



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB

Item # _____

January 18, 2007



MEMORANDUM

DATE: November 20, 2006

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Catherine Conlon, Supervisor *CC*
Development Review Division

FROM: Dolores M. Kinney, Senior Planner (301) 495-1321 *DMK*
Development Review Division

REVIEW TYPE: Pre-preliminary Plan of Subdivision, Resubdivision of Existing Lot 20, and Part of Lot 16

APPLYING FOR: Two one-family detached residential lots

PROJECT NAME: Congressional Forest Estates

CASE #: 720060570

REVIEW BASIS: Chapter 50, including Sec. 50-29 (b)(2), Montgomery County Subdivision Regulations

ZONE: R-200

LOCATION: The Subject Property is located at the east side of Aldershot Drive, approximately 560 feet south of the intersection with Beech Hill Drive.

MASTER PLAN: Potomac

APPLICANT: Scott Nash

ENGINEER: CAS Engineering

FILING DATE: May 11, 2006

HEARING DATE: October 26, 2006; January 18, 2007

STAFF RECOMMENDATION: Objection to submission of the preliminary plan

RECENT ACTIVITY

The subject pre-preliminary plan, which involves the creation of two (2) lots, was presented at the Planning Board public hearing on October 26, 2006. The Application was submitted for the Board's advice only. At that time, Staff was recommending against a preliminary plan submittal because the proposed plan did not comply with the resubdivision criteria. Based on the neighborhood delineated by Staff (Attachment A), the shape and frontage of the proposed lots were not of the same character as the existing lots in the neighborhood. During the hearing, there was discussion of the fact that the Applicant and Staff disagreed on the appropriate neighborhood. The Applicant's neighborhood is depicted in Attachment B. The Board discussed neighborhoods and recommended a third delineation, which included the properties on the north side of MacDonald Drive (Attachment C). After the suggestion by the Board that another analysis of the resubdivision be completed using that neighborhood, the Applicant requested, and the Board granted deferral of the preliminary plan.

Staff has analyzed the proposed lots in comparison to the revised neighborhood and continues to find that the proposed resubdivision does not comply with Section 50-29(b)(2). The revised analysis supports this conclusion.

REVISED ANALYSIS

Neighborhood Delineation

The revised neighborhood ("Neighborhood") consists of 37 lots for analysis purposes which extends south from Bradley Boulevard along Aldershot Drive, MacDonald Road and Beech Hill Drive (Attachment C, Revised Neighborhood). The Neighborhood delineation provides an adequate sample that exemplifies the lot and development pattern of the area.

Comparison of the Character of Proposed Lots to Existing

In performing the analysis, Staff applied the resubdivision criteria to the Neighborhood. Based on the analysis, Staff continues to find that the proposed resubdivision would not be of the same character as the existing lots in the Neighborhood. As set forth below, the attached tabular summary (Attachment D) and graphical documentation support this conclusion:

Frontage: In a neighborhood of 37 lots, lot frontages range from 18 feet to 244 feet. All but two (2) lots have frontages greater than 100 feet, with most being greater than 150 feet. The two (2) lots with less than 100 feet of frontage have unusual configurations and orientation. Lot 19 is at an atypical termination for a public road. Lot 21, which contains a dwelling with the rear facing Aldershot Drive, is a pipestem with accesses from MacDonald Drive. Although the

pipestem frontage for this lot along MacDonald Drive is quite small, the lot has frontage of greater than 100 feet along Aldershot Drive. The proposed Lot 23 has a lot frontage of 143 feet and Lot 24 has frontage of 71 feet. The proposed Lot 23 will be consistent in character with other lots in the neighborhood, but Lot 24 will be one (1) of only two (2) lots with the smallest frontage. The only lot smaller than Lot 24 is one that shouldn't, in Staff's opinion, be part of the comparison because of its location at the terminus of a street. **Therefore, Lot 24 will not be of the same character as other lots in the neighborhood.**

Area: In a neighborhood of 37 lots, lot areas range from 2,485 square feet to 74,475 square feet square feet in area. The proposed Lot 23 has an area of 10,392 and Lot 24 has an area of 7,448 square feet. **The proposed lots will be consistent in character with the existing lots in the neighborhood with respect to area.**

Lot Size: The lot sizes in the delineated Neighborhood range from 20,277 square feet to 100,349 square feet with 65% of the lots between 20,000 to 29,000 square feet. The proposed Lot 23 has a lot size of 22,025 square feet and Lot 24 has a lot size of 20,424 square feet. The two proposed lots will be the smallest in the block in which they are located (Block D), and Lot 24 will be the second smallest in the overall neighborhood. **Therefore, the proposed resubdivision is not of the same character as the existing lots in the neighborhood.**

Lot Width: The lot widths at the front building restriction line in the existing Neighborhood range from 107 feet to 265 feet. The proposed Lot 23, because of the location of the existing house, will have a lot width of 125 feet and Lot 24 will have a lot width of 115 feet. Lot 23 will have the ninth smallest width in the neighborhood and Lot 24 will have the fourth smallest. **Therefore, the proposed widths will generally be consistent with the existing lots in the neighborhood, but will fall at the lower end of the range with respect to width.**

Shape: Seven (7) of the existing lots in the neighborhood are corner lots. There is one (1) pipestem lot, 12 rectangular lots and the remaining lots area irregular in shape. Although there are other irregular lots in the Neighborhood, the geometric configuration of **the lot lines for the two proposed lots are unlike the existing lots in the neighborhood and will not be consistent in character with the neighborhood.**

Alignment: There are seven (7) corner lots in the neighborhood and the remainder are perpendicular lots. **The proposed lots are also perpendicular lots and will be of the same character as the other existing perpendicular lots in the neighborhood.** Please note that Staff's descriptions of certain alignments differ from what is depicted on the Tabular Summary. The Tabular Summary describes Lots 1, 2 and 7 in Block A, Lot 14 in Block C, Lot 1 and Parcel B in Block E, and Lot 7 in Block D as either parallel or perpendicular in alignment. Staff identifies these lots as corner lots. Also, Lots 18 and Lot 21 in Block D,

which are identified as parallel in alignment, are described by Staff as perpendicular.

Residential Use: The existing lots and the proposed lots are residential in use.

Citizen Correspondence Issues

Since the previous hearing, the Development Review Division (DRD) received a letter from Mr. Arthur Downey, the property owner of Lot 14, immediately adjacent to the Subject property, objecting to a recommendation of approval of the pre-preliminary plan. Mr. Downey believes that the proposed resubdivision is not in character with the Neighborhood.

Also received was an e-mail forwarded to the Commissioner's office from Councilman Leventhal. The e-mail originated from Mr. Scott Nash, the applicant for the subject prepreliminary plan. In his e-mail, Mr. Nash expresses his discontent with the outcome of the Planning Board Hearing held on October 26, 2006. He criticized the validity of staff's photographs of the Neighborhood, stating that they were not made available prior to the hearing and were not an accurate depiction of the neighborhood. He also complains about distractions during the previous hearing, and the confusion caused by Staff's notice to adjacent neighbor's regarding the hearing.

Staff acknowledges Mr. Nash's concern. The intent of the photographs shown at the October 26, 2006 hearing was to demonstrate the difference between the applicant's and Staff's recommended neighborhoods. It is Staff's opinion that the lots on the southwest side of North Branch Drive were not of the same character as the other lots and should not be included in the neighborhood. The photos provided at the October 26, 2006 Planning Board hearing attempted to show how the orientation of certain lots affect the spatial relationship of dwellings. Although it is not within the Board's authority to determine the location of dwellings, the clustered orientation of lots, which is within the Board's authority, results in a neighborhood with a different character. While the notices sent regarding Planning Board hearings are brief, they clearly state that additional information is available by phone or on the website. The neighbors who had questions did call and talked to Staff and obtained clarity on the proposed resubdivision.

