



Kemp Mill Farms Preliminary Plan, 120160350



Emily Tettelbaum, Senior Planner, Area 2 Division, emily.tettelbaum@montgomeryplanning.org, 301-495-4569



Khalid Afzal, Supervisor, Area 2 Division, khalid.afzal@montgomeryplanning.org, 301-495-4650

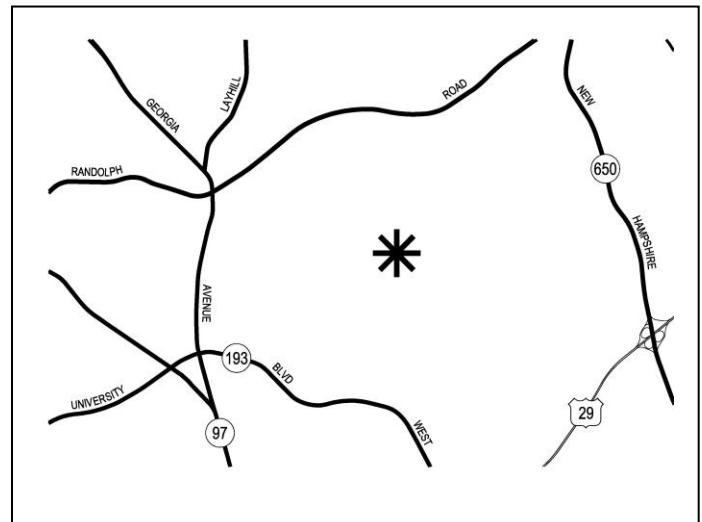


Glenn Kreger, Chief, Area 2 Division, glenn.kreger@montgomeryplanning.org, 301-495-4653

Completed: 10/06/16

Description

- Request to resubdivide one lot into two lots for the existing Kemp Mill Synagogue and Mikvah Emunah Society;
- Located at the northwest corner of the intersection of Kemp Mill Road and Grays Lane;
- R-90 Zone, 2.44 acres of land in the 2001 *Kemp Mill Master Plan*;
- Applicant: The Mikvah Emunah Society and the Kemp Mill Synagogue, Inc.;
- Filing Date: July 6, 2016



Summary

- Staff recommends approval with conditions.
- The Applicant requests relief from the lot shape requirement under Section 50-29(a)(3).

PRELIMINARY PLAN RECOMMENDATIONS AND CONDITIONS

Staff recommends approval of Preliminary Plan No. 120160350 subject to the following conditions:

1. The Preliminary Plan is limited to two lots; one for the existing Synagogue and one for the existing Mikvah.
2. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated July 28, 2016, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
3. Prior to plat recordation, the Applicant must construct an ADA compatible five-foot sidewalk to tie in from the existing sidewalk along Gray's Lane to the Mikvah building.
4. All necessary easements must be shown on the record plat.

SITE DESCRIPTION

The Property is a 2.44-acre parcel (Parcel B, Block G) located at the northwest corner of the intersection of Kemp Mill Road and Grays Lane. The Property is classified in the R-90 Zone and improved with two existing buildings: the Kemp Mill Synagogue (Synagogue); and the Mikvah Emunah Society of Greater Washington (Mikvah). The Synagogue owns the Property, and the Mikvah is currently a tenant.

The Property has two vehicular access points on Grays Lane, one each for the Synagogue and Mikvah. The Property is in the Northwest Branch watershed, but outside any Special Protection Areas. No streams, wetland, floodplains, or environmental buffers are present. The Property is served by public water and sewer.



Figure 1: Vicinity Map

Prior Planning Board Actions

The following are prior Planning Board actions on the Property:

