



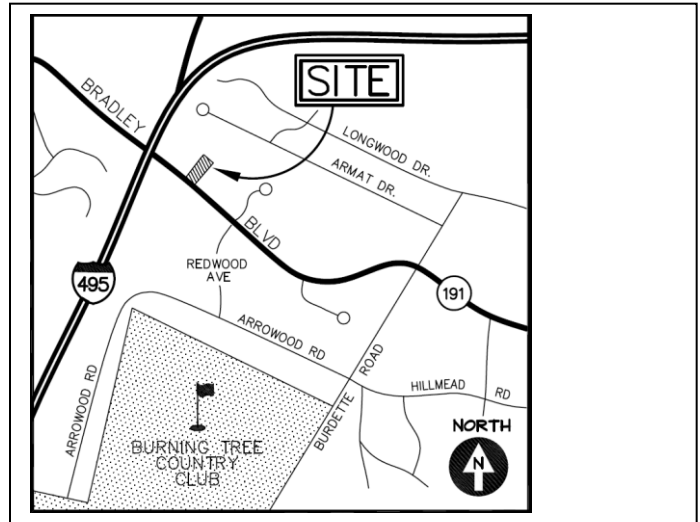
Kefauver Tract, Bradley Hills Preliminary Plan 120110100

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Staff Report Date: 2/10/12

Description

Location: Located on the north side of Bradley Boulevard, 400 feet east of Redwood Avenue.
 Zone: R-200
 Master Plan: Bethesda/Chevy Chase
 Property Size: 40,151 square feet
 Preliminary Plan to resubdivide the subject property into one lot for a one-family detached dwelling.
 Applicant: Salmaan Siddiqui
 Filing Date: December 22, 2010



Summary

Staff Recommendation: Approval with conditions

Staff recommends approval of the preliminary plan to create one lot for a one-family detached dwelling. Approval of the forest conservation plan and tree variance is also recommended.

RECOMMENDATION: Approval subject to the following conditions:

- 1) Approval under this preliminary plan is limited to one lot for one one-family detached dwelling unit.
- 2) The applicant must comply with the conditions of approval for the preliminary forest conservation 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 applicant must obtain approval of a final forest conservation plan prior to any clearing, grading, or construction on the subject property. The final forest conservation plan must include planting specifications.
- 4) The sediment and erosion control plan and stormwater management plan must be submitted with the revised Final Forest Conservation Plan to ensure consistency with the Limit of Disturbance (LOD) and the associated tree/forest preservation measures.
- 5) The certificate of compliance which satisfies the 0.57-acre reforestation requirement must be submitted by the applicant and approved by staff prior to any clearing, grading, or construction activity within the project area.
- 6) The applicant must obtain the services of a Maryland Licensed Tree Expert to perform and/or supervise the required tree preservation measures and appropriately protect the saved trees.
- 7) Prior to issuance of a building permit, the applicant must construct an eight-foot-wide shared-use path along the property frontage on Bradley Boulevard, unless construction is waived by the appropriate authority.
- 8) The applicant must comply with the conditions of the MCDPS stormwater management approval dated December 9, 2010. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 9) The applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated March 8, 2011. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 10) The applicant must satisfy provisions for access and improvements as required by the Maryland State Highway Administration (MDSHA) prior to issuance of access permits.
- 11) Before any building permit is issued, the applicant must make school facilities payments to MCDPS at the elementary and middle school levels.
- 12) The record plat must show necessary easements.
- 13) The certified preliminary plan must contain the following note: "Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the preliminary plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of building permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
- 14) 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.

SITE DESCRIPTION

The subject property, shown below and in Attachment A, is a 40,151-square-foot part of a platted lot. The property is zoned R-200 and is located on the north side of Bradley Boulevard, 400 feet west of Redwood Avenue. The property is currently undeveloped. Surrounding properties are developed with one-family detached dwellings in the R-200 zone. A property immediately adjacent to the subject property contains an electrical substation.

The subject property is located within the Cabin John Creek watershed. There are no streams, or floodplains on the site. The site is entirely forested and contains many significant and specimen-sized trees. The forest stand is rated as high priority for retention due to the presence of the large trees.



