



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

MCPB
Item #
12/21/06



MEMORANDUM

DATE: December 8, 2006

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Development Review Division

Cathy Conlon, Supervisor *CC*
Development Review Division

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

REVIEW TYPE: Preliminary Plan Review

APPLYING FOR: Subdivision for a 12 one family residential units.

PROJECT NAME: High Acres

CASE #: Preliminary Plan No. 120050560 (formerly 1-05056)

REVIEW BASIS: Chapter 50 Montgomery County Subdivision Regulations

ZONE: R-90

LOCATION: Located on the west side of Brookes Lane, the east side of MacArthur Boulevard, north of Brooke's Hill Court

MASTER PLAN: Bethesda Chevy Chase

APPLICANT: Bloom Builders

ENGINEER: VIKA, Inc.

ATTORNEY: Linowes and Blocher

FILING DATE: November 23, 2004

HEARING DATE: December 21, 2006

STAFF RECOMMENDATION: Approval, pursuant to Chapter 50 of the Montgomery County Code and subject to the following conditions:

- 1) Development on the property is limited to eleven (11) one family attached dwelling units and one (1) existing, one family detached dwelling unit.
- 2) The proposed development shall comply with all conditions of the final forest conservation plan. The applicant shall satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits, except as specified below. Approval includes:
 - a) Prior to any clearing or grading, implementation of tree protection plan and compliance with all ISA certified arborist's recommendations to protect trees as specified on final FCP and per Arborist's March 8, 2006 Davey Tree Expert report. Variations in protection measures listed on signed FCP and in the Arborist report can only occur with signoff from ISA Certified arborist and MNCPPC Inspector;
 - b) Prior to occupancy, split rail fencing and permanent signage, or staff approved equivalent, shall be placed along Natural Regeneration Area #1, with permanent signage only to be placed along remainder of easement boundary which adjoins the residential buildings; and
 - c) Required site inspections by M-NCPPC monitoring staff (as specified in Section 110 of the Forest Conservation Regulations).
- 3) Record plat shall reflect a Category I forest conservation easement for onsite forest to be saved.
- 4) Prior to issuance of the initial building permit, the applicant shall secure air traffic noise information from the Airport Authority of noise levels from National Airport affecting this site, and provide that information to MNCPPC Countywide Environmental Staff. If noise levels exceed 65 dBA Ldn, the applicant will be required to demonstrate achievement of an interior noise level of 45 dBA Ldn or less for the residential units.
 - a) An acoustical consultant shall provide a detailed analysis of the proposed building shell to determine if it will meet acoustical design specifications as necessary to achieve no greater than a 45 dBA Ldn interior noise level.
 - b) The builder must agree to construct in accord with those specifications, or receive written approval from the consultant for any changes that may affect acoustical performance.
- 5) The applicant shall comply with the conditions of the Montgomery County Department of Public Works and Transportation (DPWT) approval letter dated April 19, 2006, unless otherwise amended.
- 6) The applicant shall provide an easement for future dedication of Brookes Lane as shown on the approved preliminary plan.
- 7) Record plat to reflect common ingress/egress and utility easements over all shared driveways.

- 8) Note on record plat to state, "At the time of plat recordation, the lots shown hereon are located adjacent to a federal installation which has the potential for 24 hour operations that may include, but not limited to, vehicular and pedestrian traffic, security lighting, security patrols and security cameras along the perimeter."
- 9) No later than 30 days prior to commencement of land disturbing activities, the applicant shall be responsible for providing notification to the Site Manager of National Geospatial-Intelligence Agency of the intent to commence such activities.
- 10) Compliance with the conditions of approval of the MCDPS stormwater management approval dated November 10, 2005.
- 11) Record Plat shall reflect all stormwater management parcels and areas under Homeowners Association control.
- 12) Record plat to have the following note: "The land contained hereon is within an approved cluster development, resubdivision is strictly controlled."
- 13) Record plat to reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant shall provide verification to Commission staff prior to release of final building permit that Applicant's recorded HOA Documents incorporate by reference the Covenant.
- 14) No clearing, grading or recording of plats prior to certified site plan approval.
- 15) Final approval of the number and location of dwelling units, on-site parking, site circulation, and sidewalks will be determined at site plan.
- 16) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion.
- 17) Other necessary easements shall be reflected on the record plat.

SITE DESCRIPTION (Attachment A)

The High Acres Property ("Subject Property" or "Property") is a 4.4-acre site, located northwest of MacArthur Boulevard in the Palisades area of the Bethesda Chevy Chase Master Plan. It is zoned R-90 and currently occupied by one, one-family residence. The land surrounding the Property contains a mix of residential, commercial and institutional uses. Adjacent to the Property to the north is the National Geospatial-Intelligence Agency (NGA), a federal installation. To the north and east, respectively, are a garden apartment community and the Little Falls Mall. Immediately to south, along Brookes Lane, is the Brookes Hill neighborhood. South and west of the Property, across MacArthur Boulevard, is the Brookmont community, which borders the Potomac River. Both communities contain one-family detached dwellings.

Access to the site is currently provided via a single driveway from Brookes Lane, which is a prescriptive right-of-way that is maintained by Montgomery County. The Property also has frontage on MacArthur Boulevard., however, steep slopes preclude use of MacArthur Boulevard as a reasonable access point. Water and sewer service is available to the Property.

The Property contains 2.55 acres of existing forest, nearly all of which is on 25% and greater slopes located to the rear of the existing house down to MacArthur Boulevard. In this location, the land drops 90 feet in elevation over a horizontal distance of ~240 feet, an overall

slope of 37.5%. The forest contains 31 specimen trees (30" or greater). The site is within the Potomac River watershed, classified as Use I-P. There are no streams, floodplains, or wetland on the Property.

PROJECT DESCRIPTION (Attachment B)

The Preliminary Plan requests twelve (12) one family lots of which eleven (11) are for one family attached townhomes and one (1) lot for the existing one family detached house. Access for all twelve units will be by a private road that accesses Brookes Lane to the east. The eleven one family attached units are constructed on the upland portion of the site in close proximity to the house that is being retained. As discussed below, the Bethesda Chevy Chase Master Plan specifically recommends cluster development of this site to preserve the steep slopes associated with the Property. The plan minimizes impacts to the steeply sloped area along MacArthur Boulevard and maximizes trees save opportunities by utilizing a creative design that incorporates underground parking beneath the townhouse units. This has effectively eliminated most of the surface parking thereby allowing a tighter, clustered development envelope. The private road leading into the site provides access to the single family detached home as well as for delivery, emergency, and other vehicles that may need access to the homes and property in general.

ANALYSIS AND FINDINGS

Master Plan Compliance

The 1990 Bethesda-Chevy Chase Master Plan included this property in its analysis of the Palisades-Western Bethesda-Chevy Chase area. The Master Plan recommends "preservation of the Potomac Palisades unique environmental features of steeply wooded slopes and vistas, and the perpetuation of the open space character established in the area." The Master Plan also states "cluster development in the form of townhouses and single-family detached units is recommended on specific vacant and developable parcels of three acres and larger." The Master Plan further suggests that the property has a "potential" for 15 units.

The applicant proposes to cluster the eleven new units and keep the one existing house at the top of the bluff, preserving the majority of the wooded forest on the slope and maintaining the open space character, particularly as experienced by travelers on MacArthur Boulevard. As discussed above, the preliminary plan achieves the master plan goal of steep slope and forest preservation by utilizing underground parking the significantly reduces surface parking. This has effectively reduced the disturbed areas of the site and minimized environmental impact.

The location of the attached houses and completion of the sidewalk connections allow easy access to the neighborhood services at the Little Falls Mall, as recommended by the master plan. The proposal also does not propose access to MacArthur Boulevard, which was also recommended in the master plan.

Transportation

The development will generate less than 30 peak hour trips and is, therefore, not subject to Local Area Transportation Review requirements. Pedestrian access to the site is accommodated by the proposed sidewalks out to Brookes Lane and up to Sangamore Road as shown on the preliminary plan. As mentioned previously, Brookes Lane is a substandard road that provides access and frontage to approximately 20 homes. The county has placed signage on Sangamore Road north of Brookes Lane to discourage and divert all but local southbound traffic from using Brookes Lane to access MacArthur Boulevard. To address concerns of the neighborhood regarding traffic generated by this development using the lower (southern) portions of Brookes Lane, the applicant has designed the entrance way to the proposed development such that it will direct exiting traffic to the north, and all but eliminate traffic that is able to turn right out of the development onto southbound Brookes Lane. "No Right Turn" signage, required as part of the site plan, will further curtail traffic movements southbound on Brookes Lane.

Environment

Forest Conservation

Forest conservation requirements have been fully satisfied onsite through preservation of approximately 1.44 acres of forest in the most strategic location on the steep slopes. The plan actually exceeds the requirements of the law (Montgomery County Code, Chapter 22A) by 0.28 acres. The forest contains 31 specimen trees (30" or greater), of which 22 specimens were saved on this forest conservation plan, including all of the specimens along the steep wooded bluff alongside the Potomac River and MacArthur Boulevard.

Noise

The Property is exposed to noise from air traffic approaching and departing Reagan National Airport. Although a study to determine the level of impact was not required during the review of this plan, staff is recommending that the applicant be required to obtain information from the Washington Regional Airport Authority concerning the noise levels and provide that information to staff prior to issuance of building permits. If noise levels exceed 65 dBA Ldn, the applicant will be required to demonstrate that structural measures will be incorporated into the units to achieve an interior noise level of 45 dBA Ldn or less for the residential units. An acoustical consultant will need to provide detailed review of the proposed building shell to determine if it will meet specific acoustical design specifications. The builder must construct in accord with those specifications, or receive written approval from the consultant for any changes that may affect acoustical performance.

Compliance with the Subdivision Regulations and Zoning Ordinance

This application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The application meets all applicable sections. Access and public facilities will be adequate to support the proposed lots and uses. The proposed lot size, width, shape and orientation are appropriate.

The lots were reviewed for compliance with the dimensional requirements for the R-90 zone using the cluster type development as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is included in attached Table 1. The application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

Justification for Cluster Development

Section 59-C-1.51 of the zoning ordinance establishes that the cluster method of development should encourage the provision of community open space for active or passive recreation, as well as the preservation of trees. The flexibility in lot size and layout provided in the standards should be utilized to serve this purpose. The proposed cluster plan protects the steep, forested slopes along the Potomac Palisades and additional areas of moderately steep slopes within a community open space area that will be protected by a conservation easement. The steep slope precludes use of much of the area, but it will provide an aesthetic benefit for the residents and surrounding area. Compared to the cluster subdivision, a non-cluster subdivision layout would not be able to protect the moderately steep and steep slopes to the same degree as a cluster plan. The use of cluster allows smaller lot sizes thereby limiting the area required to be disturbed to the upland portions of the site,. The use of cluster allows additional protection of 15-25% slopes that would otherwise be available for development. The additional areas of protected slopes can be placed in an HOA open space, rather than locating them on private lots. For these reasons, staff finds the proposed cluster subdivision is better from a tree save and open space perspective than a standard subdivision.

Lots Without Frontage

Section 50-29(a)(2) of the Subdivision Regulations states that individually recorded lots shall abut on a street or road which has been dedicated to public use, or which has acquired the status of a public road. In this subdivision, the one family detached lot will have frontage on MacArthur Boulevard and all townhouse units will have frontage on a private road. This private road serves as access for all. Therefore, finding needs to be made that proposed private street could otherwise attain the status of a public road. This finding must be based upon the proposed road being: fully accessible to the public; accessible to fire and rescue vehicles, as needed; and designed to minimum public road standards, except for right-of-way and pavement widths.

In this subdivision, it is staff's opinion that the proposed private street which provides frontage to individually recorded lots can meet the minimum standards necessary to make the finding that it has the status of a public road. These standards include: minimum pavement

widths and turning radii; appropriate circulation pattern and terminus, access for emergency vehicles and adequate parking design, including sidewalks. In staff's opinion, the proposed subdivision will not be detrimental to future subdivision of adjacent lands since surrounding property is already developed. A public use ingress/egress easement will be recorded over the road and reflected on the record plat(s). The proposed preliminary plan includes appropriate public utility easements to serve the 12 lots. The proposed private street will be placed in a public use easement to provide ingress and egress to the lots. The proposed street meets county standards for emergency vehicle access and has been approved by the County Fire and Rescue Service

Citizen Correspondence and Concerns (Attachment D)

This application predated specific requirements for meetings between the applicant and interested parties, however, written notice of the application and public hearing date was given to adjacent and confronting property owners, and local civic and homeowners associations.

Numerous letters from adjacent and local property owners have been submitted to the file. Of particular note are a series of letters from the National Geospatial-Intelligence Agency (NGA), located immediately abutting the Property to the north. The letters highlight a few concerns, most of them related to security of their facility and how the proposed development may address the concerns. The applicant has worked with the NGA to address most of the issues. The specific concerns of the NGA are the nature of the vehicles and persons that will be accessing the new development, and the proximity to which they can approach the property boundaries of their facility. NGA initially requested that access to the new development be limited to the residents accessing their homes, and that the perimeter of the property be clear so they could visually monitor the area.

NGA is generally in agreement with the layout of the latest development plan. In a letter dated July 7, 2006, NGA acknowledged that the homes have been moved away from the common property line, and that the underground parking alleviates some of their concerns regarding parking of vehicles close to the property line. Access to the site, as proposed, is not restricted by a gate or card entrance system. The applicant and local neighborhood do not support a gated community and staff agrees that this development will be more harmonious with the Brookes Lane community without access restrictions. It should be noted that access to the underground parking garage would be gated and available only to owners and guests; however, the private street from Brookes Lane will function as a public street. Signage at the entrance to the new development will clearly show that this is a private community.

The NGA has also asked that new plantings on the perimeter of the Subject Property be planted and maintained to afford a clear, eight foot setback from the property line and that existing trees not be allowed to overhang onto federal property. The applicant has not been able to comply with this request entirely. The applicant wishes to provide screening for the proposed development since it abuts the vast parking lot and chain link fence surrounding the NGA site. Plantings in the vicinity of the northern property line will be maintained as landscaped areas and will be placed closer to the fence property line than eight feet. The plantings will buffer the residences from the parking areas. The federal government may remove any limb that encroaches

on to their property without approval of the property owner upon which the tree trunk is located. Staff is in general agreement with the applicant's plan.