CONCLUSION

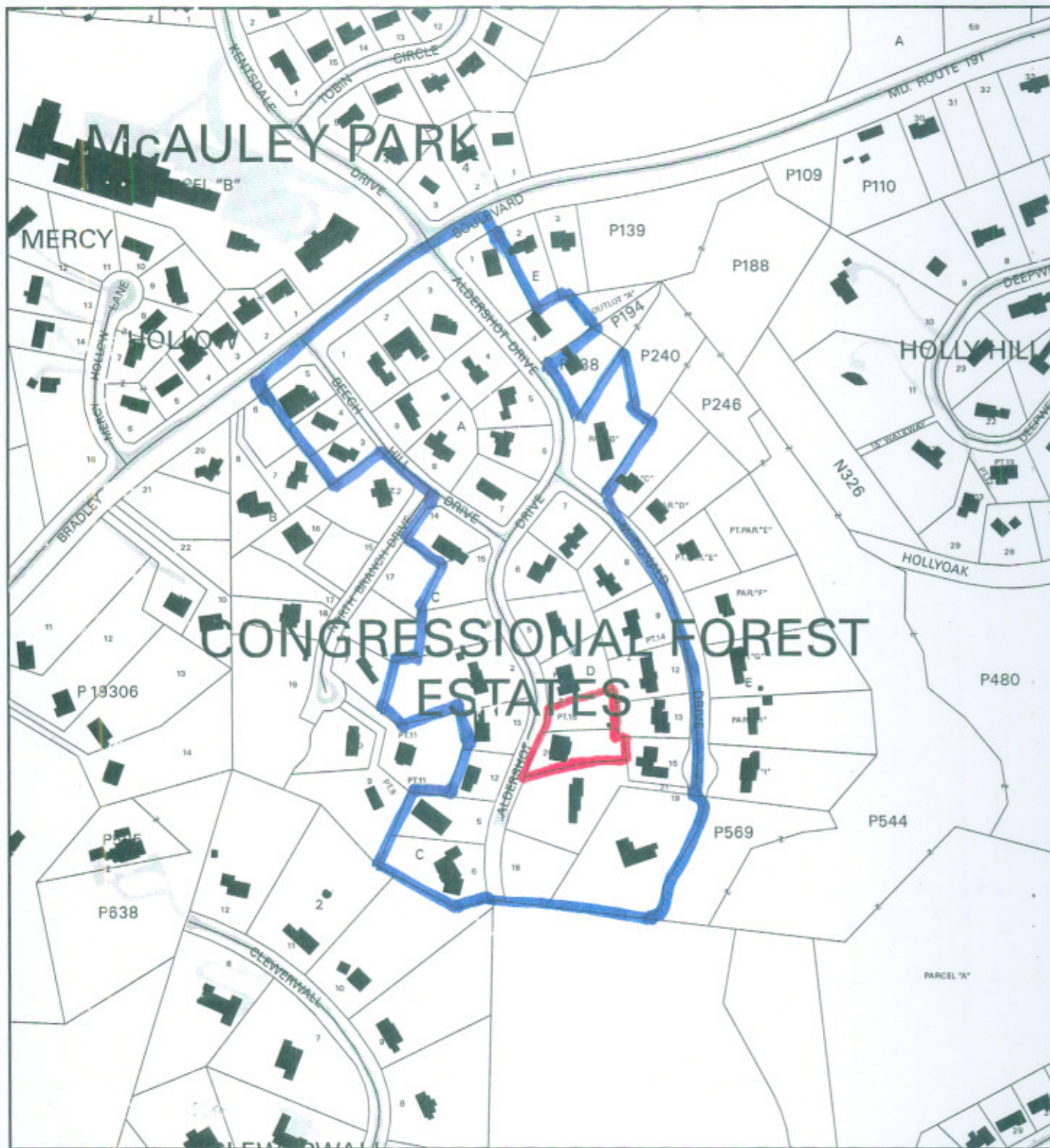
Section 50-29(b)(2) of the Subdivision Regulations specifies seven criteria with which resubdivided lots must comply. They are street frontage, alignment, size, shape, width, area and suitability for residential use within the existing block, neighborhood or subdivision. As set forth above, the two proposed lots are not of the same character as the existing lots in Staff's recommended neighborhood with respect to shape. Staff's evaluation indicates that the indentation of the lot lines for both of the proposed lots are unlike any others in Staff's recommended Neighborhood and creates lot shapes which are not of the same character as the existing lots. Furthermore, the proposed Lot 24 will be one (1) of two (2) lots with the least frontage. Therefore, the proposed resubdivision does

not comply with Section 50-29(b)(2) of the Subdivision Regulations. As such, Staff objects to the submission of the preliminary plan.

Attachments

Attachment A	Previous Staff Neighborhood
Attachment B	Previous Applicant Neighborhood
Attachment C	Revised Neighborhood Delineation Map
Attachment D	Revised Neighborhood Tabular Summary
Attachment E	Citizen Letters
Attachment F	Previous Staff Report

CONGRESSIONAL FOREST ESTATE (720060570)



Map compiled on October 12, 2000 at 8:38 AM | Site located on base sheet no. 211NW08

NOTICE

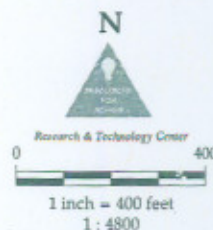
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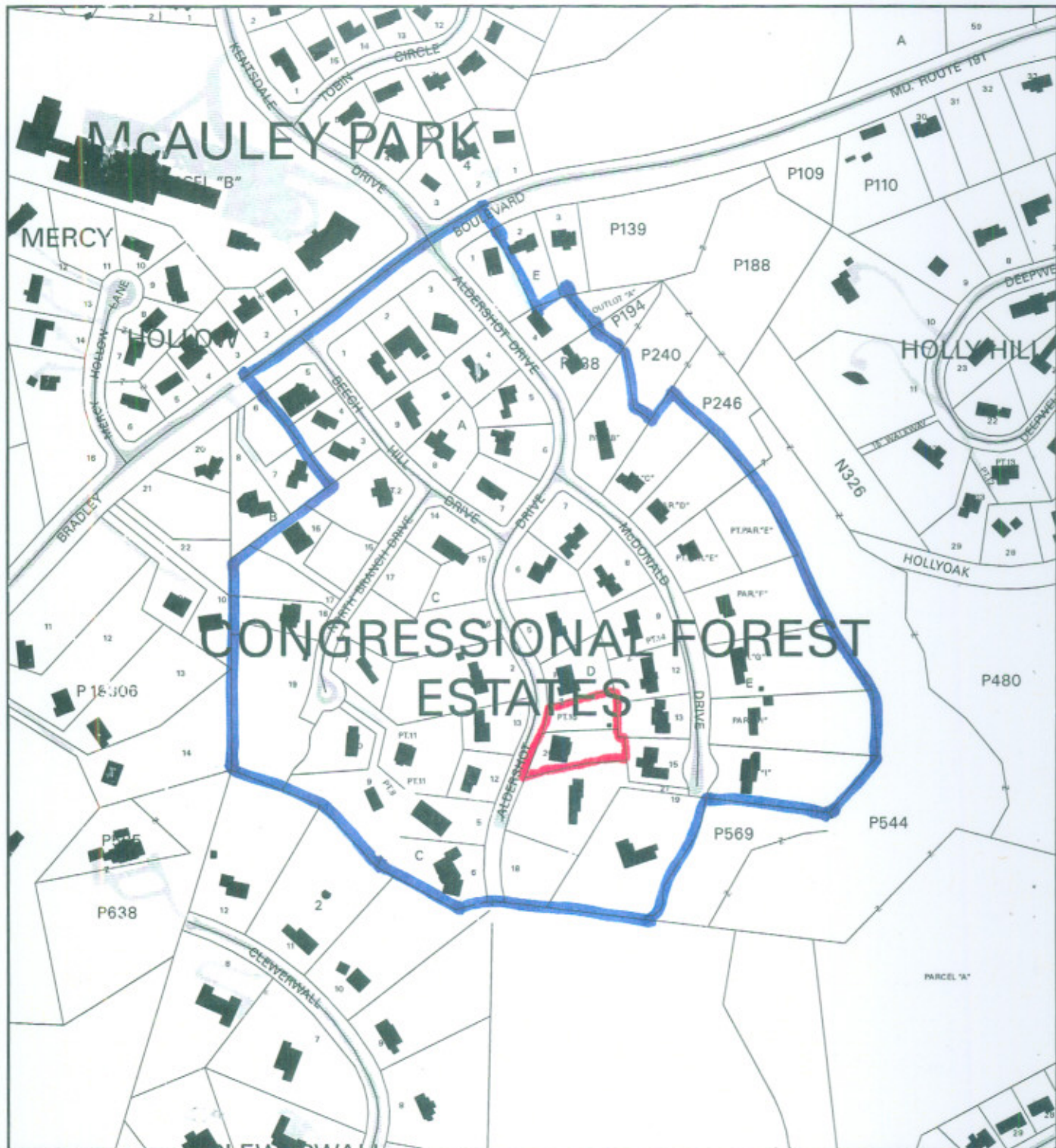
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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue - Silver Spring, Maryland 20910-3760

Key Map



CONGRESSIONAL FOREST ESTATE (720060570)



Map compiled on October 12, 2006 at 8:38 AM | Site located on base sheet no - 211NW08

NOTICE

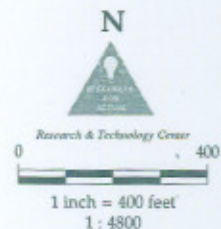
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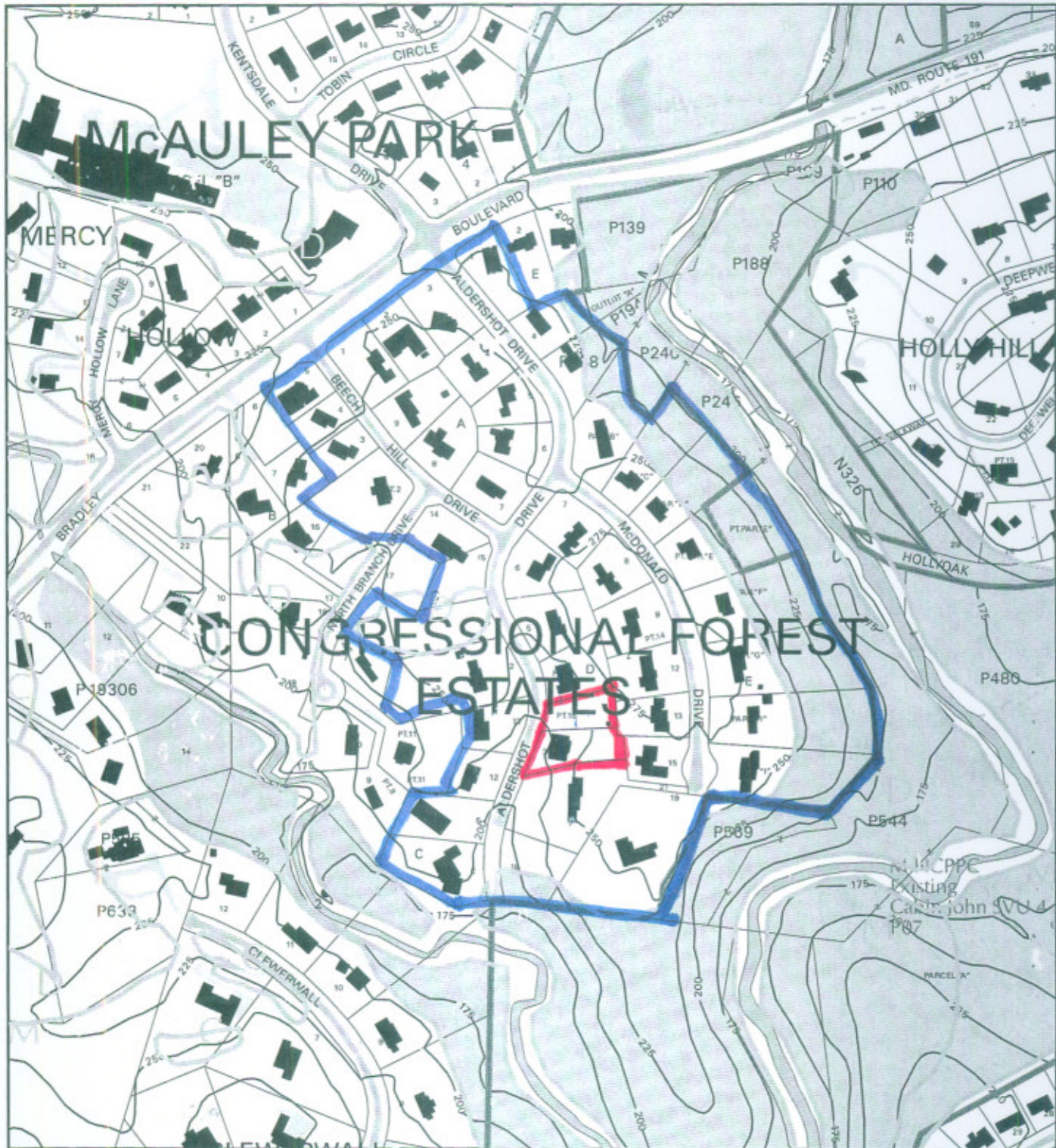
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Key Map



