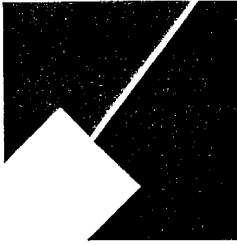


M-NCPPC



**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4500, www.mncppc.org

**Agenda Date: May 11, 2006**  
**Reconsideration Request**

**OFFICE OF  
THE GENERAL COUNSEL**

**(301) 495-4646**  
**FAX (301) 495-2173**

May 5, 2006

**REQUEST FOR RECONSIDERATION**

**MEMORANDUM**

TO: Montgomery County Planning Board

FROM: Tariq El-Baba, Associate General Counsel  
301.495.4646

RE: Reconsideration Request For Cabin John Park Resubdivision  
Preliminary Plan No. 120051030

**I. BACKGROUND**

**Parties Seeking Reconsideration:**

Potomac Land Associates (the "Applicant")

**Action Sought To Be Reconsidered:**

Preliminary Plan No. 120051030  
Date of Hearing: October 27, 2005  
Action Taken: Disapproval of Preliminary Plan

**Planning Board Vote:**

Motion to approve Preliminary Plan made by Commissioner Wellington, seconded by Commissioner Robinson.

Commissioners Berlage, Wellington, and Robinson voting in favor of the motion.  
Commissioners Perdue and Bryant voting against the motion.

## **Procedural Background**

The Preliminary Plan involves a proposal from the Applicant to resubdivide an existing lot into two lots for single-family detached dwellings. The existing lot, Lot 56A in the Cabin John Park, Section I Subdivision, is located on the west side of 78<sup>th</sup> street, approximately 315 feet south of Tomlinson Avenue, in the *Bethesda-Chevy Chase Master Plan* area ("Subject Property").

This Preliminary Plan was heard by the Planning Board on October 27, 2005. At that hearing, the Planning Board disapproved the Preliminary Plan with conditions. The Board received a timely request for reconsideration from the Applicant on February 10, 2006 ("Reconsideration Request") (Attachment One) and a Supplement to that Reconsideration Request on February 22, 2006 (Attachment Two). A copy of the public hearing Staff Report for the item is attached (Attachment Three).

### **Request For Reconsideration:**

By letter dated February 10, 2005, the Applicant requests reconsideration of the Planning Board's approval of the Preliminary Plan. The Applicant is requesting that the Planning Board reconsider its decision disapproving the Preliminary Plan. Applicant contends that the Board's decision misapplies the resubdivision regulations and that it is inconsistent with the Board's prior practice and standards for evaluating resubdivisions. Applicant informs the Board that the decision is causing it severe hardship.

## **II. RULES APPLICABLE TO RECONSIDERATION REQUEST**

In accordance with the approved and adopted rules and procedures for the Montgomery County Planning Board, any party of record may, in writing, request the Planning Board to reconsider its determination on an action taken by the Board.

The written request alone shall be the basis upon which the Board will consider whether reconsideration is warranted, although a Boardmember may seek clarifications from staff or other persons present to aid in her/his consideration. No party of record (including the party seeking reconsideration) may present testimony regarding the reconsideration request, unless called upon by a Board member to respond to a question. A party seeking reconsideration is encouraged to be thorough in drafting a written request, because the Board's consideration of the issues will be limited to the contents of the written request and any staff consideration of those issues.

No notice need be sent of the Board's consideration of a reconsideration request. Staff does attempt to advise the party requesting reconsideration of the date the request is scheduled to go before the Board for consideration.

When the item is called by the Chairman, staff presents the reconsideration request to the Board and any Board member may pose questions about points raised in

the request. Thereafter, only a Board member that voted in favor of the motion (action) for which reconsideration is being requested may make a motion to reconsider. If a motion is made to reconsider, any Board member may second the motion. As always, to succeed, the motion carries if supported by a majority of Board members then present and voting.

If no motion is made or a motion fails either for lack of a second or insufficient votes, the prior action stands unaltered in all respects, including time for administrative appeals.

If a motion to reconsider carries, no further action or consideration will occur at that time. Rather, the prior action is extinguished and staff will schedule the matter for public hearing, upon due notice, at a later date. The Board, at that time, will conduct a *de novo* hearing on the issue(s) that were the subject of the reconsideration request. This may be an entire project application, or may be narrowed in scope to specific issues.

### Basis for Reconsideration

Grounds for reconsideration, as specified in the rules, are as follows:

1. A clear showing that the action of the Board did not conform to relevant law or its rules of procedure; or
2. evidence indicating that certain pertinent and significant information relevant to the Board's decision was not presented at the public hearing before the Board or otherwise contained in the record, together with a statement detailing why such information was not timely presented; or
3. Such other appropriate compelling basis as determined by the Board.

The Planning Board in its sole discretion is responsible for determining if the grounds stated in support of the reconsideration request are sufficient to merit reconsideration.

Any and all materials submitted as part of the reconsideration request are excluded from the public hearing administrative record, unless submitted in the record prior to its closing.

### **III. ATTACHMENTS**

Attachment One: Reconsideration Request dated February 10, 2006

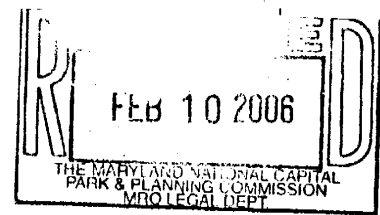
Attachment Two: Supplement to Reconsideration Request, dated February 22, 2006

## Attachment Three: Public Hearing Staff Report

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**LINOWES**  
**AND BLOCHER LLP**  
ATTORNEYS AT LAW

ATTACHMENT ONE



February 10, 2006

**R E C E I V E D**  
FEB 10 2006

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

**C. Robert Dalrymple**  
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Chairman Derick P. Berlage  
and Members of the Planning Board  
Montgomery County Planning Board  
Montgomery County Department of Park & Planning  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Re: Preliminary Plan 120051030 (the "Preliminary Plan"): Cabin John Park, 6517 78th Street (the "Property"), REQUEST FOR RECONSIDERATION

Dear Chairman Berlage and Members of the Planning Board:

On behalf of Potomac Land Associates (the "Applicant"), the purpose of this letter is to request that the Planning Board reconsider its decision in the referenced matter pursuant to Section 11 of the Planning Board's Rules of Procedure. As shown herein, the Planning Board's current decision not only misapplies the resubdivision regulations, but it is also clearly inconsistent with the Planning Board's previous practice and standards for evaluating resubdivisions. The decision is causing severe hardship for the Applicant. Further, maintenance of the decision serves only to add to concerns regarding the ability of citizens and business to rely on the Planning Board's fair and consistent exercise of its responsibilities. We respectfully request reconsideration and reversal. Please include this letter in the public record.