1. Preliminary Plan No. 119960870 was approved in 1996 to construct the Synagogue on unrecorded Parcel 259.
2. The Property was recorded under Record Plat No. 219971100 as Parcel A on Plat No. 20443 (record file No. 604-16) in 1997.
3. Pre-Preliminary Plan No. 720050540 was filed in 2005 to obtain Planning Board advice regarding use of the minor subdivision process to add adjacent unrecorded Parcel P260 to the existing Synagogue lot to add the Mikvah building. The Board did not support use of minor subdivision.
4. In 2006, the Planning Board approved Preliminary Plan No. 120060440 to combine Parcel P260 with recorded Parcel A to add the Mikvah building. The 2006 Preliminary Plan included two conditions of approval that are relevant to this application:
 - The Department of Public Works and Transportation (DPWT) required that applicant provide DPWT with a recorded covenant to pay a pro rata share for the future construction or reconstruction of Grays Lane and provide the deed reference on the record plat. Since the Grays Lane construction has not occurred, MCDOT is requiring the same deed reference on the new record plat.
 - The final Preliminary Plan was required to show an ADA compatible five-foot sidewalk to tie in from the existing sidewalk along Grays Lane to the proposed building. However, the 2006 Certified Preliminary Plan did not show the five-foot tie in sidewalk, nor was the sidewalk constructed. Therefore, Staff recommends a condition of approval to construct the sidewalk with this application.
5. The Property was recorded under Record Plat No. 220062070 to combine Parcel A (Synagogue) and Parcel P260 (Mikvah) as Parcel "B", Block "G" on Plat No. 24054 (record file No. 631-25) in 2010.

PROPOSED PROJECT

Per a lease agreement signed on August 31, 2009, the Mikvah is exercising an option to purchase the property it currently leases from the Synagogue. Therefore, the Property currently owned by the Synagogue needs to be subdivided into two separate lots to allow for the sale. The Synagogue is cooperating with the Mikvah in its exercise of the purchase option by including certain minor additional expansions to the leased property to address either prior oversights regarding the description of the leased property or setback requirements. Other than the addition of a lead-in sidewalk from Grays Lane to the Mikvah building required as a condition of approval for this application, no changes to the Property are proposed at this time.

ANALYSIS

Master Plan Conformance

The 2001 *Kemp Mill Master Plan* does not provide any specific recommendations for the Property, but it includes general guidance and recommendations about zoning and land uses. The Master Plan recommends that this area maintain the existing zoning (R-90) as adopted. Religious institutions are allowed within the R-90 Zone, and the proposed subdivision complies with the recommendations in the Master Plan.

Public Facilities

No change in land use is proposed, so an adequate public facilities finding is not required.

Environment

Environmental Guidelines

Staff approved a Natural Resource Inventory/ Forest Stand Delineation (NRI/FSD 42006015) on October 6, 2005. The site is located in the Northwest Branch Watershed but outside any Special Protection Area. There are no forests, streams, wetlands, floodplains, or environmental buffers on the Property. The existing development is in compliance with the *Environmental Guidelines*.

Forest Conservation

This Property is subject to Forest Conservation Plans 120060440 and 119960870. Since no changes are proposed except the addition of a lead-in sidewalk to the Mikvah, the Forest Conservation Plans remain in force. The project is in compliance with Chapter 22A.

Stormwater Management

Provided that the addition of the lead-in sidewalk results in less than 5,000 square feet of disturbance and less than 100 cubic yards of earth movement, a stormwater management concept plan and sediment control permit are not required.

COMPLIANCE WITH SUBDIVISION REGULATIONS

Staff reviewed this application for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application does not need to satisfy the resubdivision criteria because the use is non-residential. The proposed lot size, width, shape, and orientation are appropriate for the location of the subdivision taking into account the Master Plan recommendations and the existing uses on the Property. The application does not, however, comply with the lot shape requirement under 50-29(a)(3) that requires side lines of interior lots to be perpendicular to the street line, but the Planning Board may determine that a variation from this rule will result in a better layout. Staff advised the Applicant to satisfy the lot shape requirement and grant an access easement for the Mikvah's driveway, if necessary, should it fall within the Synagogue's lot, or to justify how the proposed lot configuration would result in a better layout.