CONGRESSIONAL FOREST ESTATE (720060570)



Map compiled on October 12, 2006 at 8:32 AM | Site located on base sheet no - 211NW08

NOTICE

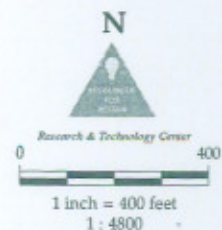
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MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue - Silver Spring, Maryland 20910-3760

Key Map



PROPOSED LOTS 23 AND 24, BLOCK D

CONGRESSIONAL FOREST ESTATES

FILE No. 720060570

REVISED NOV. 16, 2006

Comparable Lot Data Table (Sorted by Frontage)

Lot #	Block	Frontage	Alignment	Lot Size	Lot Shape	Avg. Width	Buildable Area
1	E	244	parallel	28,479	irregular	246	8,674
1	A	220	perpendicular	29,174	rectangular	134	9,526
3	A	218	perpendicular	30,852	rectangular	132	9,423
6	D	216	perpendicular	28,953	irregular	134	13,997
18	D	206	parallel	30,453	irregular	186	16,070
5	D	202	perpendicular	32,412	irregular	170	17,887
8	D	197	perpendicular	29,497	irregular	168	13,094
2	C	184	perpendicular	63,094	irregular	174	46,782
7	D	182	perpendicular	28,761	rectangular	164	8,504
5	A	182	perpendicular	24,674	irregular	117	5,003
7	A	180	parallel	28,000	rectangular	194	6,036
8	A	169	perpendicular	28,150	irregular	166	15,023
6	A	169	perpendicular	26,336	irregular	115	10,069
13	C	169	perpendicular	21,497	irregular	129	4,637
9	D	164	perpendicular	29,436	irregular	145	17,399
14	C	163	parallel	21,683	irregular	137	7,452
Parcel "I"	E	159	perpendicular	64,094	irregular	154	43,979
6	C	159	perpendicular	42,558	irregular	148	27,474
Parcel "F"	E	158	perpendicular	66,564	rectangular	165	45,432
15	C	158	perpendicular	21,396	irregular	147	9,118
15	D	151	perpendicular	22,146	irregular	137	9,702
Parcel "G"	E	150	perpendicular	71,582	rectangular	155	50,902
Parcel "B"	E	150	perpendicular	44,954	irregular	177	25,322
4	A	150	perpendicular	27,750	irregular	152	8,669
9	A	147	perpendicular	28,357	irregular	131	15,776
23	D	143	perpendicular	22,025	irregular	125	10,392
4	E	142	perpendicular	23,363	irregular	136	11,546
12	C	142	perpendicular	20,277	irregular	147	2,485
12	D	135	perpendicular	24,443	rectangular	128	14,230
Parcel "H"	E	130	perpendicular	73,812	rectangular	132	52,172
13	D	125	perpendicular	22,744	rectangular	113	11,579
5	C	124	perpendicular	30,311	rectangular	127	17,519
16	C	123	perpendicular	50,669	irregular	120	11,185
2	A	121	perpendicular	27,126	irregular	121	15,201
Parcel "D"	E	103	perpendicular	43,826	rectangular	114	28,810
Parcel "C"	E	103	perpendicular	43,786	rectangular	107	27,855
24	D	71	perpendicular	20,424	irregular	115	7,448
19	D	50	perpendicular	100,349	irregular	162	74,475
21 *	D	18	parallel	59,042	pipestem	265	36,333

NOTES:

1. All lot statistics taken from available record plats.
 2. Longest front property line used for frontage calculation on corner lots.
 3. A 40' Front Building Restriction Line (per R-200 zone) was assumed for buildable area calculations.
 4. Lots have been determined to be either irregular, rectangular, or pipestem in shape.
- * Lot 21, Block D was recorded by Plat 18002 (recorded, 1990) with a pipestem dimension of 18.19'. The house is accessed through this pipestem.

Coleman, Joyce

From: Leventhal's Office, Councilmember [Councilmember.Leventhal@montgomerycountymd.gov]
Sent: Friday, December 08, 2006 8:11 AM
To: Coleman, Joyce
Cc: Vitale, Patricia; Fletcher, Cassandra; scott@myorganicmarket.com
Subject: FW: from Scott at MOM's

MESSAGE TO JOYCE COLEMAN, SPECIAL ASSISTANT TO THE PLANNING BOARD

Dear Joyce:

I always appreciate your help with the constituent matters that I bring to your attention. Below is Scott Nash's account of his concerns over how Planning Board staff and Board members handled a recent case. Because I don't know whether this matter is ex parte, I will leave it to your good judgment how best to relay these concerns to Chairman Hanson and other Board members. I will await your reply.

Thanks!
 George Leventhal
 Montgomery County Councilmember

-----Original Message-----

From: scott@myorganicmarket.com [mailto:scott@myorganicmarket.com]
Sent: Thu 12/7/2006 10:16 AM
To: Leventhal's Office, Councilmember
Cc:
Subject: RE: from Scott at MOM's

OK. I'll go ahead and speak up about this. I've decided that I don't mind (actually prefer) if you refer to our specific case [file #720060570], as it's been my experience in business that when correcting problems, being able to point to specific events brings the problems more into the spotlight and helps to fix those problems more easily and quickly. However, I am aware there is the possibility that the Board could hold a grudge. I had problems with the following occurrences, as I feel like they compromised the goal of a fair hearing:

* From a due process perspective, the Board's staff presented pictures and drawings that the staff created as part of their presentation, but were not part of the staff report nor made available to us the required 5-10 days before the hearing.

* The pictures that were shown were extremely misrepresentative of our neighborhood. For example, they showed a picture of a new house that is 1 street over from our street in our neighborhood, making the argument that because of the character of this house and others like it, that section of the neighborhood should be excluded from the neighborhood definition. What they omitted was that there are 3 identical houses (same builder) on the street of the proposed new lot and within direct view of the proposed new lot. Their goal in excluding that particular section of the neighborhood was to eliminate existing properties/houses with large houses on odd shaped lots with pipestem entrances that would show that our proposed property would be no different than numerous properties within the neighborhood. I thought this particularly showed the staff's intentions were to win rather than be fair, considering their willingness to present extremely misleading and unbalanced information to the board (without our prior notice, nonetheless).

* During the majority of our limited (10 minutes) testimony, 1 of the Board members left the room to make a call on his cell phone (my wife was in the audience and she witnessed the cell phone call). During his absence, we made the above rebuttal to the staff's slideshow presentation. Upon his return, the Board member ruled against us on this very topic, stating that he didn't think a house on our proposed property would match the character of the neighborhood. In my opinion, the process is automatically rendered unfair if someone who can vote on the proposal is not present to hear both sides of the

testimony.

* After the allotted time for testimony was over with (10 minutes each side), the Board began to ask us a few questions of both sides. While we were answering one of their questions, one of the staff members actually walked up to a Board member and whispered in her ear for a substantial amount of time. Not only were we not able to respond to what this staff member was saying, considering we couldn't hear it and it was not spoken into the microphone (it was not recorded), but this was distracting to both us and the Board member as it happened in the middle of our response.

* Finally, leading up to the hearing, a letter was mailed to our neighbors by the staff announcing the proposed changes. It was so poorly written, that the neighbor directly across the street from our existing house thought they were talking about building 2 houses on the other side of our house (rather than 1 house on the open property on the other side of our house). After our neighbor wrote a letter opposing the proposal, I told them what was really happening and they wrote a highly critical letter to staff of their unprofessional and unclear hearing announcement, supporting our proposal. On that note, the neighbors directly next to and directly across the street from the proposed property have also written letters stating their support of the proposal.

Thanks again for passing this along and for giving me this opportunity to voice my grievances. George. For all I know, speaking up about this might hurt our chances of approval, but that's a risk I'm willing to take because the world doesn't become a better place unless people try to right what is wrong.

Scott.

