



MEMORANDUM

DATE: May 22, 2009

TO: Montgomery County Planning Board

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

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

REVIEW TYPE: Preliminary Plan of Subdivision (Resubdivision)

APPLYING FOR: Four (4) lots for four (4) one-family detached, dwelling units

PROJECT NAME: Cabin John Park

CASE #: 120070540

REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: R-90

LOCATION: South side of MacArthur Boulevard in the southwest corner of the intersection with 79th street

MASTER PLAN: Bethesda-Chevy Chase

APPLICANT: Hemingway Homes

ENGINEER: P.G. Associates

FILING DATE: January 10, 2007

HEARING DATE: July 24, 2008 and June 4, 2009

RECOMMENDATION: Approval of four (4) lots pursuant to Section 50-29(b)(2) of the Montgomery County Subdivision Regulations and subject to the following conditions:

- 1) Approval under this preliminary plan is limited to four (4) lots.
- 2) The applicant must comply with the conditions of approval for the preliminary forest conservation plan, including revisions to the Tree Save Plan. The applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits, as applicable.
- 3) The record plat must reflect common ingress/egress and utility easements over all shared driveways.
- 4) The applicant must comply with the conditions of the Montgomery County Department of Public Works and Transportation (MCDPWT) letter dated May 27, 2008 and as updated April 28, 2009. These conditions may be amended by MCDPWT provided the amendments do not conflict with any other conditions of the Preliminary Plan approval.
- 5) Prior to issuance of building permits, the applicant must comply with the conditions of access in the U.S. Army Corps of Engineers letter dated September 18, 2007.
- 6) The applicant must comply with the conditions of the MCDPS stormwater management approval dated June 27, 2008 and as updated April 16, 2009. These conditions may be amended by MCDPS provided the amendments do not conflict with any other conditions of the Preliminary Plan approval.
- 7) Prior to recordation of plat, the applicant must provide proof that existing structures have been properly razed with permit(s) from MCDPS.
- 8) The applicant must make the applicable School Facilities Payment prior to issuance of building permits.
- 9) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.
- 10) The record plat must show other necessary easements.

PREVIOUS PLANNING BOARD HEARING

This application was brought to the Planning Board at the July 24, 2008 public hearing as a proposal for five lots. After hearing the presentation by staff in support of the application, the presentation by the applicant, and the concerns of the surrounding community, it was evident that the Planning Board clearly had substantial concerns about the five lot proposal. The Board did not believe that five lots were appropriate for the property. In response to the Board's concerns, the applicant requested a deferral of the application which the Board granted.

Subsequent to the first hearing, the applicant revised the application to subdivide the property into four lots, thereby eliminating a lot that was a pipestem in shape and frontage. The current plan proposes four lots that are generally rectangular in nature.

SITE DESCRIPTION

The 1.90-acre subject property, "Property" or "Subject Property", is zoned R-90 and is

located on the south side of MacArthur Boulevard in the southwest corner of the intersection with 79th Street in the Bethesda-Chevy Chase planning area (see Figure 1). The Property is comprised of 3 existing lots identified as Lots 43, 44 and 45, Block 4, Cabin John Park on Tax Map GN21. Originally, there were 3 homes on the property. Since the plan was first submitted, one of the homes was damaged beyond repair by a falling tree, so now 2 homes remain on the Property. The site abuts MacArthur Boulevard and 79th Street; all surrounding uses are residential in nature. This area is best described as an eclectic mix of homes representing many different architectural styles and dates of construction.

This site includes 0.81-acres of existing forest and includes 8 trees which are 30 inches or greater in diameter at breast height (dbh). Immediately adjacent to the Property boundary and just off-site there are 5 trees, 30 inches or greater in dbh. Only 3 of the on-site trees are rated in good condition, the remaining are in fair to poor condition. A small portion of a stream valley buffer (SVB) falls onto the subject site. The off-site stream, a Use I-P stream, flows directly to the Potomac River. (see Figure 2)

CABIN JOHN PARK



Map compiled on February 29, 2008 at 1:11 PM | Site located on base sheet no - 206NW08

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MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
 2701 Georgia Avenue - Silver Spring, Maryland 20910-2100

Key Map



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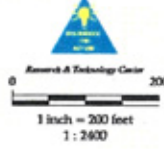


Figure 1



Figure 2

PROJECT DESCRIPTION (Attachment A)

The preliminary plan proposes a resubdivision of the three lots into four single family residential lots. Two of the lots will front to 79th Street and two will front to MacArthur Boulevard. The two homes fronting MacArthur Boulevard will share a driveway and the other two will each have a driveway to 79th Street. Lot sizes range from 15,120 square feet to 29,582 square feet. All public utilities are readily available to the site, including water and sewer, electric, gas, CATV, and telephone.