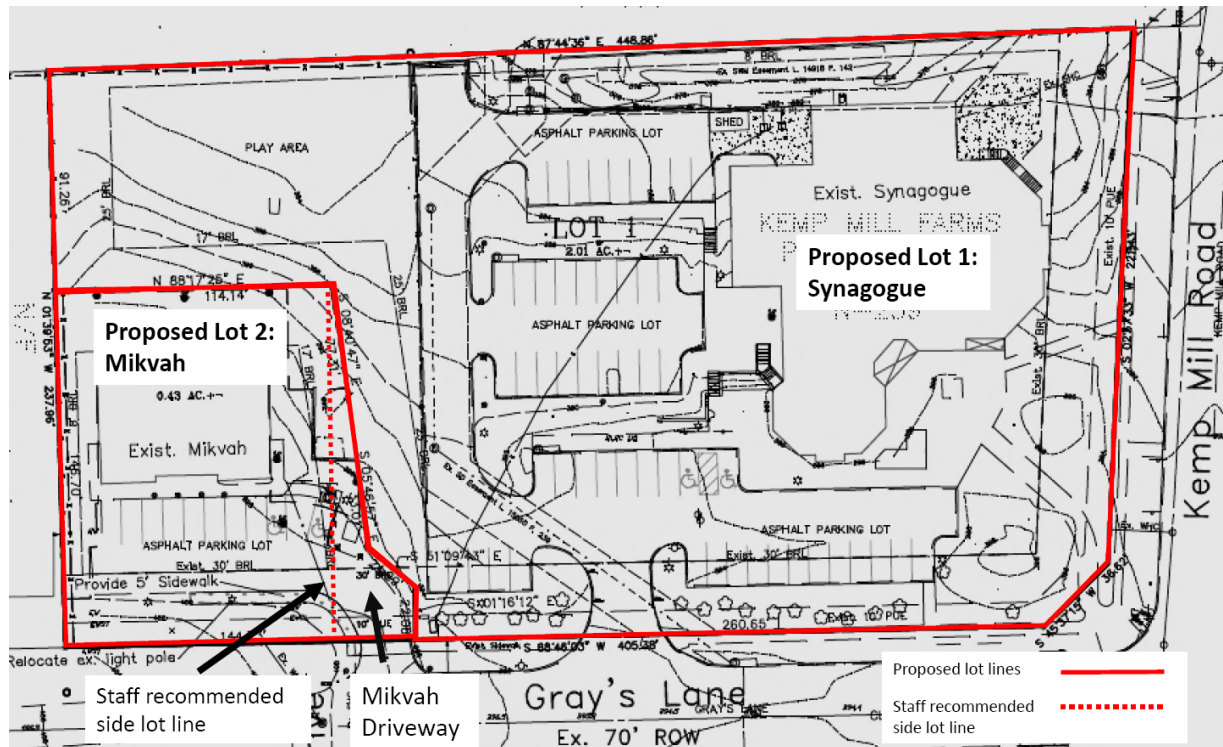


Figure 2: Preliminary Plan

The Kemp Mill Synagogue submitted a letter to explain the deviation from the lot shape requirement (Attachment 2). The letter indicates that the proposed lot configuration is based on the terms of the 2009 lease agreement which was designed to maximize the amount of the Synagogue's property that would continue to be available for the use and future growth of the Synagogue. The Synagogue is not willing to give any more of its property to the Mikvah to create a perpendicular interior side lot line, nor is it willing to give any less property and grant an easement to the Mikvah for the driveway. The Synagogue argues that a "separation" is necessary so that the Synagogue can develop its property without seeking consent or approval from the Mikvah over the property that would be subject to the easement. In addition, the Synagogue wants to retain the ability to refinance its mortgage without its lender requesting the Mikvah to subordinate its right under the easement to the lender. Based on this justification, and because the layout of the Property will remain the same, Staff in this particular instance finds that the proposed lot shape is the best option for this subdivision given the existing uses on the Property. Therefore, a variation in the lot shape requirement under 50-29(a)(3) is permissible.

As conditioned, the proposed lots meet all the requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conforms to the recommendations of the Master Plan. An adequate public facilities finding is not required for this report. The application has been reviewed by other applicable County agencies, none of whom have comments on the plan.

R-90 Zone Data Table		
	Permitted/ Required	Existing
Lot and Density: 59-4.4.8.B.1		
Lot area (min)	9,000 sf	18,730 sf ±
Lot width at front building line (min)	75'	123.8'
Lot width at front lot line (min)	25'	144.7'
Density (max)	4.84 units/ acre	N/A
Lot coverage (max)	30%	21.3%
Placement: 59-4.4.8.B.2		
Front setback (min)	30'	30'
Side setback (min)	8'	16'
Side street setback, abutting lot fronts on the side street and is in a Residential Detached zone (min)	30'	69.8'
Sum of side setbacks (min)	25'	25'
Rear setback (min)	25'	25'
Height: 59-4.4.8.B.3		
Height (max)	35'	35'