***1. Proposed Project***

The Applicant, a small real estate company based in Montgomery County, proposed the Preliminary Plan to resubdivide a 20,000 square foot lot located on 78th Street in Cabin John into two (2) lots; with the intent to construct homes compatible with the style and character of the neighborhood on the lots (the "Project").

Chairman Derick P. Berlage  
and Members of the Planning Board  
February 10, 2006  
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Working with Planning Staff, County agencies and neighbors, the Applicant agreed to:

- Implement a stormwater management program that not only reduced existing runoff problems affecting surrounding property owners, but handled all runoff from the Project as well;
- Undertake an extensive tree protection program for the benefit of trees on neighboring properties;
- Provide a covenant running with the land giving neighbors the ability to cause compliance with the storm water management program, in perpetuity; and
- Provide warranties to insure against damage that might be caused by the unlikely failure of stormwater management system for two (2) years.

In addition to finding the Preliminary Plan consistent with the all recommendations of the April 1990 Approved and Adopted Bethesda-Chevy Chase Master Plan, in conformance with R-90 zoning regulations, and fully addressing all conditions imposed by County agencies, the Planning Staff found the Preliminary Plan met the statutory criteria for resubdivision found in Section 50-29 of the Montgomery County Code. The Planning Staff recommended approval of the Preliminary Plan to the Planning Board.

## ***2. Planning Board Action and Record***

At its meeting of October 27, 2005, the Planning Board declined approval for the Preliminary Plan by a vote of 3 to 2. In disapproving, the Planning Board did not dispute the Planning Staff's findings on the basis of planning, zoning, or six (6) of the seven (7) resubdivision criteria delineated in Section 50-29(b)(2) of the County Code. The sole issue was whether the "pipestem" shape of one of the two proposed lots was of the same character as other lots in the existing neighborhood.

More particularly, the Planning Board did not dispute that there were other pipestem lots in the neighborhood. There is no disagreement that there are two same-shaped (in fact, identically-shaped) pipestems on the very same block. Rather, the Board introduced the issue of how many lots in the neighborhood must exhibit "sameness" to establish the "same character" required by Section 50-29(b)(2).

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In making the position for declination, the record shows that members of the Board voting in the majority considered the “percentage” of lots in the existing neighborhood that are of the “same character” with the proposed pipestem lot as to shape and whether the existing lots that are of the “same character” as that proposed lot as to shape were “representative” of the lots in the neighborhood. The Board, ultimately, concluded that the proposed lot did not meet the “percentage” or “representative” threshold necessary for making the “sameness” finding, although the Board did not articulate a number that would.

Further, referring to the Subdivision Regulations as “ambiguous”, Board members in the majority made note that the “intent” of those regulations as being “to protect the expectation of the people in the neighborhood”, especially those closest to the property proposing resubdivision.

Commissioners Purdue and Bryant, voting in the minority, noted for the record that the plain meaning interpretation of the resubdivision criteria was satisfied by the fact that identical lots exist and can be found “very close” to the proposed lots and, further, that the Planning Board has not looked at percentages of similar lots as part of a resubdivision analysis in the past and that the Board was “uncharacteristically invoking a percentage of the number of lots” in its analysis of this case.

### ***3. Grounds for Reconsideration***

Section 11 of the Planning Board’s Rules of Procedure authorizes the Board to review a request to reconsider based on grounds that include (i) a clear showing that the action of the Board did not conform to relevant law; or (ii) evidence indicating that certain pertinent and significant information relevant to the Board’s decision was not presented at the public hearing before the Board or otherwise contained in the record, together with a statement detailing why such information was not timely presented; or (iii) such other compelling basis as determined by the Board.

In denying the Preliminary Plan, the Applicant believes that the Board misapplied 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” standard for evaluating resubdivisions pursuant to Section 50-29(b)(2) of the County Code both as a matter of law and as measured against the Board’s precedent and usual application of that standard.

In requesting reconsideration, we are supplying the Board with previous resubdivision cases decided by the Planning Board pursuant to the same review criteria applicable in this case.

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While Board precedent is implicitly considered in any action of the Board (via administrative notice<sup>1</sup>), we believe it is important for the Board to take specific note of previous actions in reconsidering the manner in which the Board applied the resubdivision criteria in this case.

Further, as regards the intent of the Subdivision Regulations, the Board misinterpreted the purpose and intent as defined in Section 50-2 of the County Code.

***4. Plain Meaning of Section 50-29(b)(2) and the Planning Board's Misinterpretation as a Matter of Law***

Section 50-29(b)(2) states that:

**“lots on a plat for 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.”**

The above resubdivision statute is only “ambiguous” if applied and interpreted inconsistently by the Planning Board, which is the case in the instant matter. Certainly, to the extent that there was any question as to the meaning or intent of the statute, clarification was provided by the courts in their decision in Lee v. Maryland-National Capital Park and Planning Commission, 107 Md. 486, 494 (1995). Specifically, with respect to the issues raised by the Board in this case, Lee prescribes unambiguous guidance that:

- a) defines what is meant by “*character*” under the statute and mandates the Planning Board’s responsibilities for making related findings,

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<sup>1</sup> Generally, administrative notice, like judicial notice allows administrative agencies to take notice of certain facts without their being proved or entered into the record if those facts are not subject to reasonable dispute or are capable of immediate accurate demonstration. 73A C.J.S. *Pub. Admin. Law* § 237 (2004). This includes statutes, court decisions, administrative regulations and an administrative agency’s own records, decisions, findings of fact and evidence from other proceedings. See Maryland Fire Underwriters Rating Bureau v. Insurance Commissioner, 260 Md. 258 (1971).

Further, specific to agency precedent, an administrative agency is obligated to take notice of its past decisions since departure from established precedent without a reasoned explanation may be vacated as arbitrary and capricious. See Harvey v. Marshall, 398 Md. 243 (2005) (citing Montgomery County v. Anastasi, 77 Md. App. 126, 137 (1988)).



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- b) establishes the discretion the Planning Board may exercise in determining “*sameness*”, and
- c) confirms the general rule of statutory interpretation that words are assumed to have their *ordinary and natural meaning*.

**Character.** Prior to Lee, Planning Boards interpreted the statute as providing more general guidance as to the elements to be considered as making up a neighborhood’s character. Lee clarified what constituted character under the statute stating, “a neighborhood’s character is a function of the seven criteria specified in section 50-29(b)(2).” See Lee at 494. It is for this reason that the Court of Special Appeals in Lee mandated that, to approve a resubdivision, the Planning Board must not only individually consider each of the listed criteria, but make a specific and affirmative finding on each as well. Lee interprets the statute as defining character as the composite of all these criteria. In this respect, Lee established a high standard for both *how* “character” was defined and *how* the character test is to be applied – by making an affirmative finding of “sameness” on each and every resubdivision criterion.