A Preliminary Forest Conservation Plan has been reviewed by staff and is recommended for approval with this preliminary plan. A Tree Save Plan, dated February 27, 2009 is included and establishes limits of disturbance to provide tree protection measures. While some trees will need to be removed for the development activity, the tree protection measures will protect certain other trees during construction. Staff does not support long term protection of the remaining forest within a Category I easement due to the inability to monitor and protect forest. These easements would necessarily have to be within backyard areas which are extremely difficult to enforce. Therefore, the applicant will meet any forest conservation obligation off-site in a forest bank or by making a fee-in-lieu payment.

ANALYSIS AND FINDINGS

Master Plan Conformance

The Bethesda-Chevy Chase Master Plan does not make a specific recommendation for the Property but does recommend a continuation of the R-90 zoning for residential uses in this area of the Master Plan. The lots shown on this plan comply with the R-90 zone, and residential use is supported by the Master Plan. Therefore, the proposed subdivision substantially conforms to the recommendations adopted in the Master Plan.

Public Facilities

Roads and Transportation Facilities

The proposed lots do not generate 30 or more vehicle trips during the morning or evening peak-hours. Therefore, the application is not subject to Local Area Transportation Review (LATR). The plan application was submitted after January 1, 2007 and therefore would be subject to the Policy Area Mobility Review (PAMR). However, since there were three existing homes (now two) that will be replaced, the net increase in units is one. One new unit in the Bethesda-Chevy Chase planning area does not generate enough additional vehicular trips to require either LATR or PAMR mitigation. No dedications of right-of-way, other than a truncation at the corner of 79th Street and MacArthur Boulevard, are required of this applicant because existing right-of-ways are in conformance with the Bethesda-Chevy Chase Master Plan roadway recommendations.

The road network consists of access to 79th Street and MacArthur Boulevard. 79th Street has a 50 foot right-of-way but is technically not built to county standards and has no sidewalks. It is, however, functional and will provide adequate access to two of the proposed lots. As stated above, although MCDPWT may require a sidewalk along 79th Street, planning staff supports a waiver of this requirement. The applicant will need to pursue such a waiver with MCDPWT.

MacArthur Boulevard is built to arterial highway standards within a variable width right-of-way and has a bike path along the southern side of the road. This road provides adequate access for two of the proposed lots, and the bike path provides adequate pedestrian access and circulation. Staff finds that the proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the existing public improvements.

Other Public Facilities and Services

The plan has been reviewed for adequacy of all public facilities and services. Public water and sewer service is adequate to serve the new lots. All utilities, including Washington Gas, Verizon, and PEPCO, have reviewed the plans and have found that their respective utilities are adequate to serve the proposed lots. The current Annual Growth Policy states that the application is subject to payment of a School Facilities Payment since it is in the Walt Whitman cluster which has an elementary school capacity exceeding 105%. Other public services such as police stations, firehouses and health services are operating within the standards set by the Growth Policy Resolution currently in effect. The application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the Property has appropriate access for fire and rescue vehicles. Staff finds that the proposed lots can be adequately served by all public facilities and services.

Environment

Environmental Guidelines

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was submitted for the subject site. Environmental Planning staff approved NRI/FSD 420071110 on January 10, 2007. The NRI/FSD identifies one stream approximately 105 feet off the southwest corner of the subject site. A small portion (0.02 acres or 871 square feet) of the stream buffer carries onto the subject site. There are no wetlands, floodplains, steep slopes, or erodible soils on the subject site. Similarly there are no rare, threatened, or endangered species on the property.

Forest Conservation

There are 0.81-acres of existing forest on the subject site. The on-site forest is a mature, mixed hardwood forest dominated by Red Maple (*Acer rubrum*), White Oak (*Quercus alba*) and Mockernut Hickory (*Carya tomentosa*). There are 12 trees on the subject property that are 24 inches dbh or greater, of which are greater than 30 inches dbh.

