the conditions of the plan approval and the loss of the records was neither "created nor facilitated" by the applicants, and (2) the loss of the records was a "significant, unusual and unanticipated" event beyond the applicants' control that that impairs the applicants' ability to implement the plan and undue hardship would result if the plan were not extended. The applicants have been diligently working with Staff to identify the particular area and negotiate the protections required for the area. To allow the validity period to expire in light of this cooperation and ongoing effort would create the undue hardship.

Thank you for your consideration of this matter. If you have any questions or need any additional information, please do not hesitate to contact us.

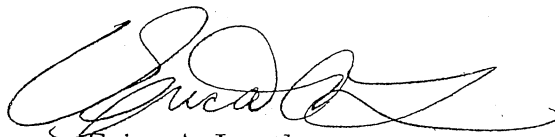
Mr. Richard Weaver  
July 20, 2004  
Page 4

Sincerely yours,

HOLLAND & KNIGHT LLP



William Kominers



Erica A. Leatham

cc: Mr. Jonathan Chambers and Ms. Dana Hyde  
Mr. John Hughes  
Mr. Steven Tawes

# 2083524\_v1