**Sameness.** Further, Lee defines the Planning Board’s “zone of discretion” with respect to making a finding of “sameness” of character as to each criterion under Section 50-29(b)(2). Lee provides that in exercising this discretion, lots need not be found “identical” to be the “same”, but that “the correlation between the proposed resubdivided lots and existing lots” on each criterion “must be high in order to meet the requirements of Section 50-29.” The Court recognized that it is logical that an expert planning body should exercise some latitude in judging whether similarities exist between proposed and existing lots so as to constitute sameness on each criterion. Critically, however, the Court specifically defined that discretion to allow for the Planning Board to make an *inclusive* finding of sameness as to each statutory criterion – not to exclude lots that were factually the same in every material aspect from consideration in making the finding.

Once this discretion as to the “sameness” of each criterion is exercised, and a finding is made that the proposed lots are, in fact, the “same” as existing lots in the neighborhood as to each of the seven criteria, the Planning Board no longer has a “zone of discretion”. In short, the Planning Board’s discretion is to expand the definition of “sameness” when judging the characteristics of the proposed lot as to each criterion, not to restrict the definition of “sameness” by requiring some “representative” or “threshold” number of lot to be the same.

**Ordinary and Natural Meaning.** Finally, Lee reminds and confirms the general rule of statutory interpretation that words are to have their ordinary and natural meaning. Here, the

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phrase “other lots” lends itself to an easily interpreted plain meaning definition of more than one existing lot. Note as well that the phrase “other lots” in Section 50-29(b)(2) is not preceded or qualified by the words “all”, “a substantial number”, “a representative percentage”, or even the word “the”, all of which would imply that “other lots” must somehow be looked at collectively. Instead, “other lots” stands alone, and therefore, given a plain meaning interpretation indicates multiple lots in the existing defined neighborhood that are not the proposed lots.

In summary, Section 50-29(b)(2) sets a high bar for approving resubdivisions and Lee reinforces that standard by providing additional guidance on definitions, required findings of the Planning Board, and where the Planning Board has discretion. Nowhere in either the statute or Lee can any support be found for applying an additional, more restrictive, “substantial” or “percentage” standard to determine if the proposed lots were “representative” of the other lots in the neighborhood as to shape. To the contrary, such a standard is neither found in nor implied by the statute. Importantly, Lee, in clarifying the meaning and intent of the statute, prescribes procedures and definitions that directly conflict with such application. Lee provides the Planning Board with the discretion to include lots that are not precisely the same in making a finding of “sameness” – whereas the Board in this case claims discretion to exclude clearly same lots when the number of such same lots is below an undefined threshold. In conclusion, the majority’s position in this case is wholly outside the clearly articulated statutory criteria in Section 50-29(b)(2) and Lee.

*In this case, there is no dispute as to whether the proposed lots are the “same” as to each of the seven criteria individually, including shape, as other lots in the existing neighborhood. In fact, as to shape, it is undisputed that the proposed pipestem lot is virtually identical to two other existing lots that are in the very same block. So, to the degree the Planning Board has discretion in making a “sameness” interpretation, it is not required in this case. This determination dictates a conclusion that the requirements of Section 50-29(b)(2) are met, and that the proposed Preliminary Plan is approved.*

Therefore, the legal misinterpretation made by the Planning Board in this case was misapplying a “sameness” standard that incorporated some higher degree or “substantial” percentage correlation between the proposed lots and the existing lots as to shape based upon a misperceived “zone of discretion” in making an “other lots” determination, rather than properly limiting its discretion to a “same character” determination as to each of the resubdivision criteria independently.

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***5. Purposes and Intent of Section 50-2.***

In misapplying Section 50-29(b)(2), the Planning Board noted that the “intent” of the Subdivision Regulations to “protect the expectations of the people in the neighborhood, especially those closest” to the Property, informed their interpretation of an “ambiguous” statute. The Applicant notes with emphasis that this statement by the Planning Board does not represent one of the expressly stated intents of the Subdivision Regulations found in Section 50-2 of the Code. Therefore, to the extent that this statement formed the basis of the Planning Board decision in this matter, reconsideration is warranted so the Planning Board, as necessary, can consider the actual intent of the Subdivision Regulations in evaluating the Preliminary Plan.

***6. Clearly Established Precedent of the Planning Board in Interpreting 50-29(b)(2)***

The plain meaning interpretation of Section 50-29(b)(2), as discussed above, is fully supported by the well-established precedent and practice of the Planning Board in evaluating resubdivisions under Section 50-29(b)(2). The interpretive position taken by the Board in this case is not only contrary to the proper interpretation and application of Section 50-29(b)(2), but is a clear departure from the manner in which the Board has interpreted Section 50-29(b)(2) in the past, rendering its interpretation in this case arbitrary and capricious.<sup>2</sup>

In finding that having two existing lots of the same shape as the proposed lot does not establish the same character with other lots in the existing neighborhood (being defined for purpose of the application as including 30 lots, exclusive of the lot proposed to be resubdivided by the Preliminary Plan), the Board has failed to consistently interpret this standard of resubdivision based upon its previous resubdivision decisions. The Applicant wholly agrees with the statements of members of the Planning Board at the public hearing for this case that also questioned the efficacy of the Board’s interpretation of Section 50-29(b)(2) in this case as a result of “uncharacteristically invoking a percentage of the number of lots” standard into the statutory determination to be made in resubdivision cases under Section 50-29(b)(2).

Upon reconsideration we request that the Planning Board consider the precedent of its previous decisions and consistently interpret this statute based on this precedent. The Applicant, as part of this request, has provided the Planning Board with summaries of its previous decisions from

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<sup>2</sup> As noted above, with respect to agency precedent, departure from established precedent without a reasoned explanation, or which renders an individual treated differently than prior individuals, may be vacated as arbitrary and capricious. See Harvey, 398 Md. at 303.

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the past 12 – 14 months relevant to this matter. These examples are not meant to be exhaustive, but rather reflective of the established Planning Board precedent of not looking for any percentage correlation in making a “same character...as other lots” determination, especially as to shape, under Section 50-29(b)(2).