The preliminary forest conservation plan indicates the removal of all 0.81-acres of forest on-site. This is consistent with the position of Environmental Planning staff who do not support the application of a Category I conservation easement over the 0.02 acres of forested stream buffer on the subject site. The stream buffer is small (0.02 acres or 871 square feet), measuring 20-feet wide at its widest part and is 75-feet long. This section does not, by itself, meet the legal definition of forest, which is 10,000 square feet and 50 feet wide. The forest on the adjacent lot is protected under a conservation easement approved in 1990 that pre-dates forest conservation law. The conservation easement is recorded in the Montgomery County Land Records at Liber 9330 Folio 237 and by its wording for all intent is a Category II forest conservation easement. This style of conservation easement does not protect the future health of the forest because it does not preclude the removal of trees less than 6 inches DBH. As a result, the regeneration capability of this portion of forest is hampered, and the application of an adjacent forest conservation easement would be problematic. For these reasons, staff does not recommend a

conservation easement on proposed lot 74 and all forest on the subject site is counted as cleared in the forest conservation worksheet.

The applicant proposes to meet the entire afforestation/reforestation requirement off-site via fee-in-lieu or in an off-site mitigation bank. The final method of meeting the requirements will be determined at the time of the Final Forest Conservation Plan.

The applicant has prepared and submitted a tree save plan for many of the large and specimen trees that are to remain standing. The tree save plan submitted includes the use of root aeration matting, fertilization and watering to enhance the survivability of the trees.

Stormwater Management

A stormwater management plan was approved by the Montgomery County Department of Permitting Services on March 5, 2007, and updated on June 27, 2008. The stormwater management concept consists of on-site water quality controls and recharge using non-structural methods. Quantity control will not be required because the post development discharge levels will be less than 2.0 cubic feet per second. The requirement for a stormwater management plan at the time of Planning Board consideration has been met.

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, including the requirements for resubdivision as discussed below. The existing neighborhood consists of a variety of lot shapes, sizes, orientation and widths. In comparing the proposed lots to the existing lots staff finds that the proposed lots exhibit many of the same characteristics of the existing neighborhood with respect to lot size, width, shape and orientation and that they are appropriate for the location of the subdivision.

The lots were reviewed for compliance with the dimensional requirements for the R-90 zone 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.

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

A. Statutory Review Criteria

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

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

B. Neighborhood Delineation

In administering Section 50-29(b)(2) of the Subdivision Regulations, the Planning Board must determine the appropriate "Neighborhood" or "defined Neighborhood" for evaluating the application (Attachment B). In this instance, the Neighborhood selected by the applicant, and agreed to by staff, consists of the 21 lots in the R-90 zone located within the same block as the Subject Property and also includes those lots within the adjacent two blocks, 5 and 6, that abut the Property to the east of 79th Street. Staff finds that this defined Neighborhood provides an adequate representation of the overall characteristics of the lot patterns in the area. A tabular summary of the area based on the resubdivision criteria is included in Attachment C.

C. Analysis

Comparison of the Character of Proposed Lots to Existing

In performing the analysis, the above-noted resubdivision criteria were applied to the defined Neighborhood. Staff finds that the proposed lots are of the same character with respect to the resubdivision criteria as other lots within the defined Neighborhood and that the proposed resubdivision complies with the criteria of Section 50-2(b)(2). As set forth below, the attached tabular summary and graphical documentation support this conclusion:

Frontage: The proposed lots will be of the same character as existing lots in the neighborhood with respect to lot frontage. All four of the proposed lots have frontages within a range of 74 to 144 feet and within the range of lot frontages (25 -248 ft.) for the Neighborhood. Staff finds that the lots have a high correlation with the frontage characteristic of the defined Neighborhood.

Alignment: The proposed lots are of the same character as existing lots with respect to the alignment criterion.

Most of the lots in the Neighborhood align perpendicularly to the street, although four lots do have side lot lines that intersect the right-of-way at an askew angle. The proposed lots align generally in a perpendicular manner and have a high correlation with the character of lots in the Neighborhood with respect to alignment.