Two residents living across Brookes Lane from the Property submitted a number of letters to the file. In their letters, Anne Hoskins and Robert O. Zdenek, raise numerous issues with the project, most notably, the status of Brookes Lane, questioning whether it was a public road or prescriptive right-of-way, the authority the county held over the pavement, and the ability of the developer to access the road. MNCPPC staff, DPWT staff, the developer and the residents have met on numerous occasions to resolve the issues of Brookes Lane. The applicant and the two residents have continued to negotiate regarding impacts that the development may have on the residents' property and have come to a private agreement. By letter dated October 13, 2006, Ms. Hoskins and Mr. Zdenek have dropped opposition to the plan.

A number of letters express a variety of concerns. Two common themes are regarding tree loss and traffic impacts to Brookes Lane. Other concerns are the scale of the development, runoff and impact to schools. Staff and the applicant have worked extensively on tree and slope protection that maximizes tree save while allowing a reasonable yield on the Property. As discussed above, the limits of disturbance are held to very tight tolerances to minimize clearing. The staff report also highlights the efforts that have been taken to minimize or eliminate additional traffic that will be able to use the southern portions of Brookes Lane.

The scale of the plan has been reduced since the submittal of the application. Overall disturbance has been reduced especially with the use of underground parking. The stormwater management plan that has been approved by MCDPS directs all runoff from impervious surfaces through quality and quantity controls and into pipes to an existing storm drain in Brook Hill Court. Surface runoff will be reduced by this plan. Regarding school impact; the Council has not placed any of the schools in the general area, nor in any part of the county, in moratorium.

CONCLUSION:

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance, and are not in conflict with the recommendations of the Bethesda Chevy Chase Master Plan. Access and public facilities will be adequate to serve the proposed lots and uses, and the application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan. Therefore, approval of the application with the conditions specified above is recommended.

Attachments:

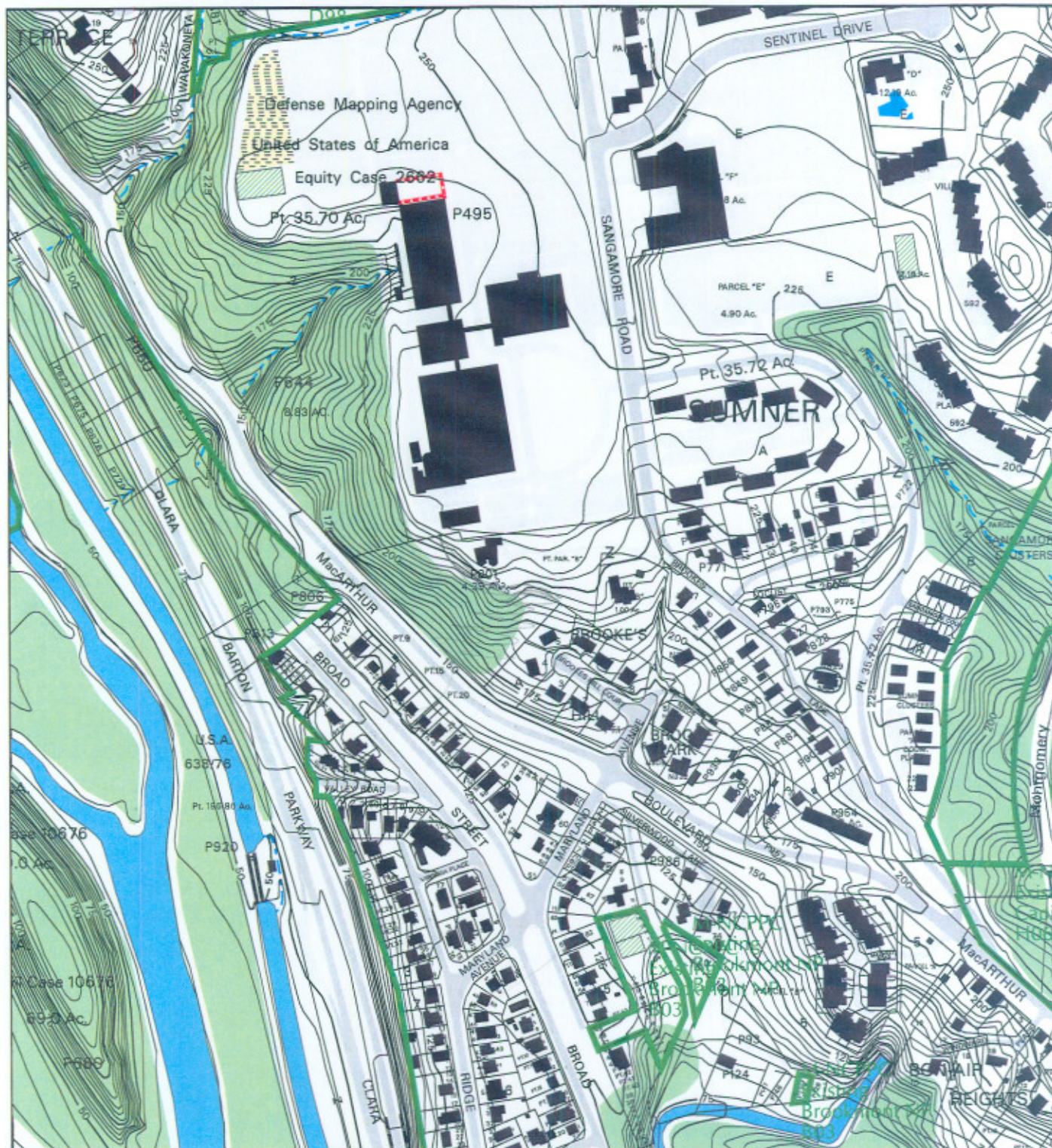
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|--------------|------------------------|
| Attachment A | Vicinity Map |
| Attachment B | Preliminary Plan |
| Attachment C | Agency Correspondence |
| Attachment D | Citizen Correspondence |

Table 1. Data Table and Checklist

| Plan Name: High Acres | | | | |
|-------------------------------------------|-------------------------------------------------------|-----------------------------------------------|-----------------|----------|
| Plan Number: 120050560 | | | | |
| Zoning: R-90 cluster | | | | |
| # of Lots: 12 | | | | |
| # of Outlots: 0 | | | | |
| Dev. Type: Residential | | | | |
| PLAN DATA | Zoning Ordinance Development Standard | Proposed for Approval on the Preliminary Plan | Verified | Date |
| Minimum Lot Area | 5,000 sq. ft. SFD ----- 2,000 sq. ft. SFD ----- | 20,520 sq. ft. 2,000 sq. ft. | RW RW RW | 12/8/06 |
| Lot Width | 18 ft. for SFA | Meets minimum | RW | 12/8/06 |
| Lot Frontage | 25 ft. SFD | Meets minimum | RW | 12/8/06 |
| Setbacks | | | | |
| Front | 50 ft. from subd for SFA | Must meet minimum | RW | 12/8/06 |
| Side | 50 ft. from subd for SFA | Must meet minimum | RW | 12/8/06 |
| Rear | 50 ft. from subd for SFA 30 ft. from subd. for SFD | Must meet minimum | RW | 12/8/06 |
| Height | 35 ft. Max. | May not exceed maximum | RW | 12/8/06 |
| Parking setback | | Must meet minimum | RW | |
| MPDUs | N/A | | | |
| TDRs | N/A | | | |
| Site Plan Req'd? | Yes | | | |
| FINDINGS | | | | |
| SUBDIVISION | | | | |
| Lot frontage on Public Street | Yes | | RW | 12/8/06 |
| Road dedication and frontage improvements | Yes | | Agency letters | 4/19/06 |
| Environmental Guidelines | N/A | | | |
| Forest Conservation | Yes | | Staff memo | 6/7/06 |
| Master Plan Compliance | Yes | | Staff memo | 12/8/06 |
| Landscape and Lighting Plan | Site Plan | | RW | |
| ADEQUATE PUBLIC FACILITIES | | | | |
| Stormwater Management | Yes | | Agency letter | 11/10/05 |
| Water and Sewer (WSSC) | Yes | | RW | 12/8/06 |
| Well and Septic | N/A | | | |
| Local Area Traffic Review | No | | | |
| Fire and Rescue | Yes | | Agency comments | 3/29/06 |

ATTACHMENT A

HIGH ACRES (1-05056)



Map compiled on December 20, 2004 at 4:38 PM | Site located on base sheet no - 206NW06

NOTICE

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

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

Key Map



1 inch = 400 feet
1 : 4800

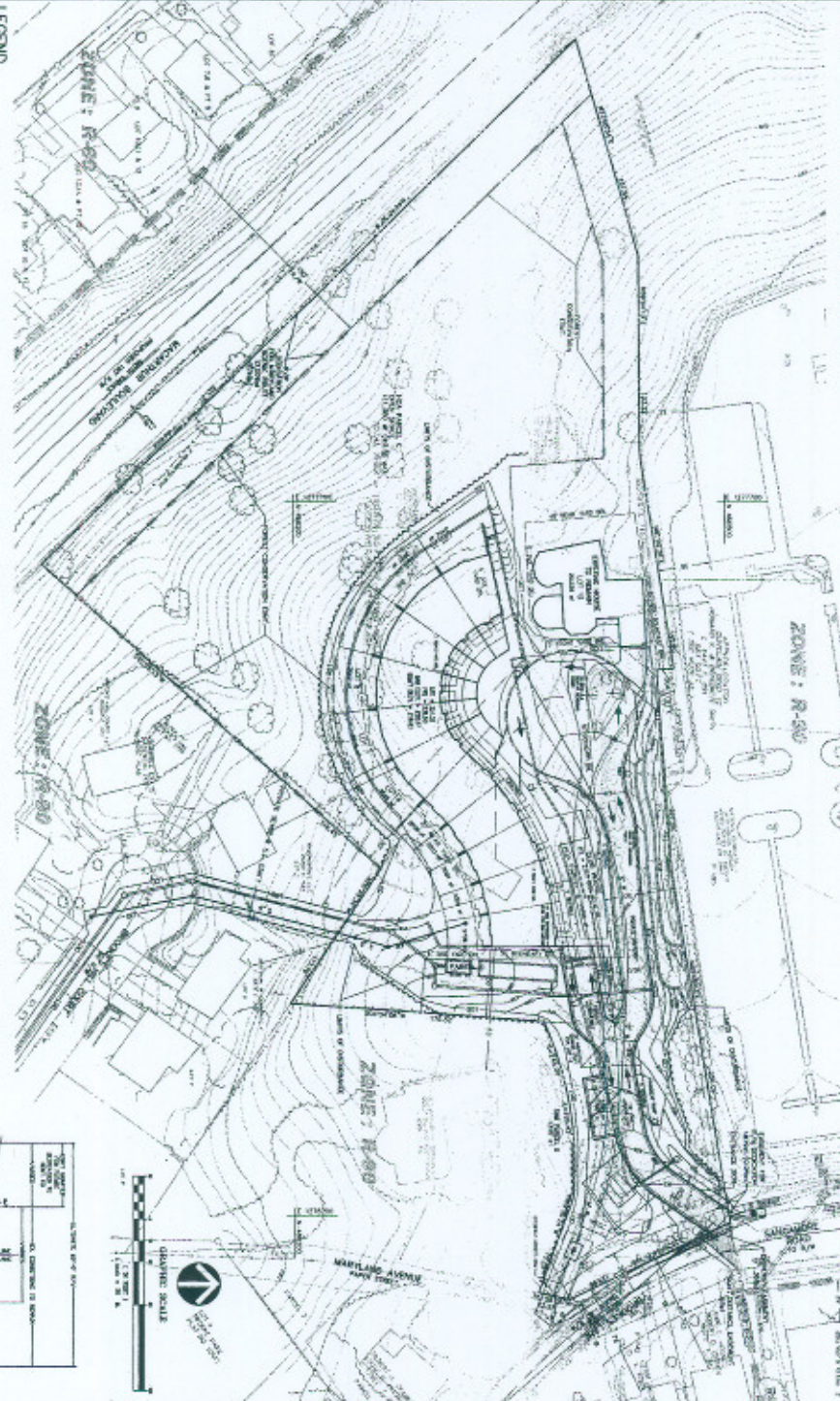
ATTACHMENT B

| Area | Area (Acres) | Area (Sq. Feet) | Area (Sq. Feet) | Area (Sq. Feet) | Area (Sq. Feet) |
|------------|--------------|-----------------|-----------------|-----------------|-----------------|
| Zone R-50 | 1.11 | 47,800 | 47,800 | 47,800 | 47,800 |
| Zone R-50B | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50C | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50D | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50E | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50F | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50G | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50H | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50I | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
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| Zone R-50K | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50L | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50M | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50N | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50O | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50P | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50Q | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50R | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50S | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50T | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50U | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50V | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50W | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50X | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
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| Zone R-50L | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
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| Zone R-50Z | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |

| Area | Area (Acres) | Area (Sq. Feet) | Area (Sq. Feet) | Area (Sq. Feet) | Area (Sq. Feet) |
|------------|--------------|-----------------|-----------------|-----------------|-----------------|
| Zone R-50 | 1.11 | 47,800 | 47,800 | 47,800 | 47,800 |
| Zone R-50B | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50C | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50D | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50E | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50F | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50G | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50H | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50I | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50J | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50K | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50L | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50M | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50N | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50O | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50P | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50Q | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50R | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50S | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50T | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50U | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50V | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50W | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50X | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50Y | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |
| Zone R-50Z | 0.11 | 4,780 | 4,780 | 4,780 | 4,780 |



LEGEND

| | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---------------|-----------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|
| Zone Boundary | Zone R-50 | Zone R-50B | Zone R-50C | Zone R-50D | Zone R-50E | Zone R-50F | Zone R-50G | Zone R-50H | Zone R-50I | Zone R-50J | Zone R-50K | Zone R-50L | Zone R-50M | Zone R-50N | Zone R-50O | Zone R-50P | Zone R-50Q | Zone R-50R | Zone R-50S | Zone R-50T | Zone R-50U | Zone R-50V | Zone R-50W | Zone R-50X | Zone R-50Y | Zone R-50Z |
| Street | Mariland Avenue | Park Drive | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... |
| Other | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... | ... |

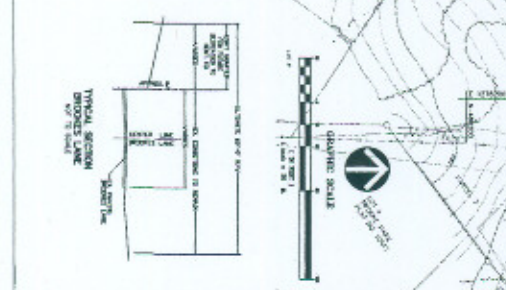
GENERAL NOTES

1. THIS SITE PLAN IS A PRELIMINARY PLAN AND IS NOT TO BE USED FOR CONSTRUCTION.
2. THE ZONING REGULATIONS FOR THIS ZONE ARE AS FOLLOWS: ...
3. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE ZONING BOARD OF ADJUSTMENT.
4. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE CITY COMMISSION.
5. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE STATE DEPARTMENT OF TRANSPORTATION.
6. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE STATE DEPARTMENT OF ENVIRONMENTAL AND GENERAL SERVICES.
7. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE STATE DEPARTMENT OF GENERAL SERVICES.
8. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE STATE DEPARTMENT OF GENERAL SERVICES.
9. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE STATE DEPARTMENT OF GENERAL SERVICES.
10. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE STATE DEPARTMENT OF GENERAL SERVICES.