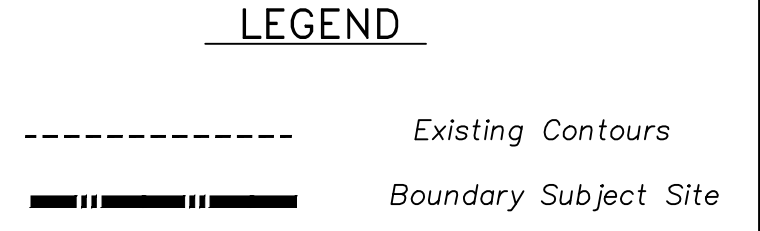
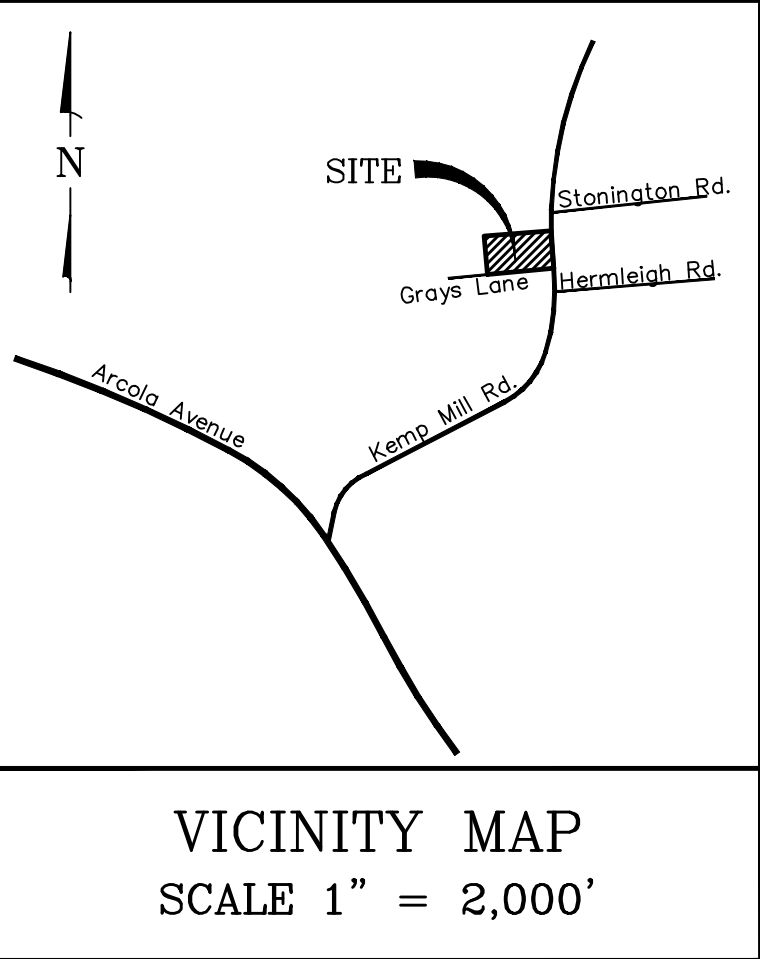