Size: The proposed lot sizes are in character with the size of existing lots in the neighborhood. The range of lot sizes for the proposed lots is from 15,120 square feet to 29,852 square feet. The range of lots sizes in the existing Neighborhood range from 8,767 square feet to 26,896 square feet. One of the proposed lots at 29,852 square feet and will be the largest. Staff has examined the Neighborhood lots and finds that of the 21 lots in the Neighborhood, eleven are 20,000 square feet or greater in size with the largest

at 26,896 square feet. These lots are substantially larger than the minimum lot size required in the R-90 zone (9,000s.f.). In fact, the average lot size in the Neighborhood is 17,456 square feet, almost twice the minimum size required. Moreover, the 29,896 square foot lot is smaller than the largest lot currently on the Subject Property. Because of the large lot sizes found within this Neighborhood, staff finds that a lot of 29,896 square feet has a high correlation with the Neighborhood lots and is of the same character with respect to size.

Shape: The shapes of the proposed lots will be in character with shapes of the existing lots. There are a wide variety of lot shapes within this Neighborhood; the proposed lot shapes, generally rectangular, can be found in numerous instances within the defined Neighborhood. The proposed lots have a high correlation with other lots in the Neighborhood with respect to shape and are, therefore, of the same character.

Width: The proposed lots will be in character with existing lots in the neighborhood with respect to width. The range of widths for the existing lots is from 75 feet to 165 feet. The proposed lots will range in width from 92 feet to 130 feet. Staff finds that all of the proposed lots are within the range of existing lots. They are of the same character as the other lots in the Neighborhood with respect to width.

Area: The proposed lots will be of the same character as other lots in the neighborhood with respect to buildable area. The range in buildable areas of the proposed lots is 4,185 square feet to 9,715 square feet which is well within the range of lot areas for the defined Neighborhood which is 2,100 square feet to 13,600 square feet.

Suitability for Residential Use: The existing and the proposed lots are zoned residential and the land is suitable for residential use.

Citizen Correspondence and Issues (Attachment D)

The current plan revises the original application which was submitted prior to the requirement that applicants hold pre-submission meetings with interested citizens, and site posting was not required. This revised plan, like the original submission, was mailed out to all adjacent and confronting property owners and local Civic Associations in compliance with the applicable requirements. The plan was also correctly noticed for public hearing.

The original application generated quite a bit of citizen concern and involvement. Of greatest concern with the previous five lot plan was the number of lots and their configuration. Runoff and tree loss were also of concern to the neighbors of the Subject Property. Local residents had been concerned about the loss of the house at the corner of 79th Street and Mac Arthur Boulevard. Some purported this house to have historical significance, however, Historic Preservation staff finds that it does not. The current plan continues to show removal of this house.

The current four lot plan has elicited no new material in the file. This is not to say that there may be remaining concerns, but the applicant has met with adjoining neighbors to discuss

the plan and believes that most of the significant tissues have been addressed by the current proposal. Staff finds that the community concerns have been adequately addressed by this preliminary plan and the explanations provided in this staff report.

CONCLUSION

Section 50-29(b)(2) of the Subdivision Regulations specifies seven criteria with which resubdivided lots must comply. They are street frontage, alignment, size, shape, width, area and suitability for residential use within the existing block, neighborhood or subdivision. As set forth above, the four proposed lots are substantially of the same character as the existing lots in the defined neighborhood with respect to each of the resubdivision criteria, and therefore, comply with Section 50-29(b)(2) of the Subdivision Regulations. The proposed lots meet all other requirements established in the Subdivision Regulations and the Zoning Ordinance and comply with the recommendations of the Bethesda-Chevy Chase Master Plan. Access and public facilities will be adequate to serve the proposed lots, 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

- Attachment 1 - Preliminary Plan
- Attachment 2 – Neighborhood Delineation
- Attachment 3 – Resubdivision Table