APPLICANT:
 BLOOM BUILDERS, INC.
 4412 WALSH STREET
 CRYSTAL SPRING, MD 20815
 ATTN: LEWIS BLOOM

SUPPORTING PLANS:
 STORMWATER MANAGEMENT CONCEPT PLAN
 DRAINAGE AREA MAP
 PRELIMINARY FOREST CONSERVATION PLAN
 NATURAL RESOURCE INVENTORY



SMM CONCEPT APPROVAL LETTER

...

MONITOR MAP
 PRELIMINARY PLAN NO. 280050880

PRELIMINARY PLAN OPINION

...

ATTACHMENT C



DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan
County Executive

Robert C. Hubbard
Director

November 10, 2005

Mr. Barry Smith
Vika, Inc.
20251 Century Boulevard, Suite400
Germantown, MD 20874

Re: Stormwater Management **CONCEPT** Request
for High Acres
Preliminary Plan #: 1-05056
SM File #: 215294
Tract Size/Zone: 4.4 Ac./R-90
Total Concept Area: 4.4 Ac.
Parcel(s): P801
Watershed: Little Falls Branch

Dear Mr. Smith:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of on-site water quality control via a "StormFilter" and natural area conservation credits. A waiver of onsite requirements is granted for channel protection measures for drainage areas B, F, and H; water quality requirements for drainage area D; and recharge for the entire site. This is due to design and site constraints. Channel protection volume is not required for drainage area A,C,D,E&G because the one-year post development peak discharge is less than or equal to 2.0 cfs.

The following **items** will need to be addressed **during** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. Recharge cannot be provided due to the steepness of slopes. Therefore, it should be removed from the plan. Please design the water quality device for 100% of the water quality volume.
6. Provide complete schematic drawing of the storm drain layout to the existing outfall. Provide information about the condition of the out fall. Depending upon this information you may need to repair the outfall.
7. Provide proper access to structure for maintenance.





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

December 8, 2006

MEMORANDUM

TO: Richard Weaver, Principal Planner, Development Review Division
Fred Boyd, Planner Coordinator, Community-Based Planning Division

FROM: Marilyn Clemens, Planner Coordinator *Marilyn*
Community-Based Planning Division

SUBJECT: Site Plan # 820060220
Preliminary Plan # 120050560

The 1990 Bethesda-Chevy Chase (BCC) Master Plan recommends preservation of the unique environmental features of the Potomac Palisades, especially the wooded and steeply sloped areas. This BCC Master Plan describes western and northwestern portions of the subject site, which is specifically discussed on pages 68 and 69 and mapped on Page 203 as P12 in the BCC Master Plan. The BCC Master Plan also recommends such sites be developed with clustered townhouses to minimize environmental impacts.

The Preliminary Plan and Site Plan submitted successfully save slopes and mature trees. The application has worked out a solution regarding access to the site that will encourage all new traffic to go north on Sangamore Road. This access was one of the concerns regarding previous proposals to develop this site.

The applicant has met with the surrounding homeowners and has received positive feedback.

The Preliminary Plan and Site Plan conform to the recommendations in the 1990 Bethesda-Chevy Chase Master Plan.

MC:tv: G:/Clemens/highacres2.doc

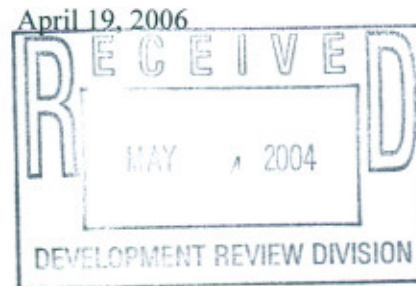


DEPARTMENT OF PUBLIC WORKS
AND TRANSPORTATION

Douglas M. Duncan
County Executive

Arthur Holmes, Jr.
Director

Ms. Catherine Conlon, Subdivision Supervisor
Development Review Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760



RE: Preliminary Plan #1-05056
High Acres

Dear Ms. Conlon:

We have completed our review of the preliminary plan dated "March, 2006". The original plan for this site was reviewed by the Development Review Committee at its meeting on January 3, 2005. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to DPS 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. Necessary dedication for Brookes Lane and Sangamore Road in accordance with the master plan.
2. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
3. Size storm drain easement(s) prior to record plat. No fences will be allowed within the storm drain easement(s) without a revocable permit from the Department of Permitting Services and a recorded Maintenance and Liability Agreement.
4. We did not receive complete analyses of the capacity of the downstream public storm system(s) and the impact of the post-development runoff on the system(s). As a result, we are unable to offer comments on the need for possible improvements to the system(s) by this applicant. Prior to approval of the record plat by the Department of Permitting Services (DPS), the applicant's consultant will need to submit this study, with computations, for review and approval by DPS. Analyze the capacity of the existing downstream public storm drain system and the impact of the post-development ten (10) year storm runoff on same. If the proposed subdivision drains to an existing closed section street, include spread and inlet efficiency computations in the impact analysis.



Division of Operations

101 Orchard Ridge Drive, 2nd Floor • Gaithersburg, Maryland 20878
240/777-6000, TTY 240/777-6013, FAX 240/777-6030

5. The sight distances study has **not** been accepted. Prior to approval of the record plat by DPS, the applicant's engineer will need to submit a revised sight distances certification. The revised form will need to reflect the correct classification and speed limit for the existing and proposed driveway(s), which indicates tree trimming and/or removal has been completed to achieve a minimum of two hundred (200) feet of sight distance in each direction.

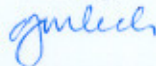
Tree removal/trimming along existing public rights of way is to be coordinated with the State Forester's Office of the Maryland Department of Natural Resources. They may be contacted at (301) 854-6060.
6. Record plat to reflect a reciprocal ingress, egress, and public utilities easement to serve the lots accessed by the proposed private driveway.
7. Private common driveways and private streets shall be determined through the subdivision process as part of the Planning Board's approval of a preliminary plan. The composition, typical section, horizontal alignment, profile, and drainage characteristics of private common driveways and private streets, beyond the public right-of-way, shall be approved by the Planning Board during their review of the preliminary plan.
8. Applicant will need to obtain permission from MNCPPC for abutting townhouses on individual lots to a private driveway.
9. The owner will be required to submit a recorded covenant for the operation and maintenance of private streets, storm drain systems, and/or open space areas prior to MCDPS approval of the record plat. The deed reference for this document is to be provided on the record plat.
10. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
11. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Fred Lees of our Traffic Control and Lighting Engineering Team at (240) 777-6000 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
12. Please coordinate with Department of Fire and Rescue about their requirements for emergency vehicle access.
13. Permit and bond will be required as a prerequisite to DPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
 - A. On Brookes Lane, construct skewed driveway entrance and widen the existing pavement as shown on the preliminary plan.
 - B. Improvements to the existing public storm drainage system, if necessitated by the previously mentioned outstanding storm drain study. If the improvements are to be maintained by Montgomery County, they will need to be designed and constructed in accordance with the DPWT Storm Drain Design Criteria.

Ms. Catherine Conlon
Preliminary Plan No. 1-05056
Date April 19, 2006
Page 3

- C. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.
- D. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.
- E. Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the Traffic Engineering and Operations Section.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Mr. Sam Farhadi at sam.farhadi@montgomerycountymd.gov or (240) 777-6000.

Sincerely,



Gregory Leck, P.E., Manager
Development Review Group
Traffic Engineering and Operations Section

m:/subdivision/farhas01/preliminary plans/1-05056, High Acres_GML Revs.doc

Enclosure

cc: Lewis Bloom, Bloom Builders
Kathleen Kulenguski, VIKA, Inc.
Anne Hoskins
Joseph Y. Cheung; DPS RWPPR
Christina Contreras; DPS RWPPR
Sarah Navid; DPS RWPPR
Shahriar Etemadi; M-NCPPC TP




**THE MARYLAND-NATIONAL CAPITAL PARK AND
PLANNING COMMISSION**

Department of Park & Planning, Montgomery County, Maryland
8787 Georgia Avenue, Silver Spring, Maryland 20910

MEMORANDUM

TO: Richard Weaver/Cathy Conlon, Development Review
Laxmi Srinivas, Development Review

FROM: Stephen D. Federline, AICP 
CountyWide Environmental Planning

DATE: June 7, 2006

SUBJECT: Preliminary Plan #120050560 and Site Plan # 820060220 **HIGH ACRES**

The Environmental Planning staff recommends approval of Preliminary Plan #120050560 and Site Plan # 820060220 for High Acres with the following conditions:

1. The proposed development shall comply with all conditions of the final forest conservation plan. The applicant shall satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits. Approval includes
 - a) Implementation of tree protection plan and compliance with all ISA certified arborist's recommendations to protect trees as specified on final FCP and per Arborist's March 8, 2006 Davey Tree Expert report. Variations in protection measures listed on signed FCP and in the Arborist report can only occur with signoff from ISA Certified arborist and MNCPPC Inspector; and
 - b) Split rail fencing and permanent signage, or staff approved equivalent, shall be placed along Natural Regeneration Area #1. Permanent signage shall be placed along remainder of easement boundary which adjoins the residential buildings.
 - c) Required site inspections by M-NCPPC monitoring staff (as specified in Section 110 of the Forest Conservation Regulations).
2. Record plat of subdivision shall reflect a Category I forest conservation easement for onsite forest to be saved.
3. Prior to building permit, the applicant shall secure air traffic noise information from the Airport Authority of noise levels from National Airport affecting this site,

and provide that information to MNCPPC Countywide Environmental Staff. If noise levels exceed 65 dBA Ldn, the applicant will be required to demonstrate achievement of an interior noise level of 45 dBA Ldn or less for the residential units.

- a) An acoustical consultant shall provide a detailed analysis of the proposed building shell to determine if it will meet acoustical design specifications as necessary to achieve no greater than a 45 dBA Ldn interior noise level.
- b) The builder must agree to construct in accord with those specifications, or receive written approval from the consultant for any changes that may affect acoustical performance.

DISCUSSION

The HIGH ACRES Property is a 4.4-acre site, located northwest of MacArthur Boulevard in the Palisades area of the Bethesda Chevy Chase Master Plan. It contains one existing dwelling and 2.55 acres of existing forest, nearly all of which is on slopes 25% or greater from the existing house down to MacArthur Boulevard, where the land drops 90 feet in elevation over a horizontal distance of ~240 feet, an overall slope of 37.5%. The forest contains 31 specimen trees (30" or greater), of which 22 specimens were saved on this forest conservation plan, and all the specimens along the steep wooded bluff alongside the Potomac River and MacArthur Boulevard. Protection of these environmental features were highlighted in the BCC Master Plan which cites on page 64:

"This (BCC) Plan recommends preservation of the Potomac Palisades' unique environmental features of steeply wooded slopes and vistas, and the perpetuation of the open space character established in the area."

The proposed plan does an excellent job in accomplishing these objectives.

Forest Conservation

Forest conservation requirements have been fully satisfied onsite through preservation of approximately 1.44 acres of forest in the most strategic location on the steep slopes. The plan actually exceeds the requirements of the law (Chapter 22A) by 0.28 acres.

Waiver of Housing Mix

The proposed plan supports a finding by the Planning Board per Chapter 59-C-7.131 that *"the plan is more desirable for stated environmental reasons than development in accord with those limits"*(percentage requirements). These reasons include: meets and exceeds the forest conservation requirements and protects high priority forest onsite; protects very steep, forested slopes per the Environmental Guidelines and BCC Master Plan recommendations; protects unique environmental features along the Potomac Palisades; and uniquely designs structured parking to minimize the impervious area and grading on this sensitive site. Indeed, the site has been designed to maximize the level of protection afforded to the special environmental features on the site.

Noise

The predominate noise source affecting this site is air traffic approaching and departing Reagan National Airport. Prior to building permit, the applicant shall secure information from the Airport Authority of the noise levels from National Airport affecting this site, and provide that information to MNCPPC Countywide Environmental Staff. If noise levels exceed 65 dBA Ldn, the applicant will be required to demonstrate achievement of an interior noise level of 45 dBA Ldn or less for the residential units.

If exterior noise exceeds 65 dBA, an acoustical consultant will need to provide detailed review of the proposed building shell to determine if it will meet specific acoustical design specifications. The builder must construct in accord with those specifications, or receive written approval from the consultant for any changes that may affect acoustical performance.

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FIRE MARSHAL COMMENTS

DATE: 3-29-06
TO: PLANNING BOARD, MONTGOMERY COUNTY
VIA:
FROM: CAPTAIN JOHN FEISSNER
RE: APPROVAL OF ~ *HIGH ACRES #820060220*

1. PLAN APPROVED.

- a. Review based only upon information contained on the plan submitted 3-29-06. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
- b. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

cc: Department of Permitting Services

ATTACHMENT D

OCT-13-2006 10:24

LINOWES AND BLOCHER LLP

301 654 0504

P.02/02

Robert O. Zdenek
Anne E. Hoskins
6451 Brookes Lane
Bethesda, MD 20816

October 13, 2006

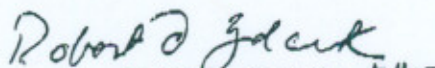
Hon. Royce Hanson, Chairman
And Members of the Montgomery County
Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

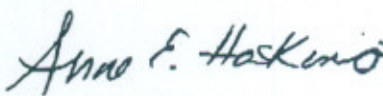
Re: Preliminary Plan No. 120050056 and Site Plan review No. 820060220
(High Acres)

Dear Mr. Hanson and Members of the Planning Board:

We live at 6451 Brookes Lane, directly across the street from the property that is subject to the referenced Preliminary and Site Plan Applications. We previously opposed a prior development scheme proposed by the Applicant. The Applicant has revised the proposed plans to address our concerns. In consideration for the revisions and the terms set forth in an Agreement between the Applicant and the undersigned, we do not object to the revised Application plans dated October 4, 2006. Please include this letter in the Public Record.