As summarized in the chart attached hereto, in recent cases alone, the Board has approved:

- A resubdivided “pipestem” shaped lot where two (2) out of thirty-four (34) lots in the existing neighborhood were pipestems (Case No. 1-05010)
- A resubdivided trapezoid shaped lot where zero (0) lots in the existing neighborhood had a trapezoid shape (Case No. 1-05070)
- A resubdivided rectangular shaped lot and with perpendicular alignment where one (1) out of eight (8) lots in the existing neighborhood had a rectangular shape and perpendicular alignment (Case No. 1-05058)
- Four (4) resubdivided lots with “panhandle” alignments where only one (1) out of fifteen (15) lots in the existing neighborhood had a panhandle alignment (Case No. 1-03090)
- A resubdivided triangular shaped lot with “radial” alignment where zero (0) lots in the existing neighborhood had triangular shapes or radial alignments (Case No. 1-03089)
- A resubdivided square shaped lot where one (1) out of twenty (20) lots in the existing neighborhood had a squared shape. Further, the square lot created has no street frontage, which is the same as only one (1) other lot (Case No. 7-05013)
- A resubdivided “irregular” shaped lot where five (5) out of forty-five (45) lots in the existing neighborhood had an irregular shape (Case No. 1-05004)
- A resubdivided lot with substantially less frontage and substantially greater area than any other existing lot (Case No. 1-04062)
- A resubdivided “pipestem” shaped lot where one (1) lot in the defined neighborhood (the adjacent lot) was resubdivided in the same manner (Case No. 7-05011)

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- Two (2) resubdivided triangular shaped lots where only one (1) lot of twenty-seven (27) lots in the existing neighborhood were triangular in shape (Case No. 1-05062)

The above cases clearly demonstrate that the Planning Board has not only approved applications where the degree of "sameness" was comparable to the subject case, but also where there were fewer lots exhibiting the same character. Thus, in those cases, the Planning Board, appropriately, did not apply a "percentage" or "representative" standard. Indeed, the Planning Board used its inclusive discretion to make a finding of "sameness".

In addition to these more recent cases, the Applicant wishes to incorporate into the record for this case all County resubdivision cases since the Lee case, to evidence the clearly established precedent of the Planning Board on this issue. While the precedent of those earlier cases should already be implicitly part of the record by administrative agency notice, we wish to have the Planning Board now expressly take note of these decisions and the rationale therefore in reconsidering the instant case.

#### ***7. Unfairness and Hardship Created by Board***

In this case, the Applicant relied in good faith on the Planning Board's resubdivision precedents and practices for making a determination under Section 50-29(b)(2). Prior to acquiring the property, the Applicant met with the then owner, who represented based on her research the ability to resubdivide the property into two lots. That capacity was reflected in her expectation of value, the realization of which was important to allowing her to meet her continuing needs. Further, the Applicants conducted due diligence, familiarizing themselves with the property conditions, official planning policies and resubdivision procedures and confirming eligibility for resubdivision with land use professionals and Planning Staff before making a formal offer to purchase, which offer and price incorporated valuation based on the two lots.

Thereafter, continuing to rely on the Planning Board's consistency and input of Staff, the Applicant invested considerable sums in planning and design, taking great measures to carefully address all environmental concerns observed and raised by the Planning Staff, other County Staff and the neighbors (the Applicant's proffers relative to stormwater management, tree preservation and other site issues raised by community members are well beyond that typically provided for a two lot subdivision and are clearly vast improvements serving the community that will not be provided with the Property remaining as is or reconstructed with a single house on a single lot). At no point during that process was the eligibility of the property for resubdivision questioned by the Planning Staff, rather the focus was on addressing these

Chairman Derick P. Berlage  
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other concerns. So, not only did the Applicant rely on the Planning Board's previous conduct, but Planning Staff did as well – as is evidenced by their unequivocal finding under the statute and recommendation for approval.

It should be noted that had the Applicant had any reason to expect that the Board would interpret Section 50-29(b)(2) to require a certain number or percentage of lots be the same as the proposed lots, the Applicant, despite its position that this is a misinterpretation of the law, could have focused on the issue.

#### ***8. Clarification for the Record***

At the hearing, three letters, two from neighbors (dated October 25, 2005 and October 27, 2005) and one from Mr. Burton Gray, President of the Cabin John Citizens Association, (dated October, 27 2005) were submitted. Further, written testimony by a neighbor, Mr. Eric Federling, was submitted and summarized in his oral statement to the Planning Board. The Applicant did not have any of the above correspondence at the time of the presentation to the Planning Board and we were, therefore, not able to adequately address them in our statements or in rebuttal. While it is not clear from the record whether the Planning Board's decision may have been influenced by these written comments, in fairness, we would appreciate this opportunity to address them as part of this reconsideration.

At the outset, the Applicant was and continues to be aware of the water problems currently existing for the neighbors to the rear of the Property – and, indeed, for the Property itself. The Applicant appreciates and shares those concerns. For that reason, the Applicant prepared and committed to implementing a stormwater management program that will not only ensure that runoff generated by the new homes does not run to the rear of the properties (where the problem exists), but will reduce the amount of existing runoff as well. Similarly, despite being exempted from a Forest Conservation Plan, the Applicant committed to doing an extensive program to ensure that the Project does not damage neighbors' trees -- and plans to retain and add several on the Property.

The Applicant understands the skepticism expressed by some of the neighbors as to whether the program will actually be implemented and maintained over the long-term. For that reason, the Applicant backed up its intent by formally committing to it as part of the resubdivision application. Further, during the initial public hearing on this case, and in response to Commissioner Bryant, the Applicant agreed to placement of a covenant running with the land to ensure its implementation and maintenance and to give the neighbors standing to sue for enforcement, and even formally agreed to provide a surety to protect the neighbors during and

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immediately after construction. These are extraordinary commitments, to which the Applicant is bound and prepared to do upon approval.

It should be pointed out that the existing stormwater problems described by neighbors in testimony before the Planning Board are attributable to development on properties other than the subject property. Far from resubdivision exacerbating the problem as claimed in some testimony, the program and conditions the Applicant has entered through the resubdivision process will be part of the solution not otherwise attainable if left to the status quo.

Crucially, it must be noted that neither the letters nor statements of the four neighbors nor Mr. Burton's letters (together comprising the total number of persons submitting letters) in any way address the Preliminary Plan's compliance with the resubdivision statute or standards.

All other concerns raised by neighboring property owners have been addressed by the Applicant's proposal. The Preliminary Plan is careful to orient the houses on the lots so that they are not "stacked". Unlike some pipestem applications, including some in the immediate neighborhood, the homes will be offset so that their front entryways will directly confront 78<sup>th</sup> Street – the passerby will see the entry elevation of both the houses, not the garage and service area of the rear house. Contrary to one claim, only minor grading is proposed for the site. Indeed, in deference to the existing setting the proposed home elevation for the rear lot is left low so that it better fits with existing and proposed homes. The storm drain system will collect and direct runoff to the storm-sewer system at the front of the property. Finally, the Applicant fully intends to install a landscaping plan that will additionally address the screening and orientation issues raised in neighborhood testimony.