PROJECT DESCRIPTION

The applicant proposes to resubdivide the existing part of a lot into one 40,151-square foot lot. The lot is proposed to contain one one-family detached dwelling. Access to the lot will be via a driveway from Bradley Boulevard.

(Attachment B – proposed plan)

ANALYSIS AND FINDINGS

Conformance to the Master Plan

The Bethesda/Chevy Chase Master Plan does not specifically address the subject property. The Master Plan recommends retention of existing zoning throughout the Master Plan area in the absence of a specific recommendation for change on a particular property. Thus, in the case of the subject property, the Master Plan calls for retention of the existing R-200 zoning. In the Land Use and Zoning section of the plan, the property and surrounding development is identified as suitable for one-family detached housing. The proposed subdivision complies with the recommendations adopted in the Bethesda/Chevy Chase Master Plan in that it proposes one-family detached housing consistent with the current density of the neighborhood and the current zoning designation. The proposed lot will be similar to surrounding lots with respect to dimensions, orientation, and shape, and the proposed residence will have a similar relationship to the public street and surrounding residences as do existing residences in the area. The proposed subdivision will not alter the existing pattern of development or land use, which is in substantial conformance with the Master Plan recommendation to maintain the existing land use.

Public Facilities

Roads and Transportation Facilities

Access to the proposed lot is proposed via a driveway from Bradley Boulevard. Pedestrian access will be via a proposed shared-use path along the subject property's frontage on Bradley Boulevard.

The proposed subdivision does 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. In addition, the proposed subdivision does not generate more than three new vehicle trips in the morning or evening peak hours. Therefore, the application is also not subject to Policy Area Mobility Review.

Proposed vehicle and pedestrian access for the subdivision will be safe and adequate.

Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The property is proposed to be served by public water and public sewer. The application has been reviewed by the Montgomery County Fire and Rescue Service who has determined that the property will have appropriate access for fire and rescue vehicles. Other public facilities and services, such as police stations, firehouses, and health services are operating according to the Growth Policy resolution currently in effect and will be adequate to serve the property. The application is within the Bethesda Chevy Chase School cluster area, which is currently operating between 105-120% of capacity at the elementary and middle school levels, and a school facilities payment is required. Electrical, telecommunications, and gas services are also available to serve the Property.

Environment

There are no streams, floodplains, wetlands or other sensitive environmental features on the subject property. However, the property is entirely forested. Many trees are of significant or specimen size. The forest groundcover is dominated by invasive species such as English ivy and vinca, but populations of native species such as sensitive fern, Christmas fern, bloodroot, Mayapple, jack-in-the-pulpit, holly, ash, and spicebush have persisted. The forest stand is rated as high priority for retention due to presence of the large trees.

The proposed limit of disturbance (LOD) indicates that the majority of the site will be cleared. Four large trees at the rear of the property are preserved by the plan. The LOD near the retained onsite trees is located 20 to 50 feet from the property line (refer to Figure 1 below). The onsite tree save area is not proposed to be included within a forest conservation easement. However, the trees preserved in the area by the LOD and the variance, along with the supplemental plantings of native evergreens, will help maintain a buffer for the adjacent property. Since no forest conservation easement is proposed, the entire site is considered to be cleared.

Staff does not recommend a forest conservation easement for this property due to the lack of any overlapping environmentally sensitive features such as steep slopes, erodible soils, wetlands, streams, or associated buffers. The reforestation planting requirement of 0.57 acres is proposed to be met offsite by purchasing the equivalent credits at the Lorax Forest Conservation Bank. Ideally, the selection of an available forest conservation bank occurs within the same watershed as the subject property. Since no banks are available within the same watershed, the next preference is to select the geographically closest bank. The Lorax Forest bank is the only bank in the down-county area. It is located four miles from the site and currently has the necessary credits available.