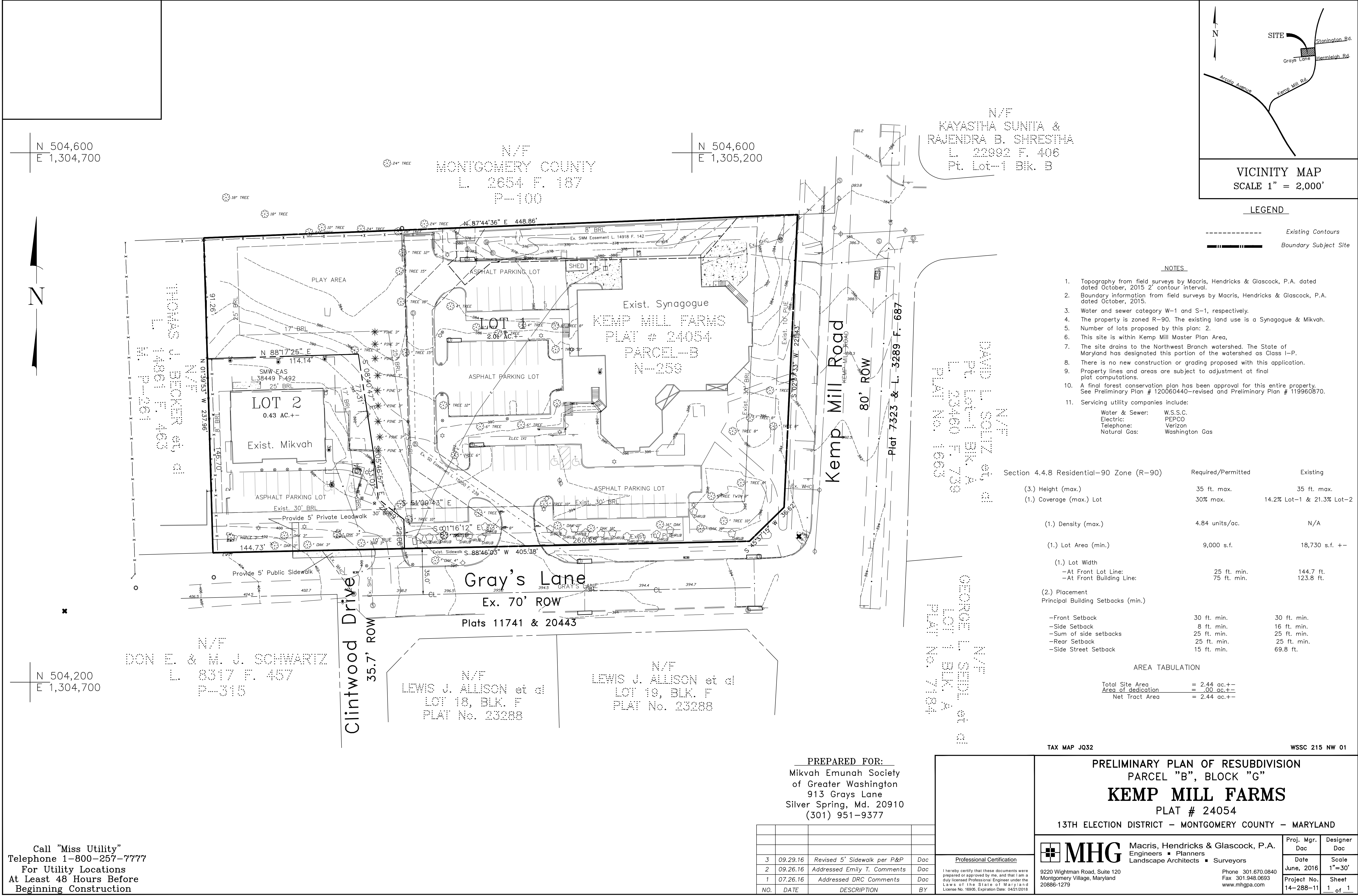
Table 1: R-90 Zone development standards