Sincerely,


Robert O. Zdenek


Anne E. Hoskins



NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY

4600 Sangamore Road
Bethesda, Maryland 20816-5003

1-05056

U-011-05/SIF

FEB 18 2005

Ms. Terri Jacobsen
6449 Brookes Lane
Bethesda, MD 20816

Dear Ms. Jacobsen:

I am writing to acknowledge receipt of your February 3, 2005 letter regarding the Proposed Development of High Acres, Maryland-National Capital Parks and Planning Commission (M-NCPPC) Preliminary Plan Number 1-05056.

On January 25, 2005, I met with representatives of the Brookes and Locust Lane Civic Association. On January 31, 2005, I met with Mr. Lewis Bloom and his associates. Both meetings focused on the proposed High Acres development. As you know, that location is adjacent to our headquarters, and we have a vital interest in any development that could impact our security. In that regard, I sent a letter to Mr. Richard Weaver at the M-NCPPC describing NGA's preliminary position regarding Mr. Bloom's development proposal (Enclosure).

We take the security of our Bethesda Headquarters and all of our facilities very seriously. We continually review all potential threats to our operations and personnel. From this perspective, our security posture is a "work-in-progress" under constant review and revision to meet changing circumstances such as the High Acres proposal. It is comprehensive and considers all vulnerabilities including those that may be posed by the development of High Acres. Additionally, our security posture focuses on activities inside our fence line, with emphasis on protecting our property, buildings, and employees. Protection of the surrounding residential neighborhood is beyond the purview of NGA. However, when we observe suspicious activity near our immediate boundaries our policy is to contact the Montgomery County Police Department. We have also developed an excellent rapport with the Montgomery County Police, the County Fire and the Emergency Services Departments, and the United States Park Police. Cooperative relationships such as these contribute to enhanced safety and security postures for both NGA and the local community.

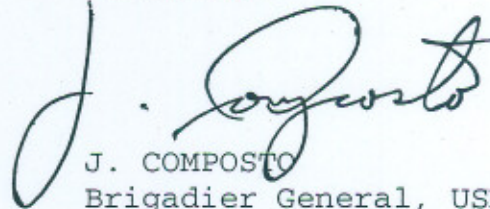
U-011-05/SIF

NGA will respond to your Freedom of Information Act (FOIA) request separately. We plan to complete our review of the most recent High Acres development proposal by the end of February 2005. We will provide you a copy of our letter.

We look forward to working with you and all concerned parties to reach an appropriate outcome. NGA's focus will remain the security of our installation, our personnel and our business operations.

If there are any questions or concerns about the review, please contact Mr. Tom Bukoski, at (703) 735-3901.

Sincerely,

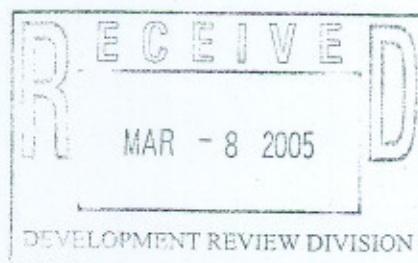


J. COMPOSTO
Brigadier General, USMC (Ret.)
Director, Security and Installation
Operations Directorate

Enclosure
As stated

cc:

Mr. Howard Denis, Montgomery County Council
Mr. Dick Berlage, Vice-Chairman, M-NCPPC
Mr. Richard A. Weaver, M-NCPPC
Ms. Marilyn Clemens, M-NCPPC
Mr. Tom Waldvogel, President Brookes and Locust Lane Civic
Association
Ms. Anne Hoskins
Mr. Keith Roberts, Vice President, Brookmont Civic Association





NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY

4600 Sangamore Road
Bethesda, Maryland 20816-5003

U-010-05/SIF

FEB 14 2005

Mr. Richard A. Weaver
Senior Planner, Development Review Division
Montgomery County Department of Parks and Planning
8787 Georgia Avenue
Silver Spring, MD 20910-3760

Dear Mr. Weaver:

On January 31, 2005, Mr. Lewis Bloom ("the developer") presented his revised proposal for the High Acres Development, (Preliminary Plan No. 1-05056) to the National Geospatial-Intelligence Agency (NGA). The High Acres development is located at 6450 Brookes Lane, Bethesda, Maryland adjacent to our headquarters, which houses important Department of Defense and national intelligence assets. NGA has a vital interest in this and any nearby development that could effect our security or operations.

An NGA representative attended the Pre-Preliminary Subdivision review meeting held in your office on January 3, 2005. On January 26, 2005, we met with the President of the Brookes and Locust Lane Civic Associations regarding the proposed development of this property. On January 31, 2005, the developer presented his substantially changed proposed development plan to NGA. At that meeting Mr. Bloom said he would file a formal Preliminary Subdivision Plan soon. We understand that your review process will include further public review, including a public hearing. As the County's process proceeds, we will continue to work with our neighbors and the developer to ensure our concerns are addressed.

To this end, NGA is now conducting an assessment of the revised plan from a physical security and counterintelligence perspective. We expect our final assessment to be completed no later than February 15, 2005. Nonetheless, our preliminary assessment has identified several areas of concern that must be addressed before final approval of the proposal.

- Access and control of access to the site remains a concern.
- NGA supports restricting vehicular access to Brookes Lane to residents and other necessary traffic.
- Parking near our fence-line presents an unnecessary hazard.

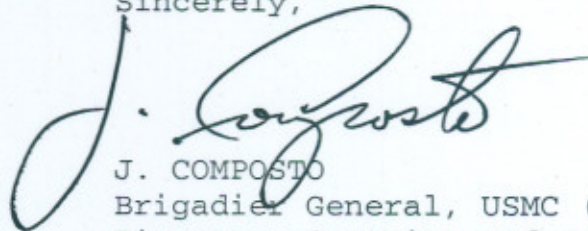
- The presence of visual obstructions along our fence-line with the proposed development is a concern. NGA supports the retention of specimen trees and their on-going maintenance that is compatible with our security needs.
- Prospective homeowners must be made aware of the general nature and scope of NGA operations. To include 24 hours per day, 7 days per week, vehicular and pedestrian traffic, commercial traffic, security lighting, and patrols, etc.
- Any new homes must be placed as far from the property line as feasible.
- Drainage from the site and management of runoff must not interfere with NGA operations.
- NGA will not grant construction access from our site or support easements across government property.
- NGA must be notified of all construction activity at the site to better provide security for our operations.

This letter is preliminary and does not represent a final agency position. A final position will be presented after the developer presents a final plan. All meeting requests and other notifications on this and related matters should be sent to:

Ms. Eileen Corrigan
Bethesda Site Manager
NGA Bethesda, Mail Stop D-001
6000 MacArthur Boulevard
Bethesda, MD 20816-5003

Thank you for considering our interests. NGA looks forward to working with all concerned to achieve solutions compatible with our security and business operations. If there are any immediate questions or concerns about this matter, please feel free to contact Mr. Tom Bukoski, Planner, at (703) 735-3901.

Sincerely,



J. COMPOSTO
Brigadier General, USMC (Ret.)
Director, Security and Installation
Operations Directorate



NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY

4600 Sengamore Road
Bethesda, Maryland 20816-5009

1-05056

U-060-04/SIIF

JUN 23 2004

Mr. Richard A. Weaver
Senior Planner, Development Review Division
Montgomery County Department of Park and Planning
8787 Georgia Avenue
Silver Spring, MD 20910-3760

Dear Mr. Weaver:

On May 18, 2004, Daniel C. Cross, President of Cross & Company, LLC (the "Company"), briefed National Geospatial-Intelligence Agency (NGA) staff on the Company's proposed development of the property located at 6450 Brookes Lane, Bethesda, Maryland, which is also known as High View Acres. The property is adjacent to our Bethesda Summer facility. This site is NGA's headquarters and it houses important Department of Defense assets. NGA has an interest in any nearby development that could affect our security and operations, such as this proposal.

It is our understanding that the Company has submitted a Pre-Preliminary Subdivision Plan (the "Plan") to your office. An initial meeting took place on June 1, 2004, and various County offices provided comments to the Company. NGA understands that a formal Preliminary Subdivision Plan will be filed by the developer should he decide to pursue his proposal. This process will include further public review, and a public hearing may be held regarding the resubmitted plan. NGA staff are reviewing the information the Company provided to the Agency as well as the Plan submitted to the County. In follow-up to your request at the meeting and the request of the Company, we have listed below, for your information, several areas that initially appear to be of concern.

Access to the site: Access is proposed from Brookes Lane by a road along the property line. A retaining wall would be constructed next to the road and our property line. The strip of land between the retaining wall and the property line would be landscaped. Relocating the road away from the property line may be more effective in addressing security concerns; however, the proposed roadway location with the retaining wall meets some NGA concerns.

U-060-04/SIIF

Visual Obstructions: Presently, there are trees, shrubs, and a solid stockade fence along the property line, which preserves the homeowner's view but obstructs surveillance. NGA prefers that the present landscaping be removed or thinned and the stockade fence be removed and not replaced. Any remaining or new landscaping along our fence line should be dense, not overhang the fence and be setback a minimum of eight feet to allow the fence line to be observed.

Proposed Homes:

1. NGA is very concerned with the proximity of the proposed homes to our property line. (This implies that ordinance setbacks meet NGA security needs.) NGA prefers that these setbacks be increased from our property line to the greatest extent possible.

2. NGA also requests that homes be constructed and/or located to avoid or restrict views into the NGA parking lot and maintenance areas adjacent to the property line.

Access to and control of the development: Access to the proposed development should be minimized by a secured and alarmed gate, or similar means.

NGA Operations: NGA conducts around-the-clock operations at its Bethesda Summer site. We strive to be good neighbors and members of the community. However, new residents should be made aware of the effect of NGA operations on the use of their homes. These activities include security patrols, security lights, deliveries, trash pick-ups, noise, and dust. NGA has no plans to change current policies and procedures, and will not restrict its activities, in any manner, to accommodate new development and new residents.

Runoff Management: Runoff from the site must not affect NGA. Construction of new drainage structures by others will not be permitted on our site.

Construction: NGA will not allow construction access to our site. Any excavation adjacent to our site must not interfere with our fence and it must not facilitate unauthorized entry into our facility. For security purposes, NGA requests that the permit require the Company to provide NGA with information pertaining to construction activities, contractors, including the beginning date and construction progress.

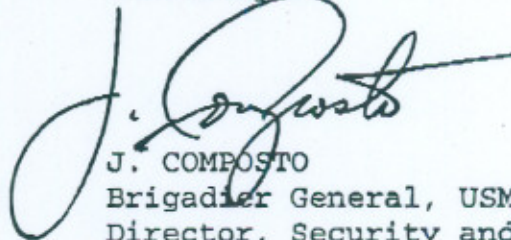
U-060-04/SIIF

Homeowner notification: All prospective homeowners must be informed of NGA's activities that could affect their purchase. Ideally, such notifications would appear in a homeowner's association agreement signed at the sale of the dwelling units. The comments in this letter are provided as preliminary information and do not represent a final Agency position. Until Cross & Company submits its "Preliminary Plan" and application to your office NGA cannot present a final position in this matter. NGA intends to be a participant in this process and to take the opportunity to present its position at the appropriate time. Kindly mail all meeting and other notifications on this and other related matters to:

Ms. Eileen Corrigan
Bethesda Site Manager
NGA Bethesda
Mail Stop: D-001
6000 MacArthur Boulevard
Bethesda, MD 20816-5003

Thank you for considering our interests. NGA looks forward to working with Montgomery County to achieve a solution compatible with our security and business operations. If there are questions concerning this matter and our concerns, please feel free to contact Mr. Tom Bukoski, Planner, at (703) 735-3901.

Sincerely,



J. COMPOSTO
Brigadier General, USMC (Ret.)
Director, Security and Installation
Operations Directorate

Enclosure
As stated

cc:
Mr. Daniel C. Cross, Cross & Company
Ms. Terry Jacobsen
Brookes and Locust Lane Civic Association



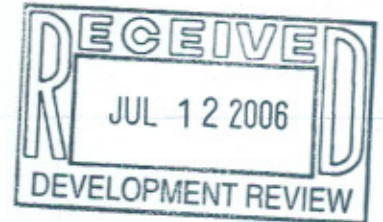
NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY

4600 Sangamore Road
Bethesda, Maryland 20816-5003

JUL 07 2006

U-085-06/SIF

Mr. Richard A. Weaver
Senior Planner, Development Review Division
Montgomery County Department of Park and Planning
8787 Georgia Avenue
Silver Spring, MD 20910-3760



Dear Mr. Weaver:

The National Geospatial-Intelligence Agency has reviewed the revised Site Plan and Landscape Plan, dated March 2006, for the High Acres development (Preliminary Plan No. 1-05056, Site Plan No. 820060220). The High Acres development is located at 6450 Brookes Lane, Bethesda, Maryland, adjacent to our headquarters. As we indicated in our letter of February 15, 2005, our Bethesda facility houses crucial Department of Defense and national intelligence assets, and as such, we are very interested in the development of the neighboring property and appreciate the opportunity to comment on this proposal.

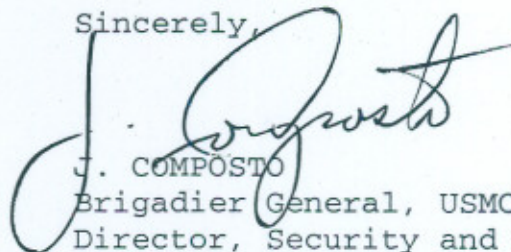
Our preliminary assessment of the site drawings listed nine areas of concern about the project design (Enclosure). The initial design has been revised to remedy some of these concerns; however, there are some issues which need to be addressed.

- Access and control of access to the site remains a concern. The new proposed Club House presents another concern. NGA prefers that access to the property be controlled in a manner that limits access to the development.
- Parking near our fenceline remains a concern. Vehicles will be able to approach near our property in the current design. Restricting access to the site will help alleviate this concern.
- Visual obstructions along the fenceline are a major concern. New plantings should be set back from the property line a minimum of 8', and any existing or new plants should not be allowed to overhang the property line. The spread of plantings should not obstruct the view of the property line. In addition, plantings should be maintained to ensure new growth is kept within these parameters.

- Perspective homeowners must be made aware of the general nature and scope of NGA operations, which include 24 hours per day, 7 days per week, vehicular and pedestrian traffic, commercial traffic, security lighting, security patrols, security cameras, etc.
- The new homes appear to have been placed as far away from our property line as feasible. The parking garages now placed under the townhomes lessen some of our concern about parking.
- Erosion and sediment control measures need to be installed to ensure runoff does not impact NGA's operations.
- As you know, NGA will not grant construction access from our site or support easements across our property.
- NGA has determined that the proposed subdivision driveway crosses Federal property. NGA has contacted Mr. Bob Webb, Baltimore District Corps of Engineers, Real Estate Division, who has indicated that his office will work with the developer to address this issue. Mr. Webb can be reached at 410-962-3666.
- We again request that NGA be notified of all construction activity at the site to better provide security for our operations. Notification should be made to the Bethesda Site Manager, Ms. Eileen Corrigan, NGA Bethesda, Mail Stop D-1, 4600 Sangamore Road, Bethesda, MD 20816-5003, phone 301-227-2001.