-----Original Message-----

From: "Leventhal's Office, Councilmember"

Sent: Wed, December 6, 2006 3:16 pm

To: scott@myorganicmarket.com

Subject: RE: from Scott at MOM's

Dear Scott,

I'm sorry to hear you had this bad experience. On the one hand, we want Park & Planning staff to be empowered to exercise their own independent judgment and training. On the other hand, we don't want them to pursue agendas that leave members of the public feeling they were not heard or not treated fairly.

I think it would be useful for Royce Hanson (Planning Board chairman) to get the benefit of your comments but I don't want to share them with him unless you want me to do so. Let me know.

Best,

George

-----Original Message-----

From: scott@myorganicmarket.com [mailto:scott@myorganicmarket.com]

Sent: Wednesday, December 06, 2006 2:06 PM

To: Leventhal's Office, Councilmember

Subject: from Scott at MOM's

Hello George. I'm writing as a constituent...

I had a pretty bad experience with the County's Planning Committee. I'm trying to get my personal property in Bethesda subdivided to do some downsizing and "green" building. The staff does not support our proposal. The Board is on the fence.

During our first hearing (another hearing is yet to come- we received a "deference" rather than a decline/approve ruling), I felt that the process was disappointingly unfair. I wasn't on trial, but I felt that the staff was being completely and deliberately unfair in their unbalanced representation of our neighborhood. I wouldn't expect this in such a hearing and I was really surprised. It seemed like the staff was arguing to win, rather than to represent and explain the situation fairly. When there is such deliberate imbalance and misrepresentation, I see that as lacking integrity and dishonest.

However, what appalled me the most was when one of the Committee members left the room during our timed testimony to make a call on his cell phone. He missed almost all of our testimony and then came back and ruled against us on the very issue which I specifically addressed in his absence (how the staff's visual representation of the character of the neighborhood was misleading).

My belief is that no matter what the situation, if someone doesn't care enough about their job to do it right, then they shouldn't do it at all.

Anyway, I'm not sure if there's anything you can do or even if I want you to, but I figured you'd want to know about it.

Scott Nash
MOM's- My Organic Market
President

Scott Nash
MOM's- My Organic Market
President

01/02/2007 11:23 FAX

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9119 Aldershot Drive
Bethesda, MD 20817
November 16, 2006

Ms Dolores Kinney
Senior Planner
Development Review Division
M-NCPPC
8787 Georgia Avenue
Silver Spring,
MD 20910-3760

Re: Congressional Forest Estates
Pre-preliminary Plan # 720060570

Dear Ms Kinney:

Thank you for giving me so much time over the telephone on October 27th, and for explaining the processes involved with this proposal. I regret that I was unable to attend the initial hearing, and I hope to be able to attend the next hearing.

I acknowledge that the fact that our property will lose value, if a house is built as planned on the proposed lot, is not relevant to MNCPPC's consideration. However, as I understand the situation, the "character of the neighborhood" is relevant. This is of special interest to us, since we moved here less than two years ago, in part because the character of our former neighborhood (in the Edgemoor part of Bethesda) was changing rapidly for the worse: builders built new, huge, houses on the lot next to us and across the street. And so we sought a new neighborhood.

Because of the geography—the hills and slopes—I believe that the proper definition of this "neighborhood" should include only Aldershot Drive and Beech Hill Drive. The other nearby streets are not visible from Aldershot and are outside the traffic pattern.

I look forward to learning the date of the next hearing. (We will be out of the country for a week beginning December 8th, and so we

01/02/2007 11:23 FAX

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hope that will not be the period in which the hearing will be scheduled.) If you have any questions, please do not hesitate to contact me. And, once again, thank you for your help in explaining how the process operates.

Sincerely,

S/S

Arthur T. Downey



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item # 8
October 26, 2006

**MEMORANDUM**

DATE: September 28, 2006

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RKX*
Catherine Conlon, Supervisor *CC*
Development Review Division *DMK*

FROM: Dolores M. Kinney, Senior Planner (301) 495-1321
Development Review Division

REVIEW TYPE: Pre-preliminary Plan of Subdivision, Resubdivision of Existing Lot 20, and Part of Lot 16

APPLYING FOR: Two one-family detached residential lots

PROJECT NAME: Congressional Forest Estates

CASE #: 720060570

REVIEW BASIS: Chapter 50, including Sec. 50-29 (b)(2), Montgomery County Subdivision Regulations

ZONE: R-200

LOCATION: The Subject Property is located near the terminus of Aldershot Drive, approximately 560 feet south of the intersection with Beech Hill Drive.

MASTER PLAN: Potomac

APPLICANT: Scott Nash

ENGINEER: CAS Engineering

FILING DATE: May 11, 2006

HEARING DATE: October 26, 2006

STAFF RECOMMENDATION: Objection to submission of the preliminary plan

SITE DESCRIPTION:

Lot 20 and Part of Lot 16 ("Subject Property") is part of the Congressional Forest Estates Subdivision, which was approved in 1958. Surrounded by one-family detached residential properties, the Subject Property is located at the terminus of Aldershot Drive, approximately 560 feet south of the intersection with Beech Hill Drive (Attachment A). The Subject Property contains 0.97 acres and is zoned R-200. The property contains a dwelling, which will remain. Access to the site is currently directly from Aldershot Drive.

PROJECT DESCRIPTION:

The pre-preliminary plan proposes to create two (2) residential lots for the construction of two one-family detached dwellings, one of which exists (Attachment B). Vehicular access to the property will continue to be directly from Aldershot Drive. The property will be served by public water and sewer.

The subject preliminary plan is submitted pursuant to Section 50-33A of the Subdivision Regulations in which the applicant shall submit a concept plan concerning major aspects of the submission on which a decision of the Board is requested prior to preparation and submission of a preliminary plan. The Board shall act to approve or disapprove, or approve the concept plan subject to such conditions or modifications as the Board finds necessary. The application for a preliminary plan shall be filed within ninety (90) days following the action of the board on the pre-preliminary plan. In this instance, the Applicant requests a Board decision on whether the proposed resubdivision meets the Section 50-29(b)(2) requirements.

DISCUSSION OF ISSUES

Master Plan Compliance

The Potomac Master Plan did not specifically address the Subject Property but highlighted parcels recommended for changes in use and/or density. The master plan supports the retention and reconfirmation of existing zoning for all developed, underdeveloped, and undeveloped land in the subregion, except for those sites recommended for change. The Subject Property is not identified for change in use or density. The proposed preliminary plan is consistent with the master plan because it retains the one-family detached zoning.

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

A. Statutory Review Criteria

In order to approve an application for resubdivision, the Planning Board must find that the proposed lot complies with all seven of the resubdivision criteria, set forth in Section 50-29(b)(2) of the Subdivision Regulations, which states:

Resubdivision. Lots on a plat for the Resubdivision of any lot, tract or other parcel of land that is part of an existing subdivision previously recorded in a plat book shall be of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing block, neighborhood or subdivision.

B. Neighborhood Delineation

In administering the Resubdivision section, the Planning Board must determine the appropriate "Neighborhood" for evaluating the application. The Applicant and Staff do not agree on the neighborhood delineation.

Applicant's Neighborhood

The Applicant has proposed a neighborhood of 42 lots for analysis purposes. The Applicant's neighborhood includes properties which extend south from Bradley Boulevard along Aldershot Drive, MacDonald Road, Beech Hill and North Branch Drive (Attachment C, Applicant's Neighborhood). Staff is of the opinion that the applicant's neighborhood delineation is inappropriate for the purpose of the proposed resubdivision for the following reasons:

- a.) Properties fronting on North Branch do not have frontage or access along the gateway streets, which lead into the neighborhood. The gateway streets are Beech Hill Drive and Aldershot Drive. The same is true for the lots on the east side of Macdonald Drive.
- b.) The lots and dwellings along North Branch Drive create a clustered community within itself because of the orientation of the lots, the number of irregularly shaped lots and the location of the dwellings on the lots.
- c.) The properties along North Branch are clustered in orientation and not comparable to the character of the lots fronting on Aldershot Drive, Macdonald Drive and Beech Hill Drive.

Staff's Neighborhood

Staff's recommended neighborhood includes 32 lots and excludes properties fronting on North Branch Drive and on the east side of MacDonald Road (Attachment C-1). A tabular summary of lot data for both neighborhoods is also attached (Attachments D and D-1).

C. Analysis

Comparison of the Character of Proposed Lots to Existing

In performing the analysis, Staff applied the resubdivision criteria to the Staff's delineated neighborhood ("Neighborhood"). Based on the analysis, Staff finds that the proposed resubdivision would not be of the same character as the existing lots in the Neighborhood. As set forth below, the attached tabular summary and graphical documentation support this conclusion:

Frontage: In a Neighborhood of 32 lots, lot frontages range from 50 feet to 244 feet. All but one lot have frontages greater than 100 feet, with most being greater than 150 feet. The one lot with less than 100 feet of frontage is an unusual configuration at an atypical termination for a public road. This termination, a stub street rather than a cul-de-sac, may have been designed to protect environmental features. The proposed Lot 23 has a lot frontage of 143 feet and Lot 24 has frontage of 71 feet. The proposed Lot 23 will be consistent in character with other lots in the neighborhood, but Lot 71 will be one (1) of two (2) lots with the smallest frontage. **Therefore, Lot 71 will not be of the same character as other lots in the neighborhood.**

Area: In a neighborhood of 32 lots, lot areas range from 2,485 square feet to 74,475 square feet square feet in area. The proposed Lot 23 has an area of 10,392 and Lot 24 has an area of 7,448 square feet. **The proposed lots will be consistent in character with the existing lots in the neighborhood with respect to area.**

Lot Size: The lot sizes in the delineated Neighborhood range from 15,000 square feet to 100,349 square feet with 65% of the lots between 20,000 to 29,000 square feet. The proposed Lot 23 has a lot size of 22,025 square feet and Lot 24 has a lot size of 20,424 square feet. Although the two proposed lots would be the smallest in the block in which they are located (Block D), the lot sizes of the proposed lots will be of the same character as the existing lots in the Neighborhood.