Finally, while the Board did receive written and oral testimony from four neighbors in opposition to this application, none of the other 27 property owners (of 31 in the neighborhood) expressed any unresolved concerns with the resubdivision proposal. The Applicant did reach out to the neighbors to discuss issues in advance of the Planning Board hearing and remains willing to discuss the Project with any of the neighbors and to take steps to address any reasonable concern.

### ***9. Conclusion***

The Applicant respectfully urges the Planning Board to reconsider Case No. 120051030 and adopt an interpretation of Section 50-29(b)(2) that is supported by the plain meaning interpretation of the law, the clearly established precedent of the Planning Board, the

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recommendation of the Planning Board's professional Staff, and brings increased fairness and certainty to the resubdivision review process.

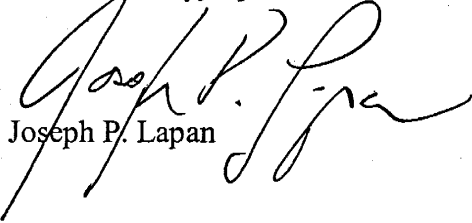
Thank you for your consideration of this request at the next possible regular meeting of the Board. We would appreciate receiving notification from Staff of the date the Planning Board will consider this request.

Sincerely yours,

**LINOWES AND BLOCHER LLP**



C. Robert Dalrymple



Joseph P. Lapan

:jpl

cc: Ms. Rose Krasnow  
Ms. Cathy Conlon  
Mr. Richard Weaver  
Mr. Tariq El-Baba, Esq.  
Mr. Joseph Bender  
Mr. Brendan Magner  
Mr. Charles Grimsley



**POTOMAC LAND ASSOCIATES  
CABIN JOHN PARK RESUBDIVISION**

**MONTGOMERY COUNTY RESUBDIVISIONS, December 2004- January 2006**

**1. Cases of particular applicability/ relevance**

<i>Case No. (Date)</i>	<i>Location</i>	<i>Zone</i>	<i>Resub Criteria Application</i>	<i>Case outcome</i>	<i>Engineer, if listed</i>
1-05010 (5/19/05)	Potomac (Falls Road and Burbank Drive)	RE-2	3 lots created, 1 with "pipestem" shape and alignment despite only 2 out of 34 lots in the neighborhood having pipestem shape/ alignment  Pipestem lot created also wider than any lot in the neighborhood and less frontage than all but one lot in the neighborhood	Preliminary Plan APPROVED	Witmer Associated, LLC
1-05070 (5/5/05)	Bethesda/ Chevy Chase (Bradley Blvd. and Burning Tree Road)	R-200	1 lot created with "trapezoid" shape despite 0 out of 25 lots in the neighborhood having a trapezoid shape	Preliminary Plan APPROVED	
1-05058 (3/31/05)	Sandy Spring/ Ashton (New Hampshire Ave. and Crystal Spring Drive)	R-200	3 lots created, 1 with "rectangular" shape and all three with "perpendicular" alignment, despite only 1 out of 8 lots in the neighborhood having and rectangular shape and perpendicular alignment	Preliminary Plan APPROVED	Surveys, Inc.
1-03090 (5/19/05)	Damascus (Kimblehunt Place)	RE-2	5 lots created, 4 with "panhandle" alignments despite only 1 out of 15 lots in the neighborhood having a panhandle alignment  Two of the panhandle lots created also had less frontage than all but one lot in the neighborhood  Four of the lots created were larger than any lot in the neighborhood and one of those lots had greater buildable lot area than any lot in the neighborhood	Preliminary Plan APPROVED	Dewberry

1-03089 (12/16/04)	Potomac (Glen Mill Road and Boswell Lane)	RE-1	4 lots created, 1 with "triangular" shape and "radial" alignment despite 0 out of 12 lots in the neighborhood with triangular shape or radial alignment  3 of created lots had frontages greater than any lot in the neighborhood; 2 of the created lots had greater buildable area than any lot in the neighborhood; 2 of the lots created were wider than all but one lot in the neighborhood	Preliminary Plan APPROVED	
7-05013 (2/24/05)	Upper Rock Creek (Rolling Road)	RE-1	3 lots created, 1 with "square" shape despite only 1 out of 20 square lots in the neighborhood  1 square lot created also had significantly greater size and area than any other lot in the neighborhood	NO OBJECTION to Pre-preliminary Plan	
1-05004 (6/2/05)	White Oak (Orchard Way)	RE-1	3 lots created, 1 with "irregular" shape despite only 5 out of 45 lots in the neighborhood having irregular shape	Preliminary Plan APPROVED	

**2. Other cases with some applicability/ relevance**

<i>Case No. (Date)</i>	<i>Location</i>	<i>Zone</i>	<i>Resub Criteria Application</i>	<i>Case outcome</i>	<i>Engineer, if listed</i>
1-05075 (5/19/05)	Bethesda/ Chevy Chase (Acacia Avenue and Locust Avenue)	R-60	2 lots created; one lot had greater frontage and width than any other of the 24 lots in the neighborhood and was greater in size than all but one of the lots in the neighborhood	Preliminary Plan APPROVED	Macris Hendricks & Glascock
1-05007 (4/21/05)	Germantown (Schaeffer Road)	R-200	2 lots created, one with "corner" shape and alignment despite no other corner lots in the neighborhood and one with "irregular" shape despite only 1 out of 4 lots in the neighborhood with irregular shape  Corner lot was wider and larger	Preliminary Plan APPROVED	

			than any other lot in the neighborhood		
1-05068 (5/12/05)	East Silver Spring (Deerfield Avenue)	R-60	2 lots created, one was larger and had greater building area than any of the other 17 lots in the neighborhood	Preliminary Plan APPROVED	Benning & Associates
1-05033 (7/14/05)	Aspen Hill (Connecticut Avenue and Independence Street)	R-60	6 lots created, 2 with "quadrilateral" shape despite only 9 out of 79 lots in the neighborhood with quadrilateral shape  2 of the lots created had greater frontages than all but one of the 79 lots in the neighborhood, 2 of the other lots created had frontages larger than all but 3 of the 79 lots in the neighborhood  One of the lots created had greater width than all but 3 of the 79 lots in the neighborhood, another of the lots created had greater width than all but 4 of the 79 lots in the neighborhood	Preliminary Plan APPROVED	Gutshick, Little & Weber
1-04062 (2/10/05)  Reconsidered on 3/10/05	Bethesda/ Chevy Chase (Armat Drive)	R-90	1 lot created despite less frontage than any of the other 4 lots in the neighborhood and greater size, width and area than any other four lots in the neighborhood  Reconsideration based adjoining property owner's lack of review time due to error in internal transmission of the plan	Preliminary Plan DENIED  APPROVED upon Reconsideration	