Thank you for the opportunity to participate in the review process. We look forward to working with you and others to finalize the project. For all meeting and other notifications related to this project, please send mail to Ms. Corrigan. If there are any questions or concerns regarding this letter, please feel free to contact Mr. Tom Bukoski, Planner, at 703-735-3901.

Sincerely,



J. COMPOSTO
Brigadier General, USMC (Ret.)
Director, Security and Installation
Operations Directorate

U-085-06/SIF

Enclosure
As stated

cc:

Mr. Lewis Bloom

Mr. Peter Robinson

Mr. Tom Waldvogel, President, Brookes & Locust Lane
Civic Association

Ms. Anne Hoskins

Mr. Keith Roberts, Brookmont Civic Association

Mr. Bob Webb, Baltimore Corps of Engineers

Sumner Village Community Association

Eileen M. Lavine, President
4978 Sentinel Drive, Apt. 406
Bethesda, MD 20816
(301)229-6640

✓
ON HOA
Listing
psc
12/19/06

December 8, 2004

M-NCPPC
Montgomery County Planning Commission
Development Review Division
8787 Georgia Avenue
Silver Spring, MD 20910

Re: No. 1-05056

Dear Division Staff:

I am writing on behalf of the Board of Directors of the Sumner Village Community Association, which represents the nearly 400 apartments in Sumner Village, located on Sentinel Drive near Sangamore Road. We are concerned about the plans of Bloom Builders, Inc., to develop the property called High View Acres on Brookes Lane close to our community.

Our Board will not meet until January 19, but when the previous development proposal was presented, the SVCA Board voted unanimously to express concern about the adverse impact of the plan. We urge you to delay any final action on the plan until we can review it and evaluate the impact on our community and our residents. We are particularly concerned about traffic and safety, the destruction of trees and bushes, and damage to the environment. A number of our residents walk along Brookes Lane and enjoy the country-like atmosphere of the roadway. We are also worried about the additional traffic that will be engendered, especially with the changing entry for the government enclave adjoining the property.

We at Sumner Village urge you to take more time to consider this plan and allow us and our neighbors time to participate in discussions on this development. Thank you for your consideration.

Sincerely,



Eileen M. Lavine

Conlon, Catherine

From: Pugh, Carolyn
Sent: Monday, January 03, 2005 11:34 AM
To: Weaver, Richard; Conlon, Catherine
Cc: Krasnow, Rose
Subject: FW: CTRACK #2004-1894

Rich, staff response is needed, Chairman is ex parte per Charlie memo 1/3/05

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

From: MCP-CTRACK
Sent: Tuesday, December 28, 2004 11:47 AM
To: Krasnow, Rose
Cc: Pugh, Carolyn; MCP-CTRACK; Loehr, Charles
Subject: CTRACK #2004-1894

**CTRACK ROUTING SLIP
MONTGOMERY COUNTY PLANNING BOARD
CHAIRMAN'S OFFICE**

| | | | |
|-------------------------------------------|----------------------------------------------------------------------------------|------------------------|------------|
| File Number: | 2004-1894 | Date Received: | 12/27/2004 |
| Correspondence Type: | Letter | Date Of Letter: | 12/27/2004 |
| Agenda Date: | N/A | | |
| To: | Derick Berlage | | |
| From: | Matthew Gamser and Anika Zaremba | | |
| Description: | Letter regarding the High Acres, Brookes Lane Development (Plan Number 1-05056). | | |
| Transmitted To: | Director and Chairman | | |
| Action For: | Krasnow, R | | |
| Copies To: | Pugh, C | | |
| Date Due: | N/A | | |
| Remarks From Chairman's Office: | | | |
| Prepare response for Chairman's signature | | | |

RECEIVED
1894
DEC 27 2004

6418 Brookes Lane
Bethesda, Maryland 20816
301-229-5446
matthew.gamser@gmail.com
a2m2z@hotmail.com

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

Matthew Gamser and Anka Zaremba

December 27, 2004

Mr. Derick Berlage
Vice-Chairman M-NCPPC
8787 Georgia Ave.
Silver Spring, MD 20910
Fax: 301-495-1320

Re: High Acres, Brookes Lane Development (Plan Number 1-05056)

Dear Mr. Berlage:

We have had a chance to review the preliminary development plans for the above referenced property (the Howard K. Smith Estate). As five year residents of Brookes Lane, we have seen a great deal of development on our little street. Some development harmonizes with the scale of the existing homes, makes an effort to save trees, preserves the character of our street and sites homes appropriately. Such development can provide great assets to our neighborhood—esthetically and in terms of the new families attracted to our neighborhood. The new L. Bloom development planned for the High Acres estate does none of these things, and is of great concern for us.

Traffic:

The potential traffic generation from this redevelopment is of utmost concern to us. The many young children of Brookes and Locust Lanes enjoy riding bicycles, walking, scootering and rollerblading up and down the lane as they pop in and out of each other's home to visit and play. They are joined by many walkers and bikers who enjoy the tree-lined, narrow and winding lanes. In fact, those very aspects that make these roads unable to accommodate large increases in traffic are those that create the character of this little neighborhood pocket. Brookes Lane was intended and should stay a "Secondary Street," whose primary function is to service the residents of Brookes and Locust Lanes. Increased traffic from even 10 new homes may not seem problematic for most roads, but it is for ours.

Environment:

The proposed plan calls for the destruction of most of the large old, specimen, trees that are over 75 years old. These trees are valuable in their own right and also screen the property and help prevent erosion. We already have a drainage problem on MacArthur Boulevard below this development, and we fear deforestation will make it worse. We believe that preserving most of the woodland nature of the property in the developable area of the property (not just on the steep slope down to MacArthur Blvd.) would enhance the new homes, preserve a neighborhood asset and protect historic specimens. Also, the proposed homes' siting on the steep slopes of Brookes Hill, will create the appearance of much larger buildings towering over their adjacent neighbors.

.....

December 27, 2004

Page 2

Impact on Schools:

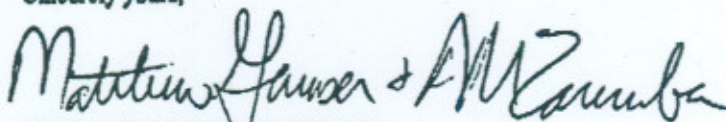
Increasing the housing density in the area can be expected to place additional demands on our already crowded schools.

We urge the M-NCPPC to consider the impact of the proposed development on Brookes and Locust Lanes and the larger neighborhood. After all, the county's master plan calls for preserving the scenic character of this area—a character that can only be preserved with thoughtful and appropriately scaled development

Thank you for your consideration of these serious issues. We look forward to working with you to ensure that the development of High Acres is consistent with the public interest.

Please call or e-mail us with any questions or comments.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Matthew Gamser & Anka Zaremba". The signature is written in a cursive, flowing style.

Matthew Gamser and Anka Zaremba



Brookes and Locust Lane Civic Association

Thomas M. Waldvogel, President

6447 Brookes Lane
Bethesda, MD 20816
(301)229-3140

December 14, 2004

M-NCPPC
Montgomery County Planning Commission
Development Review Division
8787 Georgia Avenue
Silver Spring, MD 20910

Re: No. 1-05056

Dear Division Staff:

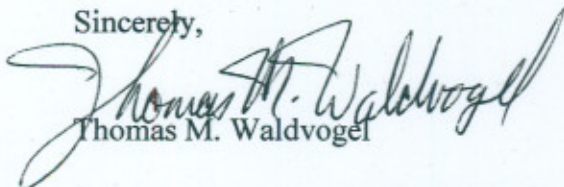
I am writing on behalf of the officers of the Brookes and Locust Lane Civic Association, which represents the citizens of Brookes and Locust Lanes. We are very concerned about the proposed plans of Bloom Builders, Inc., to develop the property called High View Acres (formerly the Smith Estate) on Brookes Lane.

Earlier this year, when another developer, Mr. Cross (plan # 7-04063), proposed a major development on this property, we strongly opposed it. That development was also opposed by you in the form that it was presented. Concerns were raised by your staff at the DRC meeting about the massive destruction of trees, storm water management, erosion and the extra burden of traffic that would have to be absorbed by Brooke's lane. Mr. Cross eventually backed out of the development for a myriad of reasons, one of which was the DRC told him that his build able space was to be limited to 1.5 acres, not the over 2.5 acres he had planned.

Overall the plan submitted by Mr. Bloom is no different than the plan submitted by Mr. Cross. The concerns that our association, the Brookmont association, Sumner Village association and the DRC had are still present and have not been addressed. In addition to the concerns listed above, we are also worried about the additional traffic that will be engendered, especially in light of the new entry for the government enclave adjoining the property. Neighborhood safety is compromised.

We at Brookes and Locust Lane Civic Association urge you to take more time to consider this plan and allow us and our neighbors' the opportunity to participate in thoughtful discussions on this development. Thank you for your consideration.

Sincerely,


Thomas M. Waldvogel

6448 Brookes Lane
Bethesda, MD. 20816
Dec. 26, 2004
(301) 229-5595

Richard Weaver
Montgomery County Development Review Division
8787 Georgia Avenue
Silver Spring, MD. 20910

RE: High Acres, 6450 Brookes Lane Development (Plan # 1-05056)

Dear Mr. Weaver,

As owners of the property immediately adjacent to 6450 Brookes Lane, we are the most closely affected by the development plan submitted by Mr. Lewis Bloom. While we join in the objections raised by our neighbors on Brookes Lane, Locust Lane, Maryland Avenue and the participating, we neighborhood associations, we are anxious to address those issues which have a direct impact on our property at 6448 Brookes Lane.

The plan as submitted seeks to locate a number of structures quite close to the fence lines on the two sides of our property which abut the High Acres/ Howard K. Smith estate. To accomplish the proposed sitings, it appears that all existing trees and shrubs will be clear cut. In their place will stand three to four structures nearly 40 feet in height. Given the fact that our house is situated some 20 feet below the grade level of the High Acres grade, we are confronted with the prospect of having to endure the equivalent of 60-foot buildings towering over our entryway. The proposed buildings would be no further than 8 feet from our fence line. Quite a change from the canopy of very old trees we have become accustomed to in the 20 years that we have lived here.

Even worse than the loss of privacy and the destruction of our vista (which could potentially decrease the re-sale value of our home) is the threat of erosion which Mr. Bloom's plan implies. We are frequently confronted by severe water runoff during summer rainstorms and winter thaws. It is a problem that Brookes Lane has had to endure and the storm drains on the street oftentimes exceed their capacity after torrential storms we in the Washington area are accustomed to in the summer months. The public walkway which connects Brookes Lane with Maryland Avenue and MacArthur Boulevard is frequently awash with rainwater and silt and debris gets deposited on MacArthur in the aftermath of such storms. We fear that the loss of the large trees alongside both fence lines on our property to make way for large buildings constitutes an erosion threat to our land and our house. An onsite visit would better demonstrate that potential danger. There is a steep decline from the High Acres property to our house. Since we have no basement, any water runoff would likely end up in our living areas. In the past, we have

had occasion to experience some water damage after particularly violent storms; nothing can convince us that we are not further jeopardized by the proposed tree clear cutting and the siting of very large-roofed structures in their place. We are not confident that any storm drain system will be adequate enough to compensate for the loss of deep-rooted trees and the addition of roof gutter runoff.

Of additional concern to us is the question of national security as it applies to the National Geospatial Intelligence Agency which borders High Acres on the side opposite ours. The Agency has been and is now spending untold dollars to ramp up their own security along Sangamore Road and it is of no small concern to their neighbors who recognize the potential terrorist threat as well. Why a road running alongside the Agency's property line would be considered is beyond us. What measures will be taken to assure defenseless neighbors that construction vehicles can be adequately monitored and that any future traffic would not carry a threat to all in close proximity. I understand that the Agency is eager to have all trees along their fence line with High Acres be clear cut, as well, so they can better survey the area. That seems to re-open the erosion issue, as the Agency's grade is higher than High Acres and storm water would again become an issue, increasing the burden even more on any proposed drain system. In any event, it seems imprudent in today's political climate to further encourage residential development on the doorstep of a well-known intelligence agency. This, in all likelihood, is not an issue which Montgomery County planners have had to deal with before, but current events demand that it be considered as a factor in decision-making.

As long time neighbors of the former owners of High Acres, Mr. and Mrs. Howard K. Smith, we were well aware of their intentions when they petitioned for re-zoning some years back. It was of utmost concern to them that their precious trees be preserved. Mrs. Smith testified at a public hearing on the subject that any future plan would have townhome-type structures in a clustered area on the flat, central portions of the property, thus ensuring that no trees would be sacrificed for construction. The Smiths owned our property as well and upon the sale to us, Mrs. Smith re-claimed a portion of our property which ran up to where the existing driveway is now in order to guarantee that she could personally safeguard all the tall, old trees that stood on that piece of our property. This is said to emphasize their long-range intentions for the property and the natural resources on that property. It is indeed ironic that their re-zoning has put all those things in jeopardy now.

We have no illusions about that fact that High Acres will be developed. However, we would have liked to have had some discussion with the developer before plans were drawn up. A few neighbors and association members did have the opportunity to talk with Mr. Bloom one evening at the Smith house, but it was long after we had received the proposed plans by registered mail. He did point out that "he was the owner and could do what he wanted," but it would have been helpful and courteous to meet with concerned parties and hear whatever we might have had to say before it was presented to us by courier.

Thank-you for your consideration,

JOSEPH P. O'NEILL

LINDA A. O'NEILL

Joseph P. O'Neill

Linda A. O'Neill

GIL CRAWFORD & LOUISE STONER CRAWFORD

6446 Brookes Lane, Bethesda, MD 20816

301.320.9671 gillouise@earthlink.net

December 20, 2004

Richard Weaver
Montgomery County Development Review Division
8787 Georgia Ave.
Silver Spring, MD 20910

~~Fax: 301.594.1306~~

Re: High Acres, Brookes Lane Development (Plan Number 1-05056)

Dear Mr. Weaver:

We have had a chance to review the preliminary development plans for the above referenced property (the Howard K. Smith Estate). As residents of Brookes Lane, we provide the following comments for your consideration.