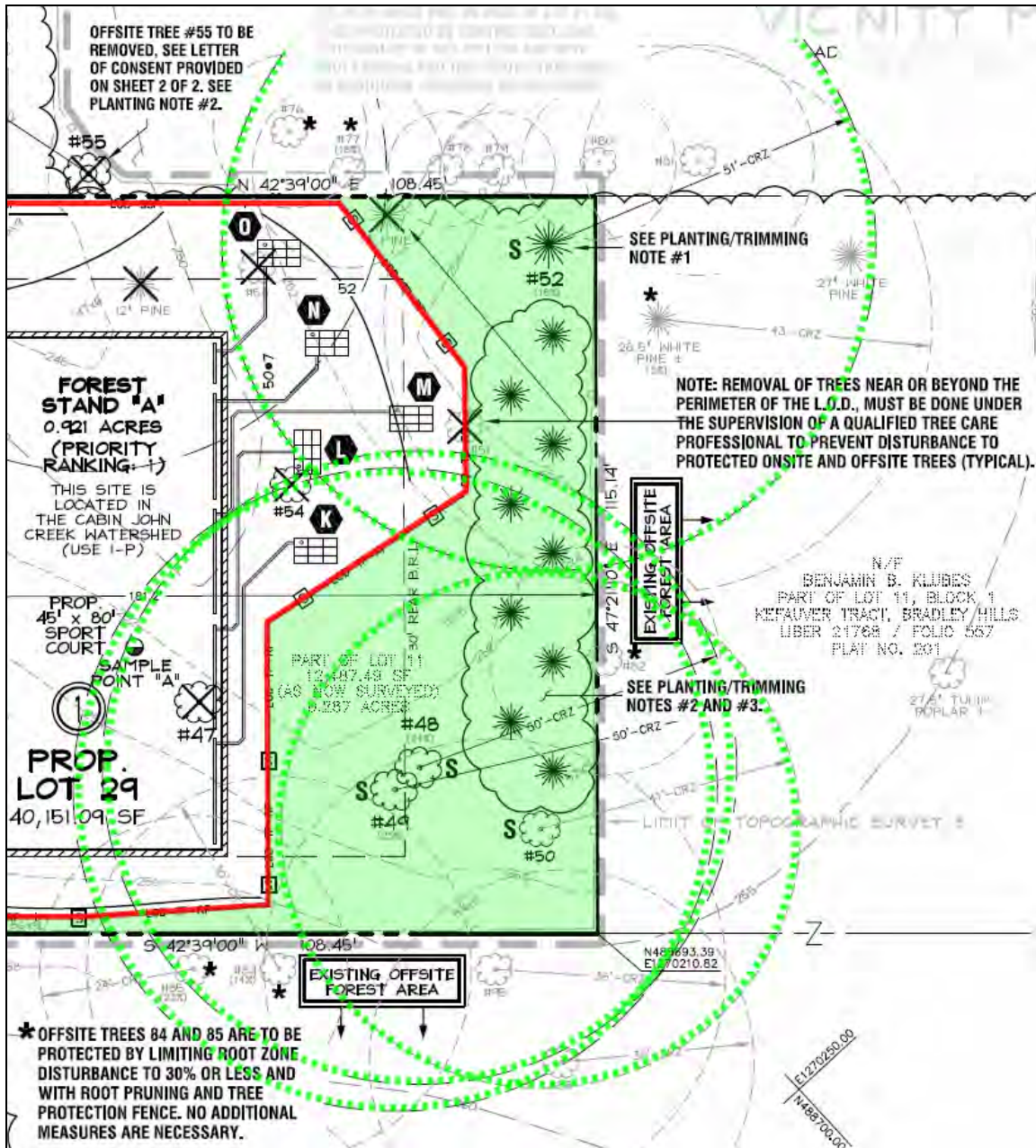


Figure 1 Tree Save Area Located At Rear Of Subject Property

No disturbance is currently proposed to the two large tulip trees on the opposite side of Bradley Boulevard. The proposed gas house connection has been located as far as possible from the respective critical root zones of these two trees, but it is conceivable that Washington Gas may choose to install the line elsewhere, resulting in minimal disturbance of less than 1% of the critical root zone to either tree. No protective measures are being proposed for these two trees. The minor impact to these two specimen trees by possible construction activities is listed in the variance section below.