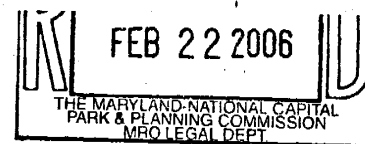
### 3. Other results from past year

<i>Case No. (Date)</i>	<i>Location</i>	<i>Zone</i>	<i>Resub Criteria Application</i>	<i>Case outcome</i>	<i>Engineer, if listed</i>
120060090 (11/10/05)	Bethesda-Chevy Chase (Blaisdell Road and Chalon Drive)	R-200	2 lots created, all seven criteria fell squarely within the other 12 lots in the neighborhood	Preliminary Plan APPROVED	P.G. Associates

1-05078 (6/2/05)	Bethesda-Chevy Chase (Radnor Road and Wilson Lane)	R-90	1 lot created, all seven criteria fell squarely within the other 18 lots in the neighborhood	Preliminary Plan APPROVED	P.G. Associates
1-05073 (5/12/05)	Potomac (Seven Locks Road and Gainsborough Road)	R-90	2 lots created, one lot had a larger frontage than all but 3 of the 46 lots in the neighborhood, but all other criteria squarely within the other lots in the neighborhood	Preliminary Plan APPROVED	
1-05057 (5/12/05)	Potomac (Lake Potomac Drive near River Road)	RE-2	2 lots created, all seven criteria fell squarely within the other 16 lots in the neighborhood	Preliminary Plan APPROVED	P.G. Associates
1-05047 (4/21/05)	Wheaton (Upton Drive and Kensington Blvd.)	R-60	1 lot created, with the exception of the lot created being larger than all but 2 of the other 19 lots in the neighborhood, all seven criteria fell squarely within the other 19 lots in the neighborhood	Preliminary Plan APPROVED	
7-05011	North Bethesda (MD 355 and Hillery Way)	R-90		SUPPORT by Staff for defined neighborhood	

**LINOWES**  
**AND BLOCHER LLP**  
ATTORNEYS AT LAW

ATTACHMENT TWO



February 22, 2006

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Chairman Derick P. Berlage  
and Members of the Planning Board  
Montgomery County Planning Board  
Montgomery County Department of Park & Planning  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Re: Preliminary Plan 120051030 (the "Preliminary Plan"): Cabin John Park, 6517 78th Street (the "Property"), REQUEST FOR RECONSIDERATION—SUPPLEMENT TO FEBRUARY 10, 2006 LETTER

Dear Chairman Berlage and Members of the Planning Board:

On February 10, 2006 we submitted a letter requesting that the Planning Board reconsider its October 27, 2005 decision to deny the Preliminary Plan on the grounds that the "pipestem" shape of one of the two proposed lots for resubdivision was not of the same character as other lots in the existing neighborhood, as required by Section 50-29(b)(2) of the Montgomery County Code. In that February 10, 2006 letter, we provided specific instances of other Board actions (which already are matters of record via administrative notice) in order to demonstrate the inconsistency of the Board's consideration of the resubdivision plan for the Property. Since we sent that letter, we believe it is of note to also specifically draw attention to the Board's recent action relating to Preliminary Plan 120060210, a resubdivision approved by the Board on February 16, 2006.

Again, in making the position for declination of the Preliminary Plan for the Property, the record shows that members of the Planning Board voting in the majority considered the "percentage" of lots in the existing neighborhood that are of the "same character" with the proposed pipestem lot as to shape and whether the existing lots that are of the "same character" as that proposed lot as to shape are "representative" of the lots in the neighborhood. Using this

Chairman Derick P. Berlage  
and Members of the Planning Board  
February 22, 2006  
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rationale, the Planning Board concluded that creation of a pipestem-shaped lot, where two (2) identically shaped pipestem lots in a neighborhood of thirty (30) lots exists, does not comply with the statutory resubdivision standard for "sameness" due to a low percentage of "sameness".

In our February 10, 2006 request, we explained and illustrated (with specific case references) how the Planning Board's decision on the Preliminary Plan was inconsistent with the Planning Board's previous practice and standards for evaluating resubdivisions. Further, we explained how the decision is causing severe hardship for the Applicant and how maintenance of the decision serves only to add to concerns regarding the ability of citizens and business to rely on the Planning Board's consistent application of the resubdivision criteria.

Subsequent to the submission of our request for reconsideration of the Preliminary Plan, the Planning Board conducted a public hearing and approved Preliminary Plan 120060210 for the resubdivision of the "Domingo Property" on February 16, 2006. In approving the Domingo Property resubdivision, the Planning Board approved the creation of a lot (Domingo, Block D, Lot 13) that has a lot width and frontage (each being fifty feet) smaller than all but one (1) other lot, and the same size as two (2) other lots, in a twenty-three (23) lot neighborhood.

The Domingo Property resubdivision approved subsequent to the Preliminary Plan, along with the many other resubdivisions brought to your attention in our February 10, 2006 request for reconsideration approved prior to the Preliminary Plan, represent the clear precedent and practice of the Planning Board not to invoke a "percentage" or "representative" threshold in applying the "sameness" standard of Section 50-29(b)(2) to resubdivisions. Given this established precedent, now clearly carried into the present with the approval of the Domingo Property resubdivision, it becomes even clearer that the Planning Board's denial of the Preliminary Plan was inconsistent with the Board's established precedent and practice in reviewing resubdivision cases and was an arbitrary and capricious application of Section 50-29(b)(2).

Chairman Derick P. Berlage  
and Members of the Planning Board  
February 22, 2006  
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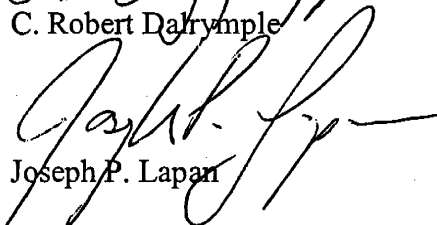
Please consider this letter in conjunction with our February 10, 2006 letter in your consideration of our reconsideration request, and we again respectfully request reconsideration and reversal and ask that this letter is included in the public record.