Table 1: Preliminary Plan Data Table and Checklist

Plan Name: Cabin John Park				
Plan Number: 120070540				
Zoning: R-90				
# of Lots: 4				
# of Outlots: 0				
Dev. Type: Single Family Detached				
PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval by the Preliminary Plan	Verified	Date
Minimum Lot Area	9,000sq. ft.	15,1200 sq. ft. minimum	RW	2/29/08
Lot Width	75 ft.	90 ft. minimum	RW	2/29/08
Lot Frontage	25 ft.	25 ft. minimum	RW	2/29/08
Setbacks				2/29/08
Front	30 ft. Min.	Must meet minimum ¹	RW	2/29/08
Side	8ft. Min./ 25 ft. total	Must meet minimum ¹	RW	2/29/08
Rear	25 ft. Min.	Must meet minimum ¹	RW	2/29/08
Height	35 ft. Max.	May not exceed maximum ¹	RW	2/29/08
Max Resid'l d.u. or Comm'l s.f. per Zoning	9	4	RW	2/29/08
MPDUs	N/A			2/29/08
TDRs	N/A			2/29/08
Site Plan Req'd?	No		RW	2/29/08
FINDINGS				
<i>SUBDIVISION</i>				
Lot frontage on Public Street		Yes	RW	2/29/08 - 4/28/09
Road dedication and frontage improvements		Yes	Agency letter	5/22/09
Environmental Guidelines		Yes	Staff memo	4/16/09
Forest Conservation		Yes	Staff memo	4/16/09
Master Plan Compliance		Yes		4/17/09
Other (i.e., parks, historic preservation)				
<i>ADEQUATE PUBLIC FACILITIES</i>				
Stormwater Management		Yes	Agency letter	3/5/07 – 4/16/09
Water and Sewer (WSSC)		Yes	Agency comments	3/26/08
10-yr Water and Sewer Plan Compliance		Yes	Agency comments	3/26/08
Well and Septic		N/A		
Local Area Traffic Review		N/A		
Policy Area Mobility Review		N/A		
Transportation Management Agreement		No	RW	2/29/08
School Cluster in Moratorium?		No	RW	2/29/08
School Facilities Payment		Yes	RW	2/29/08
Fire and Rescue		Yes	Agency letter	1/9/09
Other (i.e., schools)				

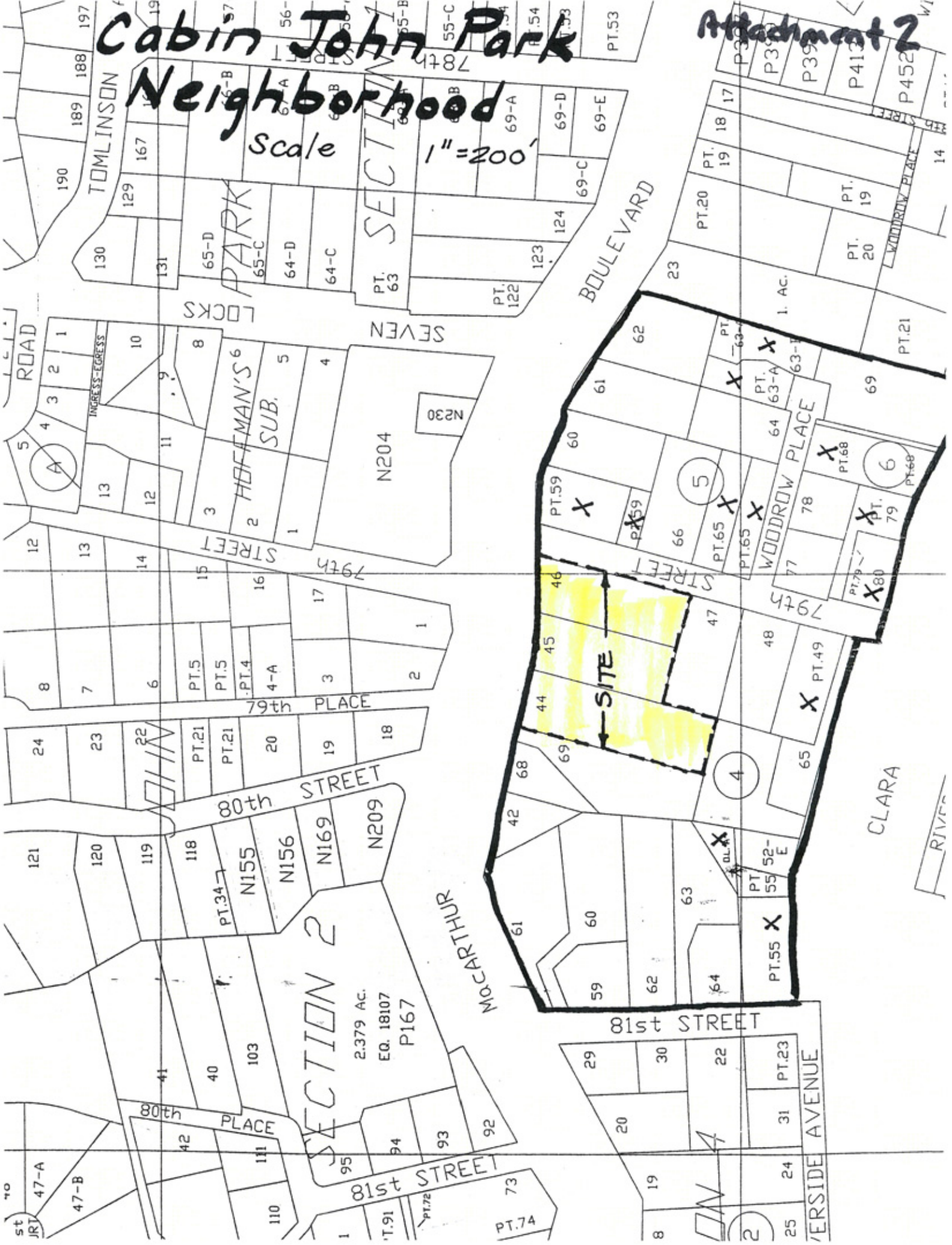
1 As determined by MCDPS at the time of building permit.