Lot Width: The lot widths at the front building restriction line in the existing Neighborhood range from 100 feet to 265 feet. The proposed Lot 23, because of the location of the existing house, will have a lot width of 125 feet and Lot 24 will have a lot width of 115 feet. The proposed resubdivision will be of the same character as the other lots in the overall neighborhood but the smallest in size within Block D.

Shape: Seven of the existing lots in the neighborhood are corner lots. Three are rectangular and four are radial lots. The remaining lots are irregular in shape. Although there are other irregular lots in the Neighborhood, the geometric configuration of the lot lines are unlike the existing lots in the neighborhood and will not be consistent in character with the neighborhood.

Alignment: There are seven (7) corner lots in the neighborhood and the remainder are perpendicular lots. **The proposed lots are also perpendicular lots and will be of the same character as the other existing perpendicular lots in the neighborhood.**

Residential Use: The existing lots and the proposed lots are residential in use.

Citizen Correspondence and Issues

This plan submittal pre-dated new requirements for a pre-submission meeting with neighboring residents, however, written notice was given by the applicant and staff of the plan submittal and the public hearing date. As of the date of this report, two (2) citizen letters have been received. A copy of the letters and Staff's response is attached.

The letter from Arthur Downey expresses his concern pertaining to the location of the proposed dwelling on Lot 24. He believes that the proposed house location will have a negative impact on large trees.

Provided that the properties meet the setback requirements of the Zoning Regulations, Chapter 50 does not regulate house location nor is house location evaluated as one of the resubdivision criteria. Furthermore, tree protection is subject to evaluation at the preliminary plan stage.

Another letter was received from Mr. Paul Baribeau who expressed the same concerns pertaining to house location and tree loss. Both Mr. Baribeau and Mr. Downey were advised that tree protection would be considered at preliminary plan. In addition, Mr. Baribeau believes that the proposed development will also result in a significantly higher amount of run-off.

As stated in Staff's attached response letter, water run-off is reviewed in the context of the storm water management concept and subject to the preliminary plan review.

CONCLUSION

Staff's evaluation indicates that the indentation of the lot lines for both of the proposed lots is unlike any others in Staff's recommended Neighborhood and creates lot shapes which are not of the same character as the existing lots. Additionally, 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 two proposed lots are not of the same character as the existing lots in Staff's recommended neighborhood with respect to shape. Furthermore, the proposed Lot 24 will be one (1) of two (2) lots with the least frontage. Therefore, the proposed resubdivision does not comply with Section 50-29(b)(2) of the Subdivision Regulations. As such, Staff objects to the submission of the preliminary plan.

Attachments

Attachment A	Vicinity Development Map
Attachment B	Proposed Development Plan
Attachment C	Applicant's Neighborhood
Attachment C-1	Staff's Neighborhood
Attachment D	Applicant's Neighborhood Tabular Summary
Attachment D-1	Staff's Neighborhood Tabular Summary

Attachment E	Applicant's 50-33A Request
Attachment F	Citizen Letter and Staff's Response

CONGRESSIONAL FOREST ESTATE (720060570)



Map compiled on October 12, 2006 at 8:32 AM | Site located on base sheet no - 21NW08

NOTICE

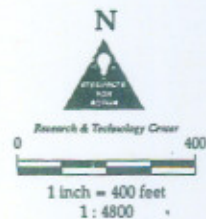
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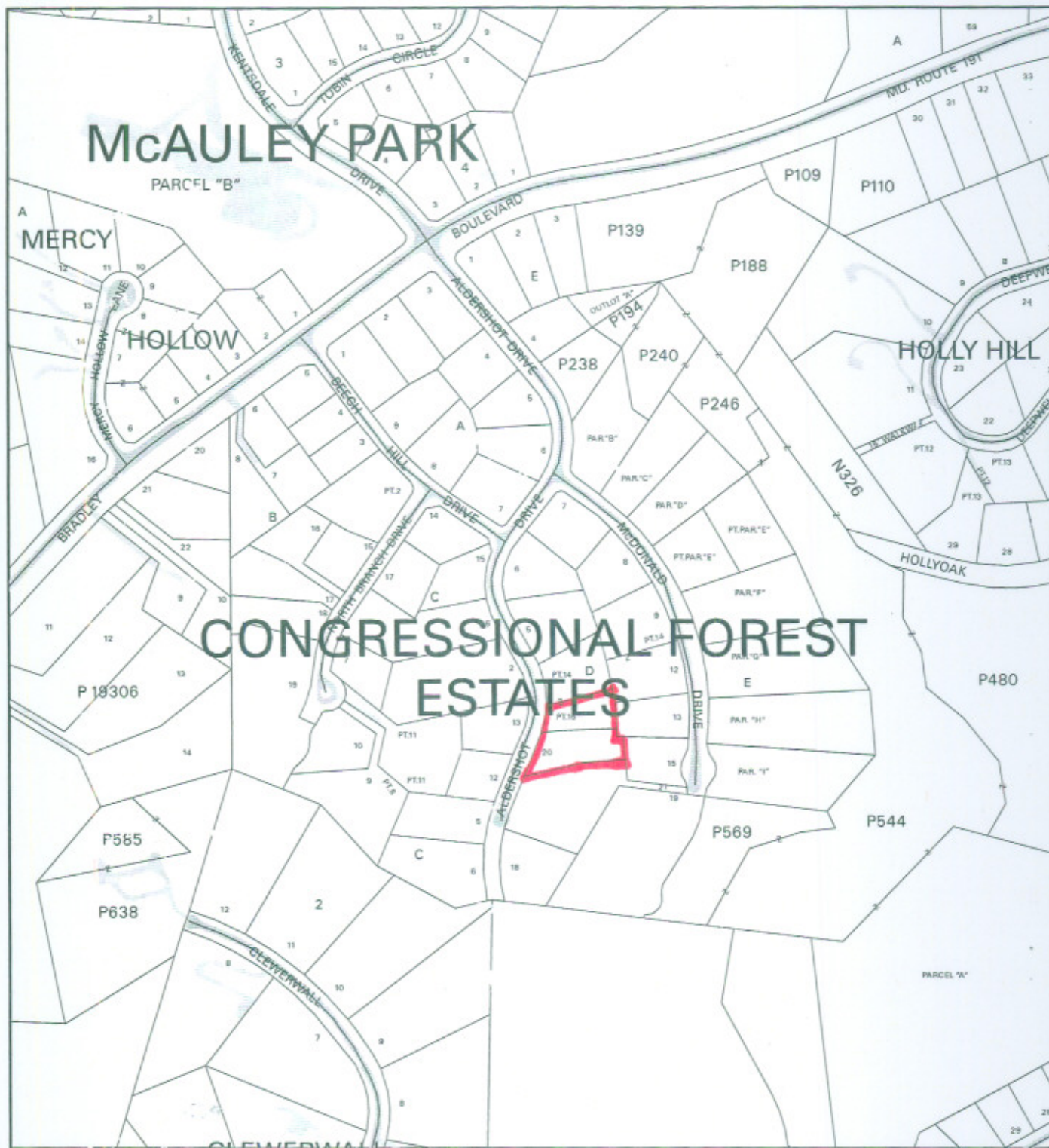
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MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue - Silver Spring, Maryland 20910-8360

Key Map



CONGRESSIONAL FOREST ESTATE (720060570)



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Key Map



N



Research & Technology Center

0 400

1 inch = 400 feet

1:4800

MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue - Silver Spring, Maryland 20910-1760

- [illegible]

ZONING DATA

PIN LOT A&A = 20,000 SQ FT
PIN LOT INTERIO AT B&H = 28 PT
PIN LOT INTERIO AT B.M.L. = 60 PT

PINEY C.B.M.L. = 40 PT (ON INTERIOR-INTERIO)
PINEY B.M.L. = 60 PT
OCEAN B.M.L. = 10 PT PINEY OCEAN OCEAN,
28 PT PIN. TOTAL

SITE / ZONING DATA

[illegible]