Sincerely yours,

**LINOWES AND BLOCHER LLP**



C. Robert Dalrymple

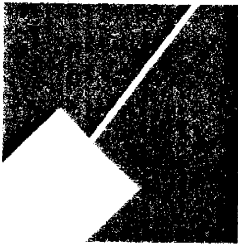


Joseph P. Lapan

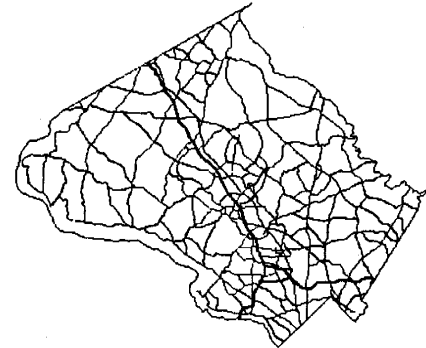
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Ms. Rose Krasnow  
Ms. Cathy Conlon  
Mr. Richard Weaver  
Mr. Tariq El-Baba, Esq. ✓  
Mr. Joseph Bender  
Mr. Brendan Magner  
Mr. Charles Grimsley

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF LAND AND PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4500, www.mncppc.orgMCPB  
Item #6  
10/27/05MEMORANDUM

**DATE:** October 21, 2005

**TO:** Montgomery County Planning Board

**VIA:** Rose Krasnow, Chief  
Cathy Conlon, Supervisor *CAC*  
Development Review Division

**FROM:** Richard Weaver, Planner Coordinator, (301) 495-4544 *RAW*  
Development Review Division

**REVIEW TYPE:** Preliminary Plan Review (Resubdivision)  
**APPLYING FOR:** Two (2) one-family detached dwelling units

**PROJECT NAME:** Cabin John Park  
**CASE #:** 120051030 (1-03103)  
**REVIEW BASIS:** Chapter 50, Sec. 50-29 (b) (2), Montgomery County Subdivision Regulations

**ZONE:** R-90  
**LOCATION:** On the west side of 78<sup>th</sup> street, approximately 315 feet south of Tomlinson Avenue

**MASTER PLAN:** Bethesda-Chevy Chase  
**APPLICANT:** Potomac Land Associates  
**ENGINEER:** Landmark Engineering  
**ATTORNEY:** Linowes and Blocher

**FILING DATE:** June 1, 2005  
**HEARING DATE:** October 20, 2005



**STAFF RECOMMENDATION:** Approval, pursuant to Section 50-29 (b) (2) (Resubdivision), and subject to the following conditions:

- 1) Approval under this preliminary plan is limited to two (2) one-family detached dwelling units.
- 2) Compliance with the conditions of approval for the preliminary forest conservation plan (Tree Save Plan). The applicant must satisfy all conditions prior to recording of plat or MCDPS issuance of sediment and erosion control permits.
- 3) Compliance with the conditions of approval of the MCDPS stormwater management approval dated June 29, 2005.
- 4) Compliance with the conditions of approval of the MCDPWT memorandum dated October 2, 2005, unless otherwise amended.
- 5) At the time of building permit application an engineered sediment control plan prepared in accordance with this approved Preliminary Plan will be submitted to the Department of Permitting Services. That plan will provide for all driveway and rooftop drainage from both lots to be drained by a combination of sheet flow grading and piped drainage to 78th Street as shown on this approved Preliminary Plan.
- 6) ~~There shall be a covenant referenced on the record plat obligating the owners of the two approved lots to maintain the grades, roof drains and private storm drain system which and to will connect to the public drain system in 78th Street. This covenant shall also obligate the two lot owners to share maintenance costs of the private drain system in accordance with this approved Preliminary Plan.~~ *which requires*  
*are required* *as shown and require by this pre-approved*
- 7) Other necessary easements.

**SITE DESCRIPTION:**

The Subject Property consists of existing Lot 56A in the Cabin John Park, Section 1 Subdivision, containing 20,000 square feet and zoned R-90. The lot is improved with a single family home. There are no unique environmental features on the Subject Property. The surrounding neighborhood is essentially built out with homes of varying ages; some are original homes dating to the 1920's while some of the original homes have been removed and replaced with more modern structures.

**PROJECT DESCRIPTION:**

The application requests the resubdivision of the existing lot into two lots for single family detached dwellings. The existing house on the property will be removed. Proposed Lot 221 will be 9,000 square feet in size, rectangular in shape and will have 75 feet of frontage on 78<sup>th</sup> street. Proposed Lot 222 will be 11,000 square feet in size and will be a pipestem lot. It will have 25 feet of frontage on 78<sup>th</sup> street. This configuration will dictate that one house be located to the rear of the other. Both lots as proposed meet the area and dimensional requirements of the R-90 zone as prescribed by the Zoning Ordinance.

The application is exempt from the requirements of the Montgomery County forest conservation law, however a tree save plan has been reviewed and approved by staff. The tree save plan takes measures to protect off-site trees close to the property line.

## **ISSUES**

### **Drainage**

Staff has received a number of letters (attachment 4) from adjacent property owners regarding issues related to the proposed subdivision. Of particular concern to the neighbors is the impact that the resubdivision would have on local drainage. One neighbor to the south on Lot 60-D, down slope of the subject property, provided with a compact disk (CD) that was recorded during a rainfall event. The CD shows a considerable amount of water running along the rear property line of Lot 60-D to the south. The rears of these lots (60-D, 55-D, 59-B, 55-B, etc) are the low points of the block and water concentrates and flows during heavy rains into what could be described as a "temporary" stream. However, it is an ephemeral channel that flows only in direct response to rainfall events and dissipates thereafter. The amount of water has prompted some of the property owners to redirect runoff with berms and subsurface drainage systems to protect their homes and property. Further complicating the drainage issue is that many of the property owners have attempted to restrict water flow onto their properties from adjacent yards by artificially damming their yards which tends to pond water onto neighbors upstream.

Staff provided a copy of the CD to the applicant's engineer as a courtesy and with the author's permission. With this information the engineer has made efforts to limit the amount of runoff that the proposed homes would put into the drainage swale. The proposed homes' downspouts will direct all rooftop runoff to the storm drain system within 78<sup>th</sup> street. All driveways and other impervious surfaces will be directed to the 78<sup>th</sup> street storm drain. DPWT has advised that the storm drain system in 78<sup>th</sup> street is capable of handling the additional flows. Only the rear yard and a small area of the side yards of the proposed home on Lot 222 will continue to flow into the drainage way. The applicant's engineer has determined that the amount of runoff entering the problematic drainage swale from the subject property will be reduced from 0.8 cubic feet per second to 0.2 cubic feet per second. The applicant proposes no changes to drainage patterns of off-site properties.

### **Tree Save**

Another issue raised by the owner of lot 59-A to the east of the Subject Property is the longevity of a large Mulberry tree very near the rear lot line of Lot 59-B. Staff has taken this tree and other trees into consideration and has approved a tree save plan that provides protection measures. Some impact to the root zone of the Mulberry tree is shown. The encroachment is less than one-third of total root zone and with the required root pruning, staff believes that there is a reasonable expectation that the tree will survive.