CONCLUSION

Staff recommends approval of the Preliminary Plan based on the conditions and analysis contained in this report.

ATTACHMENTS

1. Preliminary Plan
2. Letter from Kemp Mill Synagogue
3. Letter from MCDOT
4. Email from DPS



- NOTES**
- Topography from field surveys by Macris, Hendricks & Glascock, P.A. dated October, 2015 2' contour interval.
 - Boundary information from field surveys by Macris, Hendricks & Glascock, P.A. dated October, 2015.
 - Water and sewer category W-1 and S-1, respectively.
 - The property is zoned R-90. The existing land use is a Synagogue & Mikvah.
 - Number of lots proposed by this plan: 2.
 - This site is within Kemp Mill Master Plan Area.
 - The site drains to the Northwest Branch watershed. The State of Maryland has designated this portion of the watershed as Class I-P.
 - There is no new construction or grading proposed with this application.
 - Property lines and areas are subject to adjustment at final plat computations.
 - A final forest conservation plan has been approval for this entire property. See Preliminary Plan # 120060440-revised and Preliminary Plan # 119960870.
 - Servicing utility companies include:
Water & Sewer: W.S.S.C.
Electric: PEPCO
Telephone: Verizon
Natural Gas: Washington Gas

Section 4.4.8 Residential-90 Zone (R-90)	Required/Permitted	Existing
(3.) Height (max.)	35 ft. max.	35 ft. max.
(1.) Coverage (max.) Lot	30% max.	14.2% Lot-1 & 21.3% Lot-2
(1.) Density (max.)	4.84 units/ac.	N/A
(1.) Lot Area (min.)	9,000 s.f.	18,730 s.f. +-
(1.) Lot Width		
-At Front Lot Line:	25 ft. min.	144.7 ft.
-At Front Building Line:	75 ft. min.	123.8 ft.
(2.) Placement		
Principal Building Setbacks (min.)		
-Front Setback	30 ft. min.	30 ft. min.
-Side Setback	8 ft. min.	16 ft. min.
-Sum of side setbacks	25 ft. min.	25 ft. min.
-Rear Setback	25 ft. min.	25 ft. min.
-Side Street Setback	15 ft. min.	69.8 ft.

AREA TABULATION

Total Site Area	= 2.44 ac.+-
Area of dedication	= .00 ac.+-
Net Tract Area	= 2.44 ac.+-

TAX MAP JQ32 WSSC 215 NW 01

PREPARED FOR:
Mikvah Emunah Society
of Greater Washington
913 Grays Lane
Silver Spring, Md. 20910
(301) 951-9377

Professional Certification
I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed Professional Engineer under the Laws of the State of Maryland License No. 16905, Expiration Date: 04/21/2018

PRELIMINARY PLAN OF RESUBDIVISION
PARCEL "B", BLOCK "G"
KEMP MILL FARMS
PLAT # 24054
13TH ELECTION DISTRICT - MONTGOMERY COUNTY - MARYLAND

	Macris, Hendricks & Glascock, P.A. Engineers ■ Planners Landscape Architects ■ Surveyors	Proj. Mgr. Dac	Designer Dac
		Date June, 2016	Scale 1"=30'
9220 Wightman Road, Suite 120 Montgomery Village, Maryland 20886-1279		Phone 301.670.0840 Fax 301.948.0693 www.mhgapa.com	Project No. 14-288-11

Call "Miss Utility"
Telephone 1-800-257-7777
For Utility Locations
At Least 48 Hours Before
Beginning Construction

ATTACHMENT 2



KEMP MILL SYNAGOGUE

11910 Kemp Mill Road
Silver Spring MD 20902
(301) 593-0996

www.kmsynagogue.org

ב'ה

August 8, 2016

Emily Tettelbaum, Senior Planner
Area 2 Montgomery County Planning Department
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Kemp Mill Farms Preliminary Plan No. 120160350

Dear Ms. Tettelbaum:

It is our understanding that you asked for an explanation of the configuration of the proposed subdivided lot to be owned by the Mikvah Emunah Society of Greater Washington, Inc. (MES).

By way of background, on August 31, 2009 the Kemp Mill Synagogue and MES entered into a long-term lease ("Lease") for a portion of the property owned by the Synagogue ("Leased Property"). The Lease contemplated that MES would design, construct and operate a Mikvah (a ritual bath). In accordance with the terms of the Lease, MES has the option to purchase the Leased Property. The configuration of the Leased Property was designed to maximize the amount of the Synagogue's property that would continue to be available for the use and future growth of the congregation. At the same time, the Synagogue wanted to provide MES with enough land to design, construct and operate a modern Mikvah that would be welcoming to the users. Please understand that many of the members of the Synagogue are also users of the Mikvah.

We have been advised that in connection MES' submission of the Preliminary Plan for the subdivision of the property in furtherance of its exercise of the option to purchase the Leased Property you have suggested that the configuration of the proposed parcel be more "rectangular"; that is, the property lines marking the width of the property to be acquired by MES be perpendicular to the street and the back lot line. To accommodate certain restrictions identified by the civil engineers retained by MES, the Synagogue has already agreed to requests by MES to modestly increase the area of the property to be acquired by MES beyond the land area of the Leased Property. However, the Synagogue is not willing to give any more of its property to MES nor is it willing to give MES any less and then grant

Brahm Weinberg
Rabbi

Benny Berkowitz
President

Saul Newman
First Vice President

Marcy Wolf
Treasurer

Gadi Rozmaryn
VP Administration

David Taragin
VP Development

Tamar Teitelbaum
VP Kehilla

Ina Lerman
VP Klal Yisrael

Rebekah Rasooly
VP Limud Tora

Michael Belgrade
VP Ritual

Ari Pinchot
VP Youth

Joey Turitz
Immediate Past President

Directors

Jeff Amster
Sharon Butler
Binyamin Edinger
Dean Grayson
Wendy Guberman
Tobie Hollander
Jonathan Katz
Ira Kosowsky
Shulamith Lesnoy
Yosef Lindell
Natanya Nobel
Ira Rabin
Yehudit Shields

Menucha Wolfe
Executive Director

Bracha Rutner
Yoetzet Halacha

Stevie Friedman
Administrator

*A Member of The Union
of Orthodox Jewish
Congregations Of
America*

an easement to MES over the portion of the property it would retain to permit a more rectangular shape to the property to be owned by MES.