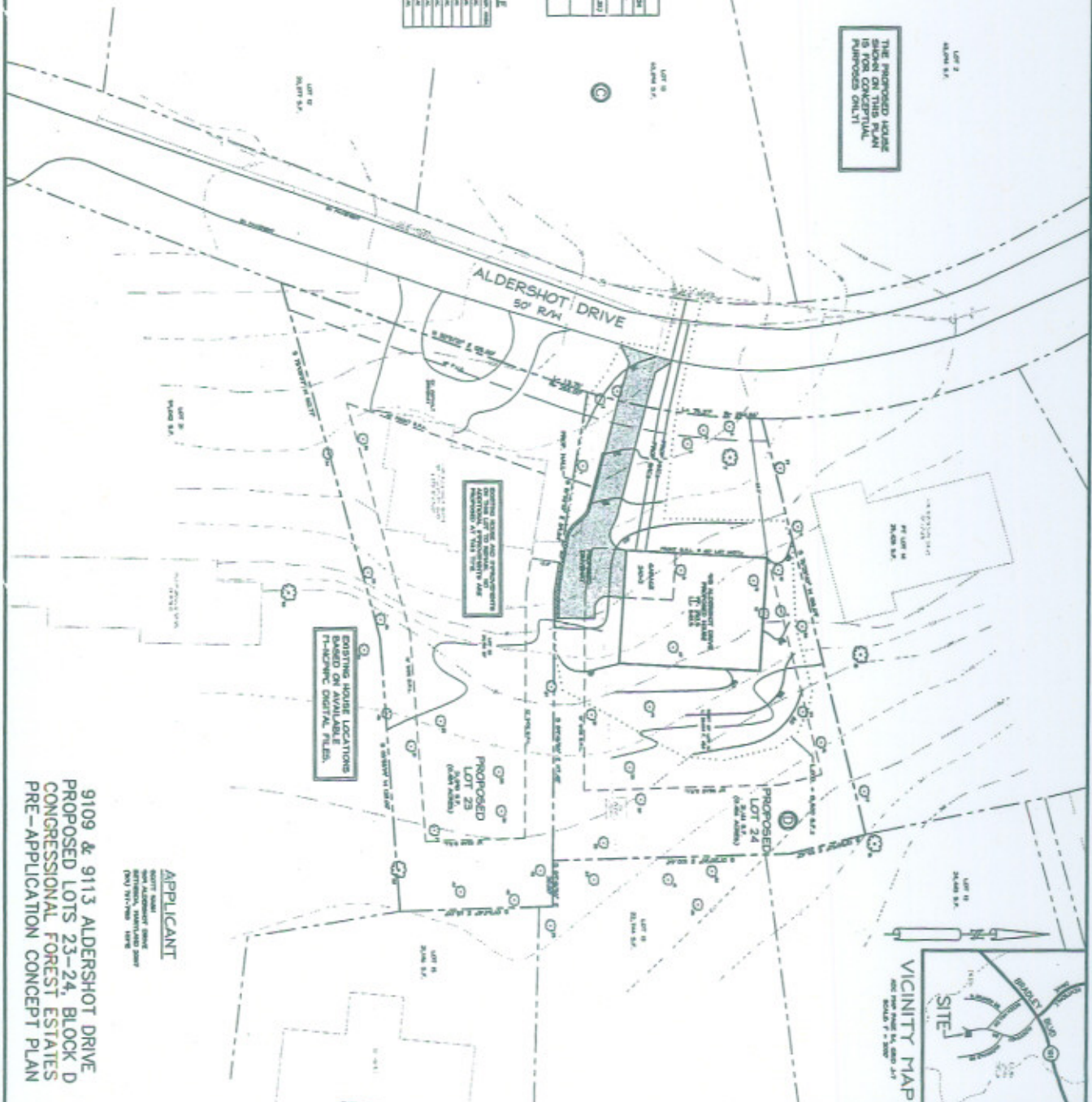
JEE DANTA

[illegible]

EXPERIMENTAL DATA TABLE

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MISS UTILITY

[illegible]

9109 & 9113 ALDERSHOT DRIVE
PROPOSED LOTS 23-24, BLOCK D
CONGRESSIONAL FOREST ESTATES
PRE-APPLICATION CONCEPT PLAN

APPLICANT
SCOTT KRAU
500 ALCOHOLY DRIVE
BETHESDA, MARYLAND 20814
(301) 741-7888 HIRE



CAS ENGINEERING
CIVIL • SURVEYING • LAND PLANNING
A DIVISION OF CAS ENTERPRISES, INC.

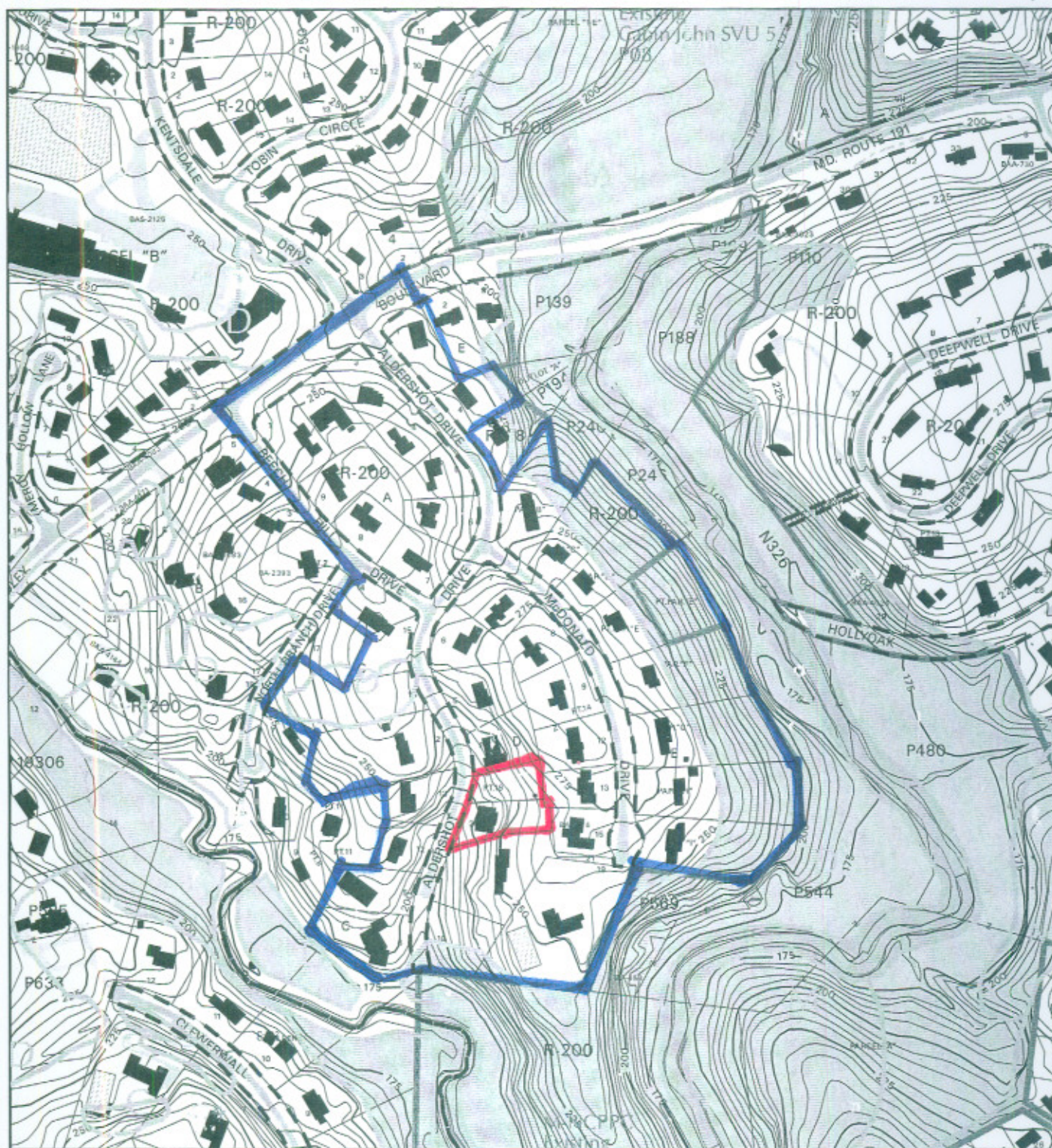
100 West Ridgeville Boulevard, Suite 101, Mount Airy, Maryland 21771
DC Metro (301) 607-8031 Fax (301) 607-8045

PROPOSED LOTS 29 & 24, BOOK D
CONGRESSIONAL FOREST
ESTATES
BETHESDA (7TH) ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND
PRE-APPLICATION CONCEPT PLAN

DATE	BY	REVISION	PROJECT	DATE
03/20/06	EBT	TO CLIENT FOR REVIEW	05-255	03/2006
03/20/06	EBT	SUBMITTAL TO PERCIVE	Construction	(continued)
			EBT	EBT
			Sheet	of 10
			1" = 20'	CAS

CONGRESSIONAL FOREST ESTATES

ATTACHMENT C



Map compiled on November 21, 2006 at 8:29 AM | Site located on base sheet no - 211NW08