Cabin John Park Neighborhood

Scale

1" = 200'

Attachment 2



Attachment 3

Resubdivision Table Cabin John Park, Lots 70 - 73

Subdivision	Block	Lot#	Street Address	Size (s.f.)	Alignment	Shape	Frontage	Width at BRL	Buildable Area (s.f.)
Cabin John Park, Section 4	4	42	8016 MacArthur Blvd.	8,767	angled w/ street	Irregular	123'	95'	2,100 s.f.
Cabin John Park, Section 4	4	47	6424 79th Street	20,000	perpendicular	Rectangular	100'	100'	10,875 s.f.
Cabin John Park, Section 4	4	48	6420 79th Street	20,000	perpendicular	Rectangular	100'	100'	10,875 s.f.
Cabin John Park, Section 4	4	59	6415 81st Street	12,286	angled w/ street	Irregular	103'	110'	5,397 s.f.
Cabin John Park, Section 4	4	60	6417 81st Street	25,774	panhandle	Irregular	25'	90'	8,585 s.f.
Cabin John Park, Section 4	4	61	6419 81st Street	23,216	panhandle	Irregular	248'	94'	8,843 s.f.
Cabin John Park, Section 4	4	62	6409 81st Street	26,896	perpendicular	Rectangular	80'	80'	9,549 s.f.
Cabin John Park, Section 4	4	63	6407 81st Street	20,538	panhandle	Irregular	25'	120'	8,688 s.f.
Cabin John Park	4	64	6405 81st Street	12,448	perpendicular	Irregular	95'	95'	5,500 s.f.
Cabin John Park	4	65	6412 79th Street	13,000	corner	Irregular	20' / 320'	120'	3,325 s.f.
Cabin John Park	4	66	8025 Riverside Ave	25,000	panhandle	Irregular	40'	165'	13,600 s.f.
Cabin John Park	4	68	8014 MacArthur Blvd	9,046	panhandle	Irregular	87'	85'	2,468 s.f.
Cabin John Park	4	69	8012 MacArthur Blvd	24,657	angled w/ street	Irregular	25'	75'	4,840 s.f.
Cabin John Park	5	60	7906 MacArthur Blvd	18,229	perpendicular	Irregular	101'	100'	10,583 s.f.
Cabin John Park	5	61	7900 MacArthur Blvd	20,062	angled w/ street	Irregular	104'	100'	11,210 s.f.
Cabin John Park	5	62	7816 MacArthur Blvd	20,086	angled w/ street	Irregular	128'	120'	10,305 s.f.
Cabin John Park	5	64	7905 Woodrow Place	17,500	perpendicular	Rectangular	100'	100'	9,000 s.f.
Cabin John Park	6	66	6431 79th Street	20,000	perpendicular	Rectangular	100'	100'	10,875 s.f.
Cabin John Park	6	77	6423 79th Street	10,000	corner	Rectangular	100' / 100'	100' / 100'	2,835 s.f.
Cabin John Park	6	78	7910 Woodrow Place	10,000	perpendicular	Rectangular	100'	100'	3,375 s.f.
Cabin John Park	6	80	6415 79th Street	9,075	perpendicular	Rectangular	75'	75'	3,300 s.f.
Summary				17,456 s.f. avg min = 8,767 s.f.			89' avg min = 20'	101' avg min = 75'	7,435 s.f. avg min = 2,100 s.f.