The Synagogue appreciates the advantages of "separating" from MES. One advantage for the Synagogue is that it can further develop its property without seeking the consent or approval of MES over the property that would be subject to the easement. In addition, the Synagogue would be able to refinance its mortgage without its lender requesting MES to subordinate its rights under the easement to the lender. We appreciate MES' desire to own its own parcel and be able to encumber its parcel if necessary, as well as its concern that its ability to own, maintain and operate the Mikvah would be subject to the Synagogue not defaulting under its mortgage loan. Although no one anticipates the occurrence of that event, the ownership, maintenance and operation of the Mikvah would always be subject to the financial health of the Synagogue. An untenable position for MES.

We trust that this letter will permit you to approve the proposed subdivision with the current configuration as set forth in the Preliminary Plan. Of course, if you have any question or comment, do not hesitate to call the attorney for MES, Arnold Sherman, who has been spearheading the process. Mr. Sherman can be reached at 301.951.9377. His email address is asherman@paleyrothman.com. Although Mr. Sherman cannot bind the Synagogue, he can continue to serve as the "middleman" between you and the Synagogue and convey any of your additional concerns to us. He has volunteered to meet with you if you believe that such a meeting is needed. Thank you for your help in this process.

Very truly yours,

 , President

ATTACHMENT 3



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Al R. Roshdiah
Director

July 28, 2016

Ms. Emily Tettelbaum, Senior Planner
Area 2 Planning Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan Letter
Preliminary Plan No. 120160350
Kemp Mill Farms

Emily:
Dear Ms. Tettelbaum:

We have completed our review of the Preliminary Plan dated June, 2016. This plan was reviewed by the Development Review Committee at its meeting on July 25, 2016. We recommend approval for the plan based to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Department of Permitting Services in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. The new record plat should include a note stating that the existing Mikvah (Lot 2) property owner is subject to participate in any future construction costs along Gray's Lane as recorded in the current Declaration of Covenant (liber 38494 folio 043) per plat #24054.

Office of the Director

101 Monroe Street 10th Floor · Rockville Maryland 20850 · 240-777-7170 · 240-777-7178 FAX


www.montgomerycountymd.gov

Located one block west of the Rockville Metro Station

Ms. Emily Tettelbaum
Preliminary Plan Letter
Preliminary Plan No. 120160350
June 28, 2016
Page 2

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Deepak Somarajan, our Development Review Team for this project at deepak.somarajan@montgomerycountymd.gov or (240) 777-2194.

Sincerely,



Gregory M. Leck, Manager
Development Review Team
Office of Transportation Planning

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cc:	Lawrence Larman	Kemp Mill Synagogue
	David Crowe	Macris, Hendricks & Glascock
	Arnold Sherman	Paley & Rothman
	David Freishtat	Shulman Rogers
	Preliminary Plan folder	
	Preliminary Plan letters notebook	
cc-e:	Khalid Afzal	M-NCPPC Area 2
	Catherine Conlon	M-NCPPC DARC
	Atiq Panjshiri	MCDPS
	Sam Farhadi	MCDPS
	Deepak Somarajan	MCDOT OTP

ATTACHMENT 4

Tettelbaum, Emily

From: Etheridge, Mark <Mark.Etheridge@montgomerycountymd.gov>
Sent: Friday, September 23, 2016 5:02 PM
To: Tettelbaum, Emily
Subject: Re: Kemp Mill Farms PP# 120160350

Hi Emily. From what I see it looks like the proposed sidewalk will be 5' in width and maybe 50' in length. That's about 250 square feet. Let's assume total disturbance to grade and install the sidewalk will result in double that square footage, and total disturbed area will be around 500 square feet.