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Key Map



N



Research & Technology Center

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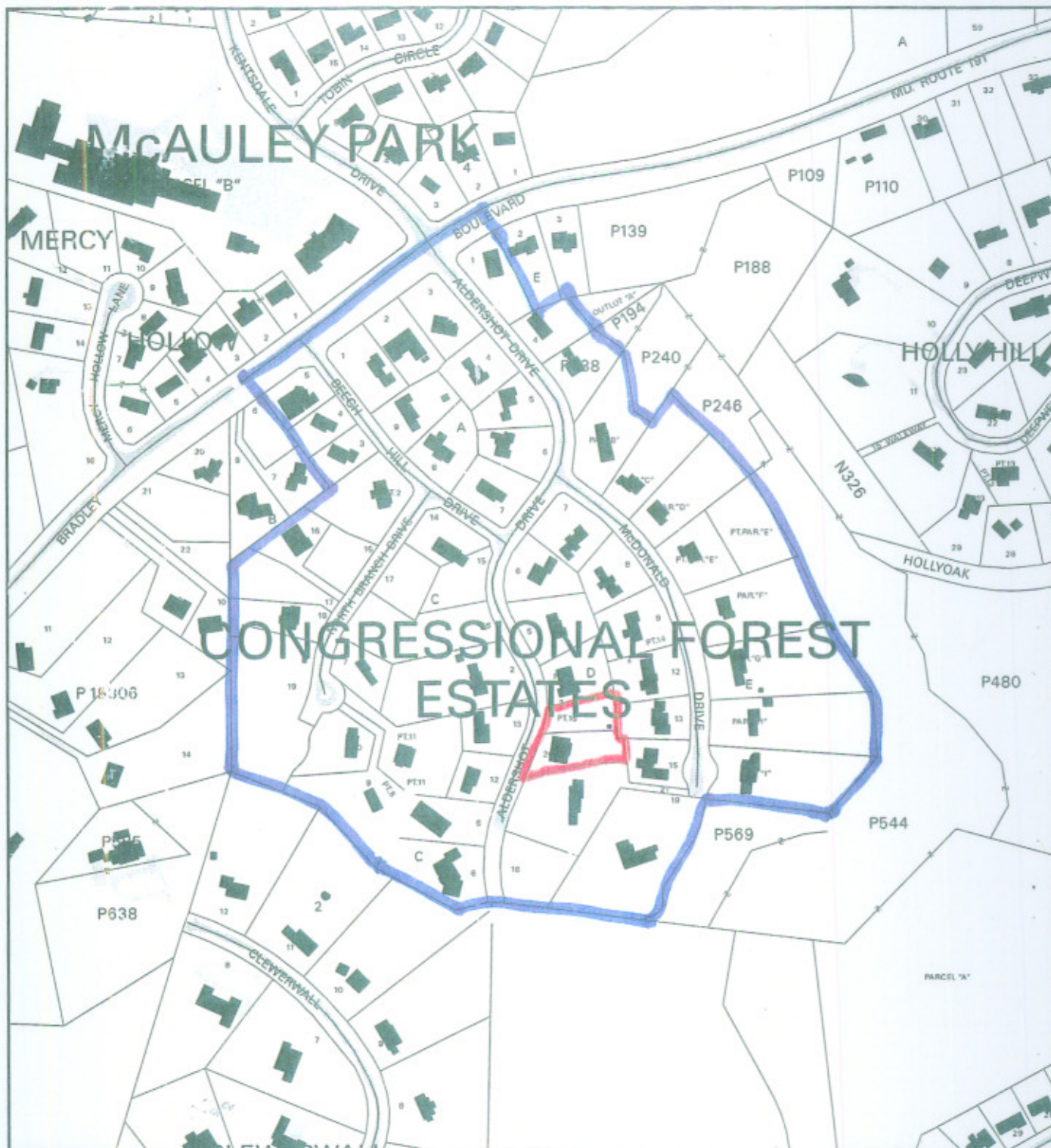
1 inch = 400 feet
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MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue - Silver Spring, Maryland 20910-3760

APPLICANT'S NEIGHBORHOOD MAP CONGRESSIONAL FOREST ESTATE (720060570)

ATTACHMENT C



Map compiled on October 12, 2006 at 8:38 AM | Site located on base sheet no - 211NW08

NOTICE

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Key Map



Research & Technology Center

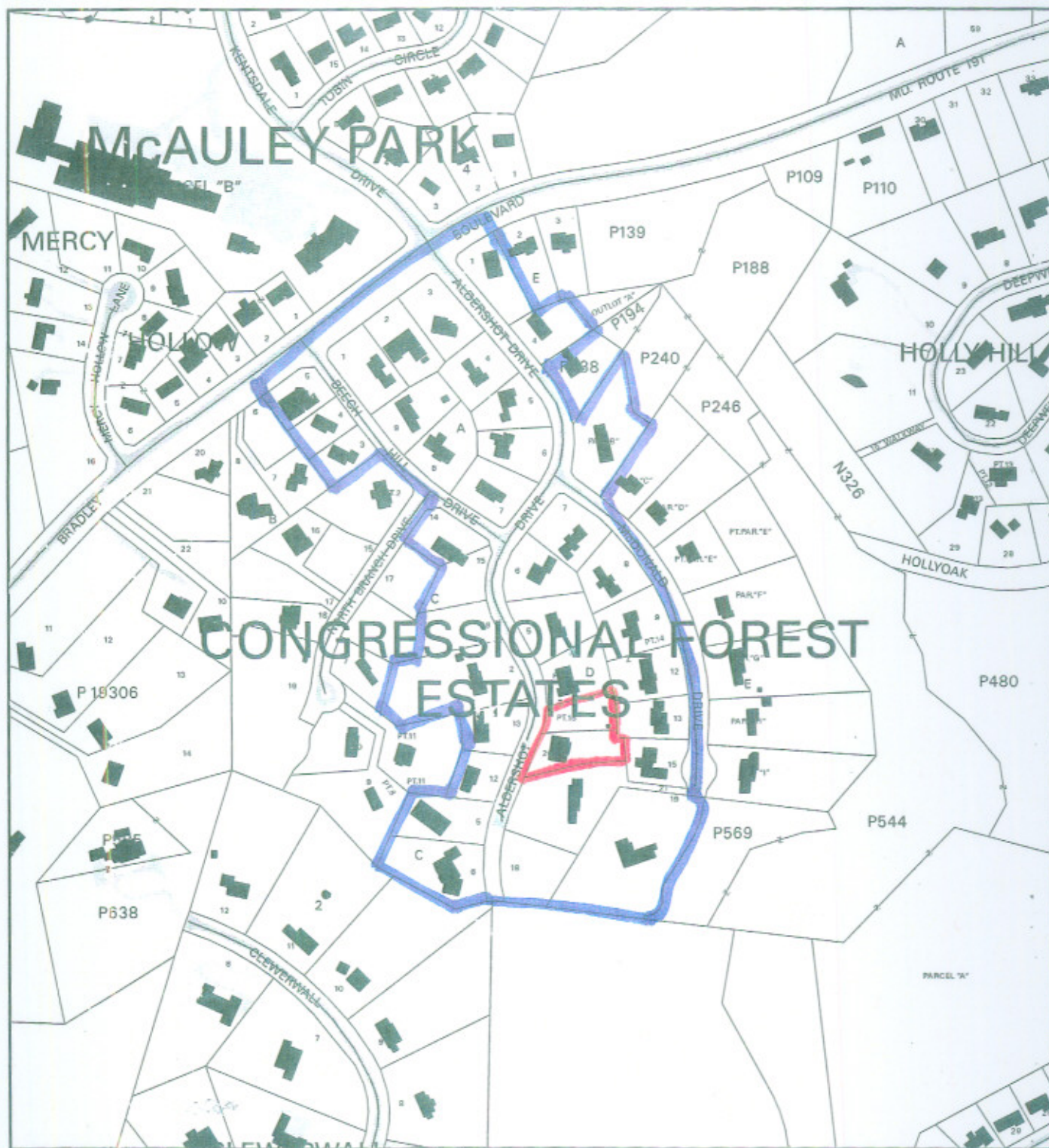
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1 inch = 400 feet
1 : 4800

MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue - Silver Spring, Maryland 20910-3760

CONGRESSIONAL FOREST ESTATE (720060570)



Map compiled on October 12, 2000 at 8:38 AM | Site located on base sheet no - 211NW08

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Key Map



N



Research & Technology Center

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1 inch = 400 feet
1 : 4800

MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8707 Georgia Avenue - Silver Spring, Maryland 20910-3760

Applicant's Recommended Neighborhood Congressional Forest							
Lot #	Block	Frontage	Alignment	Size	Shape	Width	Buildable Area
	B	25	Perpendicular	24,427	Pipestem	11	11,945
9	C	26	Perpendicular	52,351	Pipestem	172	19,177
17	B	41	Perpendicular	29,686	Irregular	90	5,577
19	D	50	Perpendicular	100,349	Irregular	162	74,475
10	C	92	Perpendicular	2,716	Irregular	160	13,405
18	B	94	Perpendicular	22,517	Irregular	86	6,458
3	B	100	Perpendicular	15,014	Rectangular	100	7,227
4	B	100	Perpendicular	15,000	Rectangular	100	7,176
2	A	121	Perpendicular	27,126	Irregular	121	15,201
16	C	123	Perpendicular	50,669	Irregular	120	11,185
5	C	124	Perpendicular	30,311	Rectangular	127	17,519
7	C	124	Perpendicular	23,002	Irregular	135	9,438
12	D	135	Perpendicular	24,443	Irregular	128	14,230
12	C	142	Perpendicular	20,277	Irregular	147	2,485
4	E	142	Perpendicular	23,363	Irregular	126	11,546
9	A	147	Perpendicular	28,357	Irregular	131	15,776
4	A	150	Perpendicular	27,750	Irregular	152	8,669
5	B	150	Corner	17,677	Corner	150	6,320
15	D	151	Perpendicular	22,146	Irregular	137	9,702
21	D	157	Perpendicular	59,042	Irregular	265	36,333
15	C	158	Perpendicular	21,396	Irregular	147	9,118
6	C	159	Perpendicular	42,558	Irregular	148	27,474
14	C	163	Corner	21,683	Corner	137	7,452
17	C	164	Perpendicular	21,745	Irregular	164	8,667
9	D	164	Perpendicular	29,436	Irregular	145	17,399
15	B	165	Perpendicular	21,406	Irregular	150	8,989
6	A	169	Perpendicular	26,336	Radial	115	10,069
8	A	169	Perpendicular	28,150	Irregular	166	15,023
13	C	169	Perpendicular	21,497	Radial	129	4,637
7	A	180	Corner	28,000	Corner	194	6,036
5	A	182	Perpendicular	24,674	Radial	117	5,003
7	D	182	Corner	28,761	Corner	164	8,504
2	C	184	Perpendicular	63,094	Irregular	174	46,782
8	D	197	Perpendicular	29,497	Irregular	168	13,094
5	D	202	Perpendicular	32,412	Irregular	170	17,887
18	D	206	Perpendicular	30,453	Irregular	186	16,070
6	D	216	Perpendicular	28,953	Radial	134	13,997
3	A	218	Corner	30,852	Corner	132	9,423
1	A	220	Corner	29,174	Corner	134	9,526
1	E	244	Corner	28,479	Corner	246	8,674
19	B	295	Perpendicular	88,163	Irregular	91	5,833
13	D	1125	Perpendicular	22,744	Irregular	113	11,579
Proposed Lots							
23	D	143	Perpendicular	22,025	Irregular	125	10,392
24	D	71	Perpendicular	20,424	Irregular	115	7,448