As ten year residents of Brookes Lane, we have seen a great deal of development on our little street. We notice that development that is in keeping with the scale of the existing homes, that makes an effort to save trees, preserve the character of the street and to site the homes appropriately can provide great assets to the neighborhood—aesthetically and in terms of the new families attracted to our neighborhood.

That said, there are some issues about the new L. Bloom development planned for the High Acres estate that concern us.

Traffic:

The potential traffic generation from this redevelopment is of utmost concern to us. Our two young children join the other 19 living on Brookes and Locust Lanes in riding bicycles, walking, scootering and roller blading up and down the lane as they pop in and out of each other's home to visit and play. They are joined by many walkers and bikers who enjoy the tree-lined, narrow and winding lanes. In fact, those very aspects that make these roads unable to accommodate large increases in traffic are those that create the character of this little neighborhood pocket.

Brookes Lane was intended and should stay a "Secondary Street," whose primary function is to service the residents of Brookes and Locust Lanes. Increased traffic from even 10 new homes may not seem problematic for most roads, but it is for ours.

The solution is not to widen the road, promoting high speed traffic, but to maintain the character of its intended use and limit or discourage other vehicles from using it. (In fact, it may prove very difficult to widen the road with curbs and sidewalks as many of the

original homes are sited with little to no setbacks.) There is a higher speed road that carries traffic along the same trajectory—namely Sangamore Road. Some suggestions to mitigate traffic on Brookes and Locust Lanes are: create a dead end road or a one-way street, add more speed bumps along Brookes Lane or force the ingress/egress for the Smith development onto the wider portion of Sangamore road (toward the National Geospatial-Intelligence Agency) so cars will use Sangamore Road to connect to MacArthur Blvd as the road network has always been intended to function.

Security:

Security issues need to be addressed as the proposed plan calls for the main road to this development to run alongside the National Geospatial-Intelligence Agency. We are confident that in these times of heightened security, this development (including construction traffic) will raise serious concerns for the National Geospatial-Intelligence Agency (and Montgomery County) as well as the adjoining neighborhoods.

We wonder if residential developments are being built in such close proximity to any other national intelligence site.

Trees:

The proposed plan calls for the destruction of most of the large old, specimen, trees that are over 75 years old. These trees are valuable in their own right and also screen the property and help prevent erosion.

We believe that preserving some of the woodland nature of the property in the developable area of the property (not just on the steep slope down to MacArthur Blvd.) would enhance the new homes, preserve a neighborhood asset and protect historic specimens.

Scale:

The proposed plan calls for a mixture of town homes, semi-detached homes and single family homes. Although the current zoning permits this density, the proposed development does not preserve the scenic character of the area, which is specifically called for in the Montgomery County master plan.

The proposed homes' siting on the steep slopes of Brookes Hill, will create the appearance of much larger buildings towering over their adjacent neighbors.

Impact on Schools:

Increasing the housing density in the area can be expected to place additional demands on already crowded schools.

We urge the M-NCPPC to consider the impact of the proposed development on Brookes and Locust Lanes and the larger neighborhood. After all, the county's master plan calls for preserving the scenic character of this area—a character that can only be preserved with thoughtful and appropriately scaled development

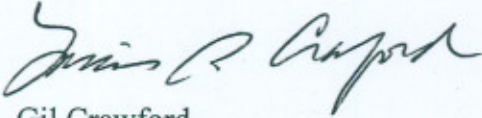
Berlage Letter
December 20, 2004

Re. Plan #1-05056
p. 3

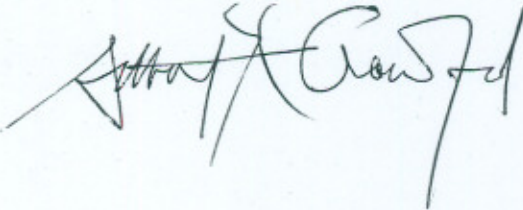
Thank you for your consideration of these serious issues. We look forward to working with you to ensure that the development of High Acres is consistent with the public interest.

Please call or e-mail us with any questions or comments.

Sincerely,



Gil Crawford
Louise Stoner Crawford



6451 Brookes Lane
Bethesda, MD 20816
301-509-3468

January 23, 2005

M-NCPPC
Montgomery County Planning Commission
Development Review Division
8787 Georgia Avenue
Silver Spring, MD 20910

Re: No. 1-05056

Dear Development Review Committee Staff:

We are writing to follow-up on the Staff request (by Jeff Riese) for additional input regarding the ownership and use of Brookes Lane, as it pertains to the proposed development of "High View Acres" by Lewis Bloom.

Mr. Bloom has submitted a proposal to develop 12 housing units as a cluster project, with a new entrance road onto Brookes Lane. It is our understanding that he is now revising that proposal and will request approval to build and redevelop 15 housing units on his property. Presently, the property is accessed by a long driveway, which connects to Brookes Lane through the Southeast corner of the property. Mr. Bloom proposes to move his driveway/ entrance road to the Northeastern portion of the property, directly across from our house and driveway, and crossing over a portion of our property.

The proposed development plan raises two critical issues that the County must consider before approving the relocation of the entrance road:

1. Is there a prescriptive easement that allows Mr. Bloom to use our property for purposes of accessing Brookes Lane?
2. If not, is there a legitimate public purpose and need that would justify the County taking a portion of our private property (and devaluing the remainder of our property) to facilitate the private development plan?

The answer to both of these questions is "no"—as we will explain below.

Property Description

Enclosed is a copy of the deed description to our property. Also enclosed is a copy with green lines added to show the location of our driveway, the asphalt portion of

Brookes Lane and the Natural Land portion (described below). According to the boundaries on this deed, we own the portion of Brookes Lane directly across from our house, as well as a small portion of wooded and brush covered ground (referred to below and on the drawing as "Natural Land") up to a long-standing fence that borders High View Acres. The former owners, Mr. and Mrs. Howard K. Smith, never used nor attempted to use the Natural Land as a means of entrance or exit onto Brookes Lane. Instead, they used a driveway that enters Brookes Lane at the Southeast corner of their property. The County has maintained the asphalt covered Brookes Lane for some time, including plowing snow, repairing pot holes, etc. The County has not, however, provided any compensation to date to us for the public's use of our portion of Brookes Lane. Nor has the County provided any upkeep or maintenance of the Natural Land. As owners of that property, we plan to landscape the Natural Land with an appropriate screen once the development plans of High View Acres are finalized.

Prescriptive Easement

While there appears to be an easement of use/ prescriptive easement over the asphalt-covered Brookes Lane, where cars and pedestrians have used the road for walking and transportation, there is no easement of use of the Natural Land. Due to the placement of the fence along the border of High View Acres, the Natural Land has never been used for a cut-through onto High View Acres. It is brush and tree covered, and has never been used as a walking path. It's only use has been as a natural screen of the fence. We have never received any compensation for the use of our portion of the asphalt covered of Brookes Lane as a public, County-supported thoroughfare.

Takings Issue

Given the lack of an existing easement, there are two options for Mr. Bloom to gain a new point of access to Brookes Lane: (1) he can seek to purchase our property (which he has not done) or other private property or (2) he can look to the County to exercise its powers of eminent domain to take our property (or others' private property) and compensate us (or others) for the fair market value of the property taken and the loss in value of the remainder of the property.

As tax-paying citizens of Montgomery County, we do not, as an initial matter, believe it is appropriate for the County to even consider taking our property when Mr. Bloom has not even sought to purchase it in good faith. Mr. Bloom paid the Mrs. Smith \$3.3 million dollars for the use of her property. He hopes to sell 15 houses on this property, each for between \$1- \$3 million. Surely, the County should not spend its resources to further enrich this private individual (by providing a new point of access to his development) unless and until he has attempted to gain rights to our property, or other property, privately.

Before taking our property, the County must determine that the property is reasonably necessary to support a legitimate public purpose.

1. Public Purpose

To date, we have failed to see a public purpose in Mr. Bloom's plan.

Housing: Mr. Bloom plans to develop luxury housing – something of which there is plenty of in Montgomery County. His plan will do nothing to support the County's need for more school facilities, more moderate-income housing or assisted living options for seniors. Housing is not in and of itself a public good-- especially if the development undermines the quality of living of existing residents, degrades the environment, raises safety hazards and increases demands on social services and roads.

The fact that the Master Plan determined over 15 years ago that the lot should be used for cluster housing (up to 15 units) should not be determinative without a closer look at the changed neighborhood characteristics. There are more houses and many more residents on Brookes Lane today than there were in 1990. A lower density project (with less traffic and environmental damage) would be more in keeping with the current use of Brookes Lane, while providing some additional housing supply. Moreover, the cluster designation is questionable since this property is considerably smaller than the requisite 5 acres, and the developable portion is less than 2 acres.

We understand that the proposed development will be a gated community served by a private road. It will therefore provide no additional public land for the public's use and enjoyment (i.e., a playground or neighborhood meeting place). Instead of adding to the fabric of our neighborhood—it will add only traffic.

Partial Sidewalk: there is no need for a 50 foot partial sidewalk on the West side of Brookes Lane. The neighborhood is very concerned about pedestrian safety and the response to that concern is not to build a partial sidewalk on a very small portion of Brookes Lane (and certainly not to widen Brookes Lane, since that will only attract additional cut-through traffic). Instead, the County should consider options to restrict non-local traffic use of Brookes Lane (local residents know the contours of the Lane and are aware of the children who live and play near the Lane). Sangamore Road provides a wide thoroughfare for non-local traffic (and includes a sidewalk that connects all the way to Macarthur Blvd.) There is no transportation-based need to widen or change the nature of Brookes Lane.

Moreover, if a sidewalk is needed on Brookes Lane it would make more sense to extend the sidewalk on the East side of Brookes Lane, not on the West side, and to connect to the sidewalk used by the Sumner Highland apartments (which is also where children wait for the school bus). If the plan is to allow up to 30 or so cars to enter and exit the new development on the West side of Brookes Lane, why would the County encourage walkers to walk on that side of the Lane, where they would need to

cut across the private road? It would be safer for pedestrians to walk on the East side of Brookes Lane.

Since there is no legitimate public purpose for creating a 50 foot partial sidewalk on the West side of Brookes Lane, that cannot constitute the County's rationale for taking that portion of our property.

2. Necessity for the Taking

There is no need to take our property in order to enable Mr. Bloom to make use of his property.

First, there is already an existing point of entrance and egress onto Brookes Lane. Mr. Bloom has stated that he has already found a buyer for the existing house on the property. If the existing entrance road is not appropriate to support the additional number of units proposed by Mr. Bloom, then he should consider options for reducing the number units. The County should not take, or devalue, our property for the purpose of enriching Mr. Bloom when he already has access to Brookes Lane.

Second, there are more suitable access alternatives than the proposed entrance across from our house and driveway. For example, an entrance sited to enter directly onto Sangamore Rd. (the far Northeast corner of the property)—cutting across the existing sidewalk on Sangamore and potentially a small portion of NGA land-- would pose far less danger to our family and to other residents and pedestrians on Brookes Lane. This would also enable the County to employ some creative traffic control methods to restrict traffic flow onto the narrower Brookes Lane.

3. Harm to Our Property, Safety and Well-Being from the Proposed Taking

While not promoting the public welfare by taking of our property, the County would cause significant harm to our family— by making it dangerous for us to exit our property and by devaluing the remaining portion of our property.

Safety Risks: The proposed entrance raises serious safety risks for our family. As proposed, the new entrance road would direct traffic onto Brookes Lane across from our driveway (just after the point where Sangamore Road narrows into Brookes Lane). We live on a very narrow piece of property. Our driveway does not enable us to turn our car around and drive out front-first. Instead, we must back-out onto Brookes Lane (the attached property description show the driveway and narrow portion of Brookes Lane). If the proposed entrance is approved, it will become very dangerous for our family (which will include three teenage drivers this year), visitors to our home and the daily entourage of automobile drivers who turn around in our driveway after realizing that they have driven onto Brookes Lane instead of continuing onto Sangamore Road (by the Defense Mapping Agency). Our ability to

exit from our driveway was already made much more difficult last year when the County allowed the adjacent property owner (Teri Jacobsen) to construct a 6' fence in the front of her property, despite our concerns relating to safety (the County required her to set the fence back 8' from the Lane, but it still requires us to pull out a significant distance before we can see on-coming traffic from the South). If the County now sanctions development of a new road across from our driveway and slightly to the North, it will be even more difficult for us to make safe use of our property. Unlike Mr. Bloom, we have no other way to access Brookes Lane than through our existing driveway, and we do not have sufficient land to facilitate a turn-around option.

If instead, Mr. Bloom purchased access from the Mapping Agency to a small portion of its land in the Northeast corner of Mr. Bloom's property, all of the development's traffic could be directed straight onto Sangamore Road (which is considerably wider), leaving sufficient room on Brookes Lane for us to safely pull out of our driveway.

If the County proceeds and attempts to take our property to facilitate the proposed entrance, the requisite "just compensation" for the taking must account for the inevitable loss in value caused to the remainder of our property. Potential buyers would undoubtedly be concerned about the safety impacts from the private road, and reflect that concern in the price they would offer.

Loss of Screening: If the Natural Land is taken it will deprive us of the ability to construct a natural screen from the development. As mentioned above, due to our need to back out of our driveway, we are limited on what we can plant on the Eastern side of Brookes Lane (since we need to be able to see on-coming traffic). It is not an option for us to grow large trees to border the East side of Brookes Lane. Our only option is to plant trees on the Natural Land. We plan to do so once the Mr. Bloom's plans are finalized. Thus, the small amount of Natural Land is very valuable to us.

Conclusion

For all of the reasons explained above, we urge you to reject the proposal from Mr. Bloom to develop a new private road entering onto our portion of Brookes Lane. We also do not believe that the County can legally take our property due to the absence of a legitimate public purpose, the availability of more suitable alternatives and the significant harm it would cause to us. If a taking is pursued we will demand full compensation for the loss in value of our taken and remaining property, as well as the loss in value of our personal safety. The County will also be on notice of the dangerous situation it would be creating by sanctioning and facilitating the location of the proposed private road.

In early December we submitted a letter to the DRC formally requesting copies of any legal analysis supporting a taking of our property by Montgomery County. To

date, we have been given no information. We are hereby repeating that request for public information. We also ask that the appropriate County staff contact us before completing any determination about the ownership of the Natural Land and or the need for and propriety of a public taking of our property. We can be reached at 301-509-3468.

Thank you for your consideration.