A sediment control permit would not be required for this unless the total disturbance is 5,000 square feet or more. It seems unlikely, based on my above assumptions, that installation on the sidewalk as shown on the plan attachment you sent would be anywhere near 5,000 square feet. In that case a sediment control permit would not be required.

Mark

Sent from my iPhone

On Sep 23, 2016, at 4:43 PM, Tettelbaum, Emily <Emily.Tettelbaum@montgomeryplanning.org> wrote:

Good Afternoon Mark,

M-NCPPC does not need an approved stormwater concept plan if one is not required, but could you confirm that a sediment control permit/ stormwater management concept plan would not be required based on the proposed sidewalk in preliminary plan #120160350? I've attached the plan for your reference.

Thank you for your assistance.

Emily Tettelbaum

Area 2 | Montgomery County Planning Department
8787 Georgia Ave | Silver Spring, MD 20910
301-495-4569 | emily.tettelbaum@montgomeryplanning.org

From: Dave Crowe [<mailto:dcrowe@mhgpa.com>]
Sent: Friday, September 23, 2016 11:39 AM
To: Tettelbaum, Emily <Emily.Tettelbaum@montgomeryplanning.org>
Subject: FW: Kemp Mill Farms PP# 120160350

Emily, please call me when you receive this e-mail. Dave

From: Etheridge, Mark [<mailto:Mark.Etheridge@montgomerycountymd.gov>]
Sent: Friday, September 23, 2016 11:07 AM
To: Dave Crowe
Cc: Kuykendall, David; asherman@paleyrothman.com
Subject: RE: Kemp Mill Farms PP# 120160350

As I understand it, the applicant wants to subdivide the property at 913 Gray's Lane and the only work being proposed as part of that subdivision is construction of some sidewalk. As long as the sidewalk

work results in less than 5,000 square feet of disturbance and less than 100 cubic yards of earth movement, a sediment control permit would not be required, and therefore stormwater management would not be required. If a sediment control permit is not needed, then we would not need to review a stormwater management concept.

That said ... if MNCPPC needs an approved stormwater concept in order to meet their administrative requirements for the subdivision, we will review a concept application and issue the appropriate concept approval letter. This would require submission of an application and a review fee.

I hope this provides the information you need. I realize a letter, dated September 8, 2016, was submitted for signature and asking that I countersign to indicate agreement that the improvements required by the subdivision are exempt from sediment control and stormwater management requirements. Since the requirements for sediment control and stormwater permitting compliance are clearly set forth on code already I do not think my signature on the letter is necessary.

Mark C. Etheridge
Manager
Water Resources Section
Department of Permitting Services
255 Rockville Pike, 2nd Fl.
Rockville, MD 20850
240-777-6338
240-777-6339 (fax)

Have you tried DPS

eServices? <http://permittingservices.montgomerycountymd.gov/DPS/eServices/AboutServices.aspx>

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From: Kuykendall, David
Sent: Friday, September 23, 2016 9:38 AM
To: Etheridge, Mark <Mark.Etheridge@montgomerycountymd.gov>
Subject: FW: Kemp Mill Farms PP# 120160350

Were you able to address this?

David Kuykendall, CPESC/CPSWQ/CESSWI
Senior Permitting Services Specialist
Montgomery County, Maryland
Department of Permitting Services
Division of Land Development
Water Resources Section
ph240-777-6332/fax240-777-6339
david.kuykendall@montgomerycountymd.gov

From: Dave Crowe [<mailto:dcrowe@mhgpa.com>]
Sent: Thursday, September 22, 2016 9:11 AM
To: Kuykendall, David <David.Kuykendall@montgomerycountymd.gov>
Cc: asherman@paleyrothman.com
Subject: Kemp Mill Farms PP# 120160350

Dave, I'm checking on the letter Pearce sent to you for the above PP. Has Mark been able to review and approved this request? Just checking in order to update the client and M-NCP&PC staff.. Thanks Dave

David A. Crowe

Macris, Hendricks and Glascock, P.A.
Engineers • Planners
Landscape Architects • Surveyors

9220 Wightman Road, Suite 120
Montgomery Village, MD 20886-1279
Phone: 301-670-0840 Ext. 1014
Fax: 301-948-0693
WEB: www.mhgpa.com

<Preliminary Plan of Subdivision.pdf>