Staff's Recommended Neighborhood Congressional Forest							
Lot #	Block	Frontage	Alignment	Size	Shape	Width	Buildable Area
5	A	182	Perpendicular	24,674	Radial	117	5,003
6	A	169	Perpendicular	26,336	Radial	115	10,069
2	A	121	Perpendicular	27,126	Irregular	121	15,201
4	A	150	Perpendicular	27,750	Irregular	152	8,669
7	A	180	Corner	28,000	Corner	194	6,036
8	A	169	Perpendicular	28,150	Irregular	166	15,023
9	A	147	Perpendicular	28,357	Irregular	131	15,776
1	A	220	Corner	29,174	Corner	134	9,526
3	A	218	Corner	30,852	Corner	132	9,423
4	B	100	Perpendicular	15,000	Rectangular	100	7,176
3	B	100	Perpendicular	15,014	Rectangular	100	7,227
5	B	150	Corner	17,677	Corner	150	6,320
12	C	142	Perpendicular	20,277	Irregular	147	2,485
15	C	158	Perpendicular	21,396	Irregular	147	9,118
13	C	169	Perpendicular	21,497	Radial	129	4,637
14	C	163	Corner	21,683	Corner	137	7,452
5	C	124	Perpendicular	30,311	Rectangular	127	17,519
6	C	159	Perpendicular	42,558	Irregular	148	27,474
2	C	184	Perpendicular	63,094	Irregular	174	46,782
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Proposed Lots							
23	D	143	Perpendicular	22,025	Irregular	125	10,392
24	D	71	Perpendicular	20,424	Irregular	115	7,448



ENGINEERING

A Division of CAS Enterprises, Inc.

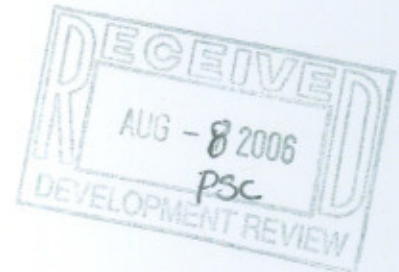
civil engineering • surveying • land planning

108 West Ridgeville Boulevard, Suite 101 • Mount Airy, Maryland 21771
phone 301/607-8031 • fax 301/607-8045 • www.casengineering.com7th psc
August 8, 2006

The M-NCP&PC
Subdivision Development Section
8787 Georgia Avenue, 2nd Floor
Silver Spring, MD 20910

Attn: Ms. Cathy Conlon

Re: File 720060570
9109 & 9113 Aldershot Drive
Proposed Lots 23 & 24, Block D
Congressional Forest Estates



Dear Cathy:

Pursuant to our conversation, please find attached the revised Pre-Application Plan (8 copies), Neighborhood Map (2 copies), and Lot Data Tables (2 copies). Although, owner does not plan to remove the existing house (on Lot 23), you had expressed concern with regard to the location of a new house, should the subject house be removed. Based on current Established Building Line criteria, the front building restriction line for the Proposed Lot 23 is 40' (the minimum for the zone). As a result, a new house could be constructed in the same location as the existing house. Please keep in mind that this is very unlikely as the existing house was newly constructed in 1997.

The Neighborhood Map has also been revised to include the lots to the east of McDonald Drive. Although they are termed parcels, each was recorded by plat. The Lot Data Tables have also been revised. We believe that the proposed subdivision meets the requirements of Section 50-29(b)(2), where lots shall be of the same character as to street frontage, alignment, size, shape, width, area, and suitability for residential development. No new "lows" or "highs" with respect to these criteria and within this neighborhood are being proposed. The subdivision also maintains the existing house and does not create a non-conforming situation.

We ask that you please schedule this project for a Planning Board Hearing in accordance with Section 50-33A(3). We specifically ask that the Board render a decision on Section 50-29 only. If you have any questions or need any additional information please do not hesitate to call.

Sincerely,

Jeffrey A. Robertson
Project Manager

cc: M. Hutt
S. Nash

ATTACHMENT F

CITIZEN CORRESPONDENCE



July 26, 2006

Mr. Arthur T. Downey
9119 Aldershot Drive
Bethesda, MD 20817

RE: Congressional Forest Estates
Pre-preliminary Plan # 720060570

Dear Mr. Downey:

The referenced pre-preliminary plan is currently under review by the staff of the Maryland National Capital Park and Planning Commission (MNCPPC). The property subject to the plan review is located on the east side of Aldershot Drive, approximately 560 feet south of the intersection with Beech Hill Drive.

Staff is in receipt of your letter to Catherine Conlon dated May 16, 2006 and acknowledges your concerns. Please note that tree preservation issues are reviewed under the forest conservation regulations and subject to the preliminary plan review. The preliminary plan may be submitted for review only if the Board agrees with the lot configuration as submitted with the pre-preliminary. At the present time, the pre-preliminary plan review continues and as of the date of this letter, a Planning Board hearing date has not been scheduled. You are a party of record and will be notified of the date of the hearing.

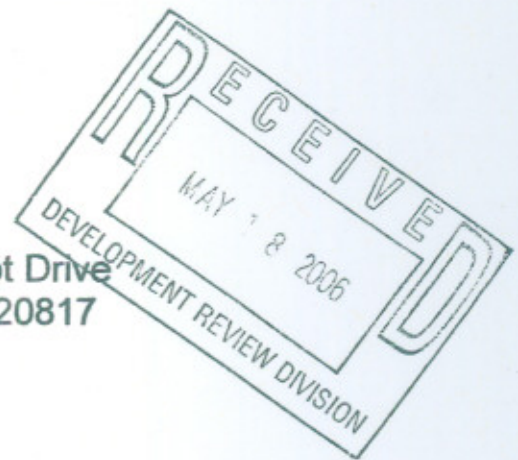
Should you have questions or need further assistance, please do not hesitate contact me at (301) 495-1321.

Sincerely,

Dolores Kinney, Senior Planner
Development Review Division

cc: Catherine Conlon, Supervisor, Development Review - MNCPPC
Steve Federline, Supervisor, Environmental Planning - MNCPPC
Eric Tidd, CAS Engineering

9119 Aldershot Drive
Bethesda Md 20817
May 16, 2006



M-NCP&PC
Subdivision Office,
Development Review Division
8787 Georgia Avenue
Silver Spring, Md 20910

Re: File # 7-20060570

Dear Sir/Madam:

Cas Engineering provided us with a copy of the concept plan that was filed with the Montgomery County Planning Board, and invited us to submit to you any written comments.

We have no comments on the proposed Lots. However, we object to the location of the proposed house on proposed Lot 24. We recognize that the proposed house shown on the plan is for "conceptual" purposes only. Nevertheless, in our view, the house should be located further to the South and East. Its proposed location will be destructive of large trees, including the root system of trees on our adjacent Lot 14. If the proposed house were positioned even ten feet to the South and to the North, there would be significantly less damage to those trees.

Sincerely,


Arthur T. Downey



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

July 26, 2006

Mr. Paul D. Baribeau
9112 Aldershot Drive
Bethesda, MD 20817RE: Congressional Forest Estates
Pre-preliminary Plan # 720060570

Dear Mr. Baribeau:

The referenced pre-preliminary plan is currently under review by the staff of the Maryland National Capital Park and Planning Commission (MNCPPC). The property subject to the plan review is located on the east side of Aldershot Drive, approximately 560 feet south of the intersection with Beech Hill Drive.

Staff is in receipt of your letter to Catherine Conlon dated June 13, 2006 and acknowledges your concerns. Staff also has concerns with the pre-preliminary as submitted. Information pertaining to water run-off and tree save has not been submitted with the pre-preliminary plan. Please note that water run-off is reviewed in the context of the storm water management concept. Tree preservation issues are reviewed under the forest conservation regulations. Both the storm water management concept and the forest conservation guidelines will be subject to preliminary plan review. The preliminary plan may be submitted for review only if the Board agrees with the lot configuration as submitted with the pre-preliminary. At the present time, the pre-preliminary plan review continues and as of the date of this letter, a Planning Board hearing date has not been scheduled. You are a party of record and will be notified of the date of the hearing.

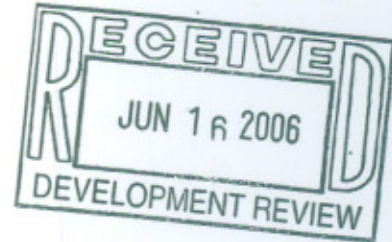
Should you have questions or need further assistance, please do not hesitate contact me at (301) 495-1321.

Sincerely,

Dolores Kinney, Senior Planner
Development Review Divisioncc: Catherine Conlon, Supervisor, Development Review - MNCPPC
William Campbell, Department of Permitting Services
Steve Federline, Supervisor, Environmental Planning - MNCPPC
Eric Tidd, CAS Engineering

June 13, 2006

Ms. Catherine Conlon
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenues
Silver Spring, MD 20910



Ref: file No. 7-20060570

Dear Ms. Conlon,

In response to the notice of application for the creation of two proposed lots, which I only became aware of this past week, I have the following concerns:

- The proposed house is too close to the adjacent houses, which is not consistent with house spacing in the neighborhood at large;
- The development as shown would result in the loss of a many old growth trees;
- Development would very likely result in higher than average run-off and potential water drainage problems. The lot is on a steep hill, and its additional development would result in the loss of a substantial amount of natural absorption capacity;
- A substantial part of the land proposed for development was never intended for development. It was formerly part of the adjacent lot, until it was sold to the current owners.

In my view, the lot should not be subdivided and should remain as a single entity, which conforms to its original conception.

Sincerely,

A handwritten signature in dark ink, appearing to read "Paul D. Baribeau".

Paul D. Baribeau
9112 Aldershot Drive
Bethesda, MD 20817