Sincerely,

Anne E. Hoskins Robert O. Zdenek

Cc: Chairman Berlage
Councilman Denis
Councilman Silverman
Office of the Public Council
Catherine Conlon
Richard Weaver
Greg Leck
Jeffrey Riese
Eileen Basaman

Conlon, Catherine

From: Anne.Hoskins@VerizonWireless.com
Sent: Tuesday, January 04, 2005 12:51 PM
To: Jeff.Riese@montgomerycountymd.gov; Greg.Leck@montgomerycountymd.gov; Conlon, Catherine
Cc: robert.zdenek@verizon.net
Subject: RE: Brookes Lane development --Mr. Bloom

Jeff, Greg and Catherine-- I am writing to follow up on yesterday's DRC meeting regarding the High View Acres proposal.

Greg-- Jeff recommended that I contact you about the larger traffic concerns our neighborhood has-- both those that would result from the High View Acres development and the effects of the change to the GSA (mapping agency)entrance. Right now the neighborhood experiences a significant amount of "cut through" traffic from cars that try to take a short cut instead of using Sangamore road. These cars are unfamiliar with our Lane (which is hilly and winding) and with the large number of young children who now live on Brookes Lane. Given our existing concerns-- the proposal to add more cars into High View Acres has folks very concerned. And we also fear that the changed entrance to NGA will enable cars leaving the agency to cut through Brookes Lane (right now there is a "no right turn" sign as employees exit the lot--which prevents those cars from cutting through Brookes Lane. Given the existing problem, and the likelihood that some development will occur on High View acres -- we need the County to look at options for restricting traffic on Brookes Lane. The answer should not be to widen Brookes Lane-- since there is a perfectly good thoroughfare for drivers to use (Sangamore Road). Instead-- access should be limited. It would be very helpful if representatives from the neighborhood could meet with you (preferably at Brookes Lane so we could show you our concerns)to discuss options for evaluating the existing and potential traffic flow on Brookes Lane and for relieving the problem (i.e., making it a one-way Lane; making it a cul-de sac or dead-end; using "local traffic only" signs or restricting entrance during certain times. To the extent there are costs associated with such improvements-- contributions from a developer towards these would be much more valuable to the community than the proposed 30- 40 ft sidewalk or another bench for our ride-on stop (we already have a bench and a shelter). Please let me know if and when you are available for such a meeting and I can work with our neighborhood association to set it up.

Jeff and Catherine-- I will file a more formal submission relating to the purported easement over the grassy portion of our property abutting Brookes Lane-- and will try to do that before next week. As you know, I believe that any prescriptive easement that the County may have extends only to the paved area which has been used by the public for some time. The bordering grassy/ tree and shrub-covered area has neither been used by the public nor maintained by the County. (This is best seen in person-- so if we have the meeting I propose above for traffic we can also look together at the non-paved area in question). If, after Mr. Bloom revises his plan (as discussed yesterday)and develops a plan that is more consistent with the public interest and the neighborhood's interest, the final proposal includes creating a new access site onto Brookes Lane that traverses our property, I would be willing to consider a proposal from him to purchase the portion of our property that he seeks to use (which he could then deed over to the County if that is a condition of your approval). However, I do not believe the County should (or legally can) consider using its powers to condemn our property (and its resources to compensate us for its value)before Mr. Bloom at least makes a good faith effort to gain title to the property he seeks to use privately.

Thank you all for your consideration of my concerns and the concerns of our neighbors. It was clear yesterday that you are taking a close look at the proposed development plan for High View Acres. I appreciate your efforts and look forward to working with you to find an appropriate resolution to the challenges raised by the High View Acres plan.

Thanks--Anne Hoskins

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

From: Riese, Jeffrey [mailto:Jeff.Riese@montgomerycountymd.gov]
Sent: Thursday, December 23, 2004 3:42 PM
To: Hoskins, Anne
Cc: Leck, Gregory; Catherine.Conlon@mncppc-mc.org
Subject: RE: Brookes Lane development --Mr. Bloom

I have asked VIKA for an update prior to the meeting on the 3rd. Hopefully we'll have something worth sharing. Happy Holidays to you.

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

From: Anne.Hoskins@VerizonWireless.com
[mailto:Anne.Hoskins@VerizonWireless.com]

Sent: Thursday, December 23, 2004 3:12 PM
To: Riese, Jeffrey
Cc: Leck, Gregory; Catherine.Conlon@mncppc-mc.org
Subject: RE: Brookes Lane development --Mr. Bloom

Thanks for your reply. Do you know if Mr. Bloom filed any supporting documents along with the map? VICA only sent us the map and when my neighbor checked the file last week there was nothing in it except the map.

I'll drive over to your offices next week if anything additional has been added to the file.

I understand the time constraint with the holiday period. I'd appreciate an opportunity to discuss the easement issue with the appropriate County staff before any initial conclusion is drawn re: the proposed entry road into the development. Thank you and best wishes for the holiday.

See you on the 3rd.

Anne Hoskins

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

From: Riese, Jeffrey [mailto:Jeff.Riese@montgomerycountymd.gov]
Sent: Thursday, December 23, 2004 3:02 PM
To: Hoskins, Anne
Cc: Leck, Gregory; Conlon, Catherine
Subject: RE: Brookes Lane development --Mr. Bloom

Ms. Hoskins, I just saw the developer's new proposal today for the first time. I have not received an update from MNCPPC, the County Attorney nor our Office of Real Estate. I will see Catherine Conlon at MNCPPC on Wednesday and will see if she has any info. Will not have chance before the 3rd to talk with any of the others since I and many of them will be on leave for parts of the next week.

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

From: Anne.Hoskins@VerizonWireless.com
[mailto:Anne.Hoskins@VerizonWireless.com]
Sent: Thursday, December 23, 2004 9:38 AM
To: Riese, Jeffrey
Subject: RE: Brookes Lane development --Mr. Bloom

Jeff-- I have left you a few voice messages, but will try as well to reach you by e-mail. Please give me an update on the easement/ taking/ condemnation issue relating to the revised proposal by Mr. Bloom to develop High View Acres on Brookes Lane in Bethesda. This development is scheduled for a DRC meeting on January 3 and I would like an opportunity to talk with you about my concerns, and to learn about the County's legal interpretation prior to that meeting. Thank you-- Anne Hoskins

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

From: Riese, Jeffrey [mailto:Jeff.Riese@montgomerycountymd.gov]
Sent: Monday, June 28, 2004 3:35 PM
To: Conlon, Catherine
Cc: Anne.Hoskins@VerizonWireless.com
Subject: FW: Brookes Lane development No 7-04063-- Daniel Cross

Ms. Hoskins, I am forwarding your message to Cathy Conlon at Development review at MNCPPC. She is the spokesperson for subdivision program. I don't know the status.

JEFFREY I. RIESE
SENIOR PLANNING SPECLIST.
SUBDIVISION REVIEW
MONTG. COUNTY DPWT
TRAFFIC OPERATIONS
jeff.riese@montgomerycountymd.gov

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

From: Anne.Hoskins@VerizonWireless.com
[mailto:Anne.Hoskins@VerizonWireless.com]
Sent: Monday, June 28, 2004 11:43 AM
To: HoskiAn@NE.VerizonWireless.com; Riese, Jeffrey
Subject: RE: Brookes Lane development No 7-04063-- Daniel Cross

Hi Jeff. We understand that Mr. Cross has withdrawn his contract to purchase the Smith property. Have you heard the same? If so, is the file now closed or is it suspended in some way? Our Association had prepared a letter about the project but is not sure about the process going forward. There is still a sign posted on the property that shows an active application.

Also-- if Mr. Cross did file information about what his deed search found (and if you found the county memos you mentioned to me), I would appreciate seeing it--since I imagine the easement issue could arise again in the future. Please let me know the process for reviewing docs in the file. Thanks--Anne Hoskins

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

From: Hoskins, Anne
Sent: Wednesday, June 16, 2004 12:36 PM
To: 'Riese, Jeffrey'
Subject: RE: Brookes Lane development No 7-04063-- Daniel Cross

Jeff- per my voicemail could you please give me an update on the easement issue? I sent the info you requested re: my deed to Eileen Basaman. Also-- could you please forward me the documents you mentioned re: County policy on treatment of rights of way and easements? If you do not have electronic copies, you can fax them to me at 202-589-3750. Thanks--Anne Hoskins

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

From: Riese, Jeffrey [mailto:Jeff.Riese@montgomerycountymd.gov]

Sent: Monday, May 24, 2004 11:12 AM
To: Anne.Hoskins@VerizonWireless.com
Cc: richard.weaver@mncppc-mc.org; Leck, Gregory
Subject: FW: Brookes Lane development No 7-04063-- Daniel Cross

Sorry, the attachment was not on the first copy.

Please if you can fax me the deed at 240 777-2080. I really need to see what you've got before I even know who to turn to to answer your questions. Thanks

JEFFREY I. RIESE

SENIOR PLANNING SPECIALIST

SUBDIVISION REVIEW

MONTG. COUNTY DPWT

TRAFFIC OPERATIONS

jeff.riese@montgomerycountymd.gov

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

From: Terri Jacobsen [mailto:terri.jacobsen@verizon.net]
Sent: Wednesday, May 19, 2004 1:49 PM
To: Riese, Jeffrey
Subject: Re: Pre-Application Plan Number 7-04063, High View Acres

Thanks for the response, Jeff. . . Understand your workload pressures, and will wait until you can get to this. . . I searched ch 49 already, and found nothing, but was told that the guidelines would be found in internal "policies," not available online, that's why the request to you. . . as for brookes lane being a public road, I guess we misunderstood each other. . . yes, obviously Brookes Lane is public, open to travel and maintained by the County. . . I was speaking about the edges of the easement, not currently paved, the areas bordering the proposed development. . . the County only maintains the road, not the edges of the easement, which are now green space. . . I was making the point that cutting a new ingress/egress for a private road across these green spaces on my property would be inconsistent with the public use of Brookes Lane as a thoroughfare. . . maybe you see this as within the easement, within the rights of the County to approve, but I question this. . . Do you have any guidelines of the scope of permissible use of an easement where the use is for public travel? Does this include the right to cross the easement with new private roads? If you still need to see the deed after this communication, let me know and I will fax it to you. Thanks

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

From: Riese, Jeffrey

To: Terri Jacobsen

Sent: Wednesday, May 19, 2004 11:12 AM

Subject: RE: Pre-Application Plan Number 7-04063, High View Acres

Terri, Yes we had a brief meeting with the developer, but it was not a review of the project. It was advisory and a first look. We told them basically what I told you. We want improvements but would be limited by the amount of right of way under our control. Please fax me any documentation you have at 240 777-2080. I have double checked with our Highway Services Depot and they assure me we do maintain Brookes Lane, i.e. snowplowing, periodic repair, etc. After I see what you send and determine if it's something we can interpret or does it have to go to County Attorney for an opinion, I'll know more about use of the roadway. I still stand by my statement that this is considered a public thoroughfare and that neither we nor you can deny access to an individual be they a homeowner, developer or just a motorist traveling through the area. As far as pulling together all the materials you ask for, I have sixteen plans to review this week and no one to assign to this task at this time. I will attempt to find relevant materials, but I cannot promise to meet your timeframe. A review of the County code chapter 49 Streets and Roads should give you much of what you are looking for. You can search it on-line through AMLEGAL or the County Council Web sites, or at the Public Library. JEFF

JEFFREY I. RIESE

SENIOR PLANNING SPECIALIST

SUBDIVISION REVIEW

MONTG. COUNTY DPWT

TRAFFIC OPERATIONS

jeff.riese@montgomerycountymd.gov

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

From: Terri Jacobsen [mailto:terri.jacobsen@verizon.net]

Sent: Tuesday, May 18, 2004 6:27 PM

To: Riese, Jeffrey

Subject: Re: Pre-Application Plan Number 7-04063, High View Acres

Thanks for your reply, Jeff. . . The developer told me late last week that he met with the "roads" people last week, so I assumed that

you had reviewed the plan . . . Mr. Cross also told me the "roads" people told him that access across this easement would be "no problem,"

so I assumed that someone from your office with knowledge of the policies of Traffic Operations had given these assurances. . . That gives rise to my concern that your office may be rushing to a decision without understanding the details involved. . . Yes, I do have a deed to the property across the street from this development, 6449 Brookes Lane, and I own the land all the way to the property boundary of the proposed development, with an easement reserved for use of Brookes Lane. . . This deed is a public record. . . My understanding of the law is that the County cannot give access for ingress/egress to a private developer, as this would be a purpose other than the easement intends. . . And the County does not maintain this easement. . . Maybe you have additional information about this issue. . . I do not want to wait until after the DRC meeting for this answer, as my concerns are more immediate, for my own peace of mind. . . I will, however, alert the DRC to this issue in advance of its meeting on June 1, and will suggest that, at the very least, further investigation of this matter is necessary. . .

Just a few additional matters in response to your email, requesting general information from your office, which should not require any familiarity with the High View Acres project:

1. Could you provide a copy of any policies in your office regarding prescriptive easements, which you have apparently already referenced, and anything regarding non-dedicated easements as a general matter.
2. Could you provide a copy of any policies in your office regarding developer agreements?
3. By copy of these emails to Ron Welke, I am asking that he respond to my inquiry regarding cumulative impacts, and advise of any procedure required to initiate the local area transportation review. Your email suggests that you have not considered the additive effects of this proposal and the apartment complex planned for the intersection of Sangamore and MacArthur. Perhaps Ron could advise me of the threshold requirements for such a review.

Thanks, Terri Jacobsen

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

From: Riese, Jeffrey

To: Terri Jacobsen

Cc: Leck, Gregory ; Welke, Ron ; richard.weaver@mncppc-mc.org

Sent: Tuesday, May 18, 2004 3:38 PM

Subject: RE: Pre-Application Plan Number 7-04063, High View Acres

Ms. Jacobsen: We just received this plan yesterday afternoon so I cannot give you any feedback yet. With the MNCPPC timeframe on this, I will take your questions into consideration in our review, but cannot offer to meet with you prior to the DRC meeting on June 1. What I can offer is that we can meet with you prior to the submission of a preliminary plan and if The Development Review Division will allow the time, before they potentially send this pre-prel. Plan to the Planning Board. You as a concerned citizen and neighbor can attend the Development Review Committee meeting as an observer only, there is no testimony allowed in that forum. At that point you will hear our comments and can formulate specific questions for us.

I have a few questions for you; Do you have documentation, Deeds, Easement Agreements, record plats, etc. that show an easement?? If the roadway is in "prescriptive right of way" it is a public way and we can use it for travel by the public and we can maintain it. To my current understanding, we do maintain it now. Next, this Department does not control the requirement to perform a local area traffic review. That is done by Transportation Planning at MNCPPC. Have you contacted Ron Welke?? This proposal could be below the threshold for such a requirement.

As I said, we can maintain a prescriptive right of way, but cannot go beyond the existing public improvements already in place without getting additional right of way or easements from the property owners. Therefore, if the Planning Board approves this development with the current road configuration (yes on initial view we believe some improvement may be in order) then we probably will have to abide by that decision, unless the neighbors will cooperate in making adequate right of way available. We and the Board can require frontage improvements to allow safe and adequate access, separate from the local area review process.

JEFFREY I. RIESE

SENIOR PLANNING SPECIALIST

SUBDIVISION REVIEW

MONTG. COUNTY DPWT

TRAFFIC OPERATIONS

jeff.riese@montgomerycountymd.gov

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

From: Terri Jacobsen [mailto:terri.jacobsen@verizon.net]

Sent: Tuesday, May 18, 2004 3:09 PM

To: Riese, Jeffrey

Subject: Pre-Application Plan Number 7-04063, High View Acres

Jeff - I have some questions regarding your review of the referenced pre-application plan, and your voice mail message recommended that I send this e-mail. Please advise of the following at your earliest convenience:

1. INGRESS/EGRESS. The site plan shows ingress/egress access for the proposed cluster development through an easement along Brookes Lane, across property that is neither owned nor maintained by Montgomery County. This easement, given for the specific purpose of permitting use of Brookes Lane by the public, is located on land held by private landowners who reside across Brookes Lane from the proposed development. Please advise how the Traffic Operations division would or could approve of such an ingress/egress for the proposed private development. Maybe you can point me to any policies, regulations, guidelines or other authority that may govern private use of right of way easements or would otherwise govern this specific issue re: ingress/egress across private property. I am trying to understand the relative rights of the landowner, Montgomery County and the applicant regarding the use of an easement for purposes other than the original specified use.

2. CUMULATIVE IMPACTS. Brookes Lane is obviously not designed or intended to be a "high traffic area", and yet this proposed development, together with the proposal to demolish and construct a 7-story apartment building just down the road at Sangamore and MacArthur, will surely impact local traffic significantly. Does your office intend to recommend a "local area transportation review" for this area? How might your office otherwise address the "cumulative impacts" of these 2 developments? Could you please identify any policies, regulations, guidelines, etc, that might dictate how you go about such a review?

3. DEVELOPER AGREEMENT. Will you enter any kind of agreement with the applicants of High View Acres or the apartment construction site regarding any changes/improvements, etc. to Brookes Lane? What are the options that you might consider for Brookes Lane in reviewing the proposed development? Can you provide me with any policies, regulations, guidelines, etc. that might govern your consideration of an agreement with the developer that might change the character or any other aspect of Brookes Lane?

If you have prepared any position on behalf of the Traffic Operations division to present to the Development Review Committee meeting on June 1, 2004, regarding High View Acres or the proposed apartment complex, I would appreciate discussing that position with you, so that I can understand the issues you have considered and how you made your decisions.

Thanks for your time. You can respond by email (terri.jacobsen@verizon.net) or by phone (301-320-3580) at your earliest convenience.

Terri

JEFFREY I. RIESE
SENIOR PLANNING SPECIALIST
SUBDIVISION REVIEW
MONTG. COUNTY DPWT
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jeff.riese@montgomerycountymd.gov

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

From: Riese, Jeffrey
Sent: Monday, May 24, 2004 11:08 AM
To: 'Anne.Hoskins@VerizonWireless.com'
Cc: Richard Weaver (richard.weaver@mncppc-mc.org); Leck, Gregory
Subject: RE: Brookes Lane development No 7-04063-- Daniel Cross

Ms. Hoskins, Please take a look at my responses below, to your neighbor Terri Jacobson. They explain our view of the use of the existing roadway. Could you please clarify what you meant by the developer having access on the wide portion of Sangamore. It looks like they are as far north as they can go. You might want to push for them to have left turn out only to help aim headlights away from your home. Jeff

JEFFREY I. RIESE
SENIOR PLANNING SPECIALIST
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jeff.riese@montgomerycountymd.gov

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

From: Anne.Hoskins@VerizonWireless.com
[mailto:Anne.Hoskins@VerizonWireless.com]
Sent: Monday, May 24, 2004 9:57 AM
To: Riese, Jeffrey
Subject: Brookes Lane development No 7-04063-- Daniel Cross

Jeff-- I tried to reach you this morning by phone and am following-up with an e-mail. My family lives directly across from the Howard K. Smith property that Daniel Cross is proposing to develop. It was not until late last week that I learned of his plan to create a new access road directly across from our driveway and yard and in the process to cut over property we own on the other side of Brookes Lane. Mr. Cross has informed us that he has County Staff's blessing to create this new access road. I can only hope that he is bluffing-- since no one from the County has spoken with us about condemning our property or asserting some type of easement right. I would greatly appreciate an opportunity to talk with you and other involved staff about this access issue as soon as possible. I understand Mr. Cross is pushing for expedited review of his plan. I would like a chance to speak with Staff before the DRC meeting scheduled for June 1.

Attached is a letter I wrote to Chairman Berlage on Friday and another letter I am submitting to the DRC staff today. Please take a look at these letters and call me to discuss my concerns. I can be reached at 202-589-3770 (during the day) or by cell phone at 301-509-3468. Thank you. Anne Hoskins

<<Cross DRC letter 52404 (Hoskins).doc>> <<Cross letter 51904.doc>>

> Anne E. Hoskins
> Regulatory Counsel, Regulatory Law Group
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2006-1445

MCP-Chairman

From: spiegel-val@att.net
Sent: October 25, 2006 4:58 PM
To: MCP-Chairman
Subject: FW: High Acres

Dear Mr. Hansen,

I apologize for this late arrival of my a copy of a letter to Ms. Daniel. Your copy did not go through with an incorrect address, and I just got back to the problem.

Norma D. Spiegel, Glen Echo Heights

----- Forwarded Message: -----

From: spiegel-val@att.net
To: judy.daniel@mncppc-mc.org
Subject: High Acres
Date: Fri, 06 Oct 2006 21:01:40 +0000

Ms Daniel:

I hope this is not too late to do some good. The newer site plan did not arrive before we left on vacation and we are still away. I ordered it on September 5 and it had not been delivered by the 12th when we departed. This proposal is very serious. The HKS manse deserves Historic Preservation, but probably will never get it for a number of reasons, but still it is worth respect as one of the very few worthwhile structures in the valley from its time. I would not like to see its demise for profit. It is also too bad that I am the only one in the valley who can appreciate the valley for itself. If you have any questions I may be reached after Oct 4 at 301 229 2478, or by email <spiegel-val@worldnet.att.net>

Norma Spiegel

5305 Wapakoneta Road
Bethesda, Maryland 20816
October 1, 2006

Ms Judy Daniels
Team Leader, Bethesda
Community Based Planning Division
M-NCPPC
8787 Georgia Avenue
Silver Spring, Maryland 20910

Dear Ms Daniels:

Re: Howard K Smith High Acres

Thank you for this opportunity to comment on the proposed development of the HKS 4.4 acres via the 11-unit townhouse structure.

First of all, it is difficult with the abundant vegetation of this summer to imagine the actual prospect until fall's defoliation. I remember the hillside of sixty years ago with the HKS manse in scale with its surrounding's dignified and modest tenor, a compliment to the palisade.

The two earlier proposals for residences were not so impacting. The current one, however, is destructive of scale and sets a precedent for such development from Goldsboro Road east on MacArthur Boulevard in this the geologic palisade of the valley. This is the All Nature section of the Boulevard which is at least 2 ½ miles long.

The 1990 Master Plan recognized the value of the undeveloped and unspoiled Potomac Valley with its proximity to Washington, and its respect for this section of the Palisade at the "gorge" should hold for all time. The 1990 planners incorporated specific requirements for subdividing property on the geologic palisade to further insure the prized hardwood cover and to control erosion. This is important because there remains an opportunity to develop another tract within this section of palisade which required a measure for approval (pre-1990) with which the developer refused to comply; it could resurface. The current proposal, if approved, would set a precedent for this afore-mentioned tract on MacArthur at Goldsboro.

The layout of the proposal has the H K S manse tightly pinned in damaging the dignity it deserves. It is smothered making it less attractive for a buyer. The "S" shaped townhouse structure sets forward on the landscape raised by a series of retaining walls which must be figured each as 8 feet high. There were no identifying elevations given on the site plan sent me. The elevation for the peak of the gable stated as 30 feet is supposedly from grade at the entrance.

Moreover, this townhouse proposal is overwhelming and inappropriate for the tenor and scale of the valley which is needed as a source of relief from the city.

The 1990 M. P.'s down-zoning of the palisade respected this scenic route. As I see from the elevations in grade, (quoted by phone), there is a rise from MacArthur's 150-foot grade and the peak of the structure at 267 feet (?) which is quite imposing, as the structure is forward from the natural hillside.

Why does lot 12 require a frontage on MacArthur Blvd.? Lot 12 is adequate at R-90 to be sub-divided since the frontage area is still allowed in the total square footage of the lot. (This is a serious error still with the dog-leg layout which I recommended for correction about three decades ago.) Lot 12 shows an access to Brooks Lane which is supposed to be a legally protected right, I was assured by the staff. So, why does lot 12 require frontage on MacArthur unless the potential for a re-subdivision request would still be possible? It is permissible to have two residences on one driveway, but no more than two. The reason for the frontage is not clear, and could only be a source for reassurance for a future purchaser.

Parcel B is supposed to contain the storm water run-off in an underground cistern. Is there any possibility that a building could be constructed over this or anywhere else on this parcel? Is this effluent to be discharged into Little Falls Creek, hence into the Potomac? This did not seem to be a question that could be answered. There was no mention made of parcel A which I assume to be the location of the clubhouse, but there was absolutely nothing on the site plan which was sent me, no grade or elevation figures; some were given by phone. A later site plan with figures was ordered on September 5, but it had still not arrived by the 12th when we left town for three weeks. There may be more comments when I read the later site plan if it was finally sent.

There has not been a curb cut granted in this scenic stretch of MacArthur for over three decades. Has the Corps of Engineers at Dalecarlia been notified of this development proposal? The 25-foot frontage could not be developed into a usable access were there to be a re-subdivision of lot 12.

There is further comment upon the insensitivity of the staff which analyzed the nearby property, Sycamore Store, also in this scenic section of the Boulevard. It found nothing disturbing about the special exception requesting a commercial use at that location even though the scope for examination included some 200 feet of the Overlook Conservation Park which runs for 1800 feet along MacArthur. The townhouse proposal is in the same section of scenic drive but further east. It is disappointing that there was no value placed, or mention of, maintaining the tenor of the scenic drive, no recognition of the Overlook Park in its analysis. This was totally at odds with the staff standards of the 1990 Master Plan.

Similarly, this current proposal should be handled with the same set of ideals for maintaining the demeanor of the Valley which should govern the handling of both proposals. It is my hope and trust that the 1990 Master Plan designers' recommendations will wisely protect the future of the Potomac Valley designated in the early sixties by Secretary of Interior Udall as one of America's Treasures.

I have been participating in protecting the ambience of MacArthur since 1959, and am currently on the Zoning Committee for the Glen Echo Heights Citizens Association, but am not at this moment speaking for them. My credentials include having been an officer of GEHCA in the '70s and president from '85 - '05 and president of the Potomac Valley League 1975. My convictions are inbred and look to the future of a protected valley. I hope that the Planning Board's staff shares this dedication.

Very sincerely,

Norma Danis Spiegel

Crampton, Pamela

From: Pugh, Carolyn
Sent: Monday, November 06, 2006 1:17 PM
To: Weaver, Richard; Crampton, Pamela
Subject: FW: CTRACK #2006-1445 - High Acres

Please print for file.

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

From: MCP-CTRACK
Sent: Monday, November 06, 2006 11:48 AM
To: Krasnow, Rose
Cc: Pugh, Carolyn; Hamer, Faroll; Daring, Marcia; Blackman, Jason; MCP-CTRACK
Subject: CTRACK #2006-1445 - High Acres

**CTRACK ROUTING SLIP
MONTGOMERY COUNTY PLANNING BOARD
CHAIRMAN'S OFFICE**

| | | | |
|----------------------------------------|-------------------------------------|------------------------|------------|
| File Number: | 2006-1445 | Date Received: | 10/26/2006 |
| Correspondence Type: | Email | Date Of Letter: | 10/25/2006 |
| Agenda Date: | 11/30/2006 | | |
| To: | Royce Hanson | | |
| From: | Norma D. Spiegel | | |
| Description: | Correspondence regarding High Acres | | |
| Transmitted To: | Director and Chairman | | |
| Action For: | Krasnow, R | | |
| Copies To: | Pugh, C | | |
| Date Due: | N/A | | |
| Remarks From Chairman's Office: | | | |
| For staff action | | | |

December 21, 2004

Mr. Richard Weaver
Montgomery County Development Review Board
8787 Georgia Ave.
Silver Spring, MD 20910

Dear Mr. Weaver,

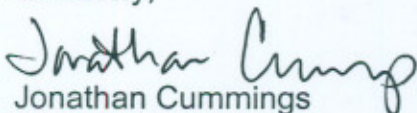
I am writing you concerning the proposed development of the Howard K Smith property off Macarthur Blvd in Bethesda (Brookmont, MD) by Lewis Bloom. I am a homeowner whose property abuts the Smith property.

I am requesting that the Board not allow development of the lower portion of the property (southern portion closer to Macarthur Blvd), restricting development to the upper and flatter portions on the plot's north side (closer to the Army Mapping facility). I base this request on two reasons.

- (1) Developing the lower portions will require cutting down most if not all the Smith property's specimen trees. Cutting down these trees will alter the quiet park-like character, long a hallmark of this part of Brookmont. Opening this area will likely reduce significantly both the esthetic and the monetary value of my property as well as the other properties on Brookes Hill Court.
- (2) Some years back an underground pipe on the Smith property, possibly associated with a sprinkler system, ruptured. Despite the densely vegetated ground cover this exists between my property and the Smith property, surface and subsurface water from the ruptured pipe quickly filled my yard. My yard and basement were flooded. I believe that stripping the ground cover from the sloped portion of the Smith property will increase the likelihood of run-off during construction and increase the risk of my yard and basement flooding; this no matter what preventative measures are taken.

I believe that limiting construction to the top portions of the Smith property will lessen the general impact on the Brookmont neighborhood but still provide Mr. Bloom ample opportunity for a profitable development.

Sincerely,



Jonathan Cummings
6505 Brookes Hill CT
Bethesda, MD 20816

Cc:

Mont Co Development Review Division – Marilyn Clemens

M-NCPPC – Derick Berlage

Mont County Council – Howard Denis