## **CONFORMANCE TO THE MASTER PLAN**

### **Master Plan Compliance**

The Bethesda- Chevy Chase Master Plan does not specifically identify the subject property for discussion but does give general guidance and recommendations regarding zoning and land use. The plan recommends that this area maintain the existing zoning (R-90) as adopted and maintain the residential land use consisting of single-family detached homes. This plan, if approved, is consistent with the recommendations of the master plan

## **CONFORMANCE WITH THE SUBDIVISION REGULATIONS (50-29(b) (2))**

### **A. Statutory Review Criteria**

In order to approve an application for resubdivision, the Planning Board must find that the proposed lots 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 the Resubdivision section, the Planning Board must determine the appropriate "neighborhood" for evaluating the application. For this application, the applicant has proposed a neighborhood of 33 lots for analysis purposes. The neighborhood generally includes all lots that are within the same block as the Subject Property and those confronting on the opposite side of 78<sup>th</sup> street. The neighborhood as submitted by the applicant does, however, include 3 parts of lots which staff and the Planning Board have historically excluded from the neighborhood analysis because they were created by deed and not by plat. For this reason staff has excluded the parts of lots. Staff believes that the 30 lot neighborhood as identified by staff is appropriate to evaluate this resubdivision.

## **ANALYSIS**

### **Resubdivision**

Staff has reviewed the submitted application for compliance with the Resubdivision Criteria pursuant to Section 50-29 (b) (2) and has the following analysis:

**Size:** The proposed lots are of the same character with respect to size as all lots in the neighborhood.

Lots in the neighborhood range in size from 7,239 square feet to 28,276 square feet. The majority of lots fall within the range of 9,000 square feet to 20,000 square feet. The proposed lots are at 9,000 square feet and 11,000 square feet and are within the range of lot sizes and of the therefore of the same character.

**Area:** The proposed lots are of the same character with respect area as the lots in the neighborhood.

The areas of lots in the neighborhood range from 2,275 square feet to 15,000 square feet. The proposed lots are at 3,130 and 3,525 square feet in area and are within the range. Staff believes that the proposed lots are of the same character with respect to area.

**Shape:** The proposed lots are of the same character with respect to the shape of lots in the neighborhood.

The shapes of lots in the existing neighborhood are generally rectangular, with <sup>two</sup> ~~four~~ of the lots in a rectangular/pipestem configuration. The proposed lots will provide one rectangular lot and one rectangular/pipestem lots that will be of the same character as other lots in the neighborhood.

**Width:** The proposed lots are of the same character with respect to width as the other lots in the neighborhood.

The range of lot widths in the neighborhood, as measured at the building frontage line, range from 60 feet to 175 feet. Both of the proposed lots are within this range (75 ft. and 100ft.). Staff believes that both lots are of the same character with respect to width at the building line.

**Alignment:** The proposed lots are of the same character with respect to alignment as all lots in the neighborhood.

All lots, including the proposed lots, align perpendicularly to the street. The proposed lots are of the same character as compared to the existing lots in the neighborhood.

**Frontage:** The proposed lots are of the same character with respect to frontage as the lots in the neighborhood.

The range of lot frontages in the neighborhood are from 25 feet to 135 feet. There are five corner lots with wider frontages that are not used to compare to the proposed non-corner lots. The proposed lot frontages are 25 feet and 75 feet. They are within the range of the existing lots, therefore, staff believes that they are of the same character as the lots in the neighborhood.

**Suitability:** The proposed lots have been deemed suitable for residential development.

## **CONFORMANCE TO THE ZONING ORDINANCE**

The lots proposed under this preliminary plan must comply with the dimensional requirements of the Zoning Ordinance, Section 59-C-1.32. Staff has determined that the lots proposed under this preliminary plan meet the dimensional requirements required by this section of the Zoning Ordinance.

## **CONCLUSION**

Staff believes that Preliminary Plan #1-05103 Cabin John Park, meets all applicable requirements of the Subdivision Regulations, Bethesda-Chevy Chase Master Plan, and the Zoning Ordinance. Specifically, staff believes that the two lots proposed under this preliminary plan meet all seven of the resubdivision criteria defined in Section 50-29(b)(2) of the Subdivision Regulations. The lots are of the same character with respect to size, area, shape, width, alignment, frontage and suitability as the existing lots in the neighborhood. The lots are consistent with the recommendations of the Bethesda-Chevy Chase Master Plan and meet the minimum dimensional requirements of the Zoning Ordinance. As such, staff recommends approval of the preliminary plan, subject to compliance with the conditions cite above.

## **Attachments**

Attachment A Vicinity Development Map  
Attachment B Neighborhood Delineation Map  
Attachment C Tabular Summary  
Attachment D Neighborhood Delineation  
Attachment E Preliminary Plan  
Attachment F Correspondence

Preliminary Plan Data Table and Checklist – REVISED CHECKLIST ITEM #6

Plan Name: Cabin John Park				
Plan Number:120051030				
Zoning: R-90				
# of Lots 2				
# of Outlots:				
Dev. Type: Single Family Residential				
PLAN DATA	Required/Permitted	Provided	Verified	Date
Minimum Lot Area	9,000 sq.ft.	9,000 sq.ft. is minimum proposed		October 14, 2005
Lot Width	75 ft.	Meets minimum		October 14, 2005
Lot Frontage	25 ft.	Meets minimum		October 14, 2005
Setbacks				
Front	30 ft. Min.	Meets minimum		October 14, 2005
Side	8/25 Min./ ft. total	Meets minimum		October 14, 2005
Rear	25ft. Min.	Meets minimum		October 14, 2005
Height	35 ft. Max.	May not exceed maximum		
Max Resid'l d.u. per Zoning	2 dwelling units	2 dwelling units		October 14, 2005
MPDUs	No			
TDRs	No			
Site Plan Req'd?	No			
<b>FINDINGS</b>				
<i>SUBDIVISION</i>				
Lot frontage on Public Street	Yes	Yes	Shown on Plan	October 13, 2005
Road dedication and frontage improvements	Dedication and construction of internal public roads	Yes	DPWT memo Attachment G	October 2, 2005
Environmental Guidelines	No	None	No Buffers	
Forest Conservation	Yes	Yes	Tree Save Plan	September 29, 2005
Master Plan Compliance	Yes	Yes		October 14, 2005
Other				
<i>ADEQUATE PUBLIC FACILITIES</i>				
Stormwater Management	Yes	Yes	DPS memo Attachment G	June 29, 2005
Water and Sewer	Yes	Yes	WSSC memo Attachment G	July 5, 2005
Local Area Traffic Review	Not required			
Fire and Rescue	No comments <sup>1</sup>			

<sup>1</sup> Agency received 30-day opportunity to review plans. No comments received within the review period is understood as acceptance of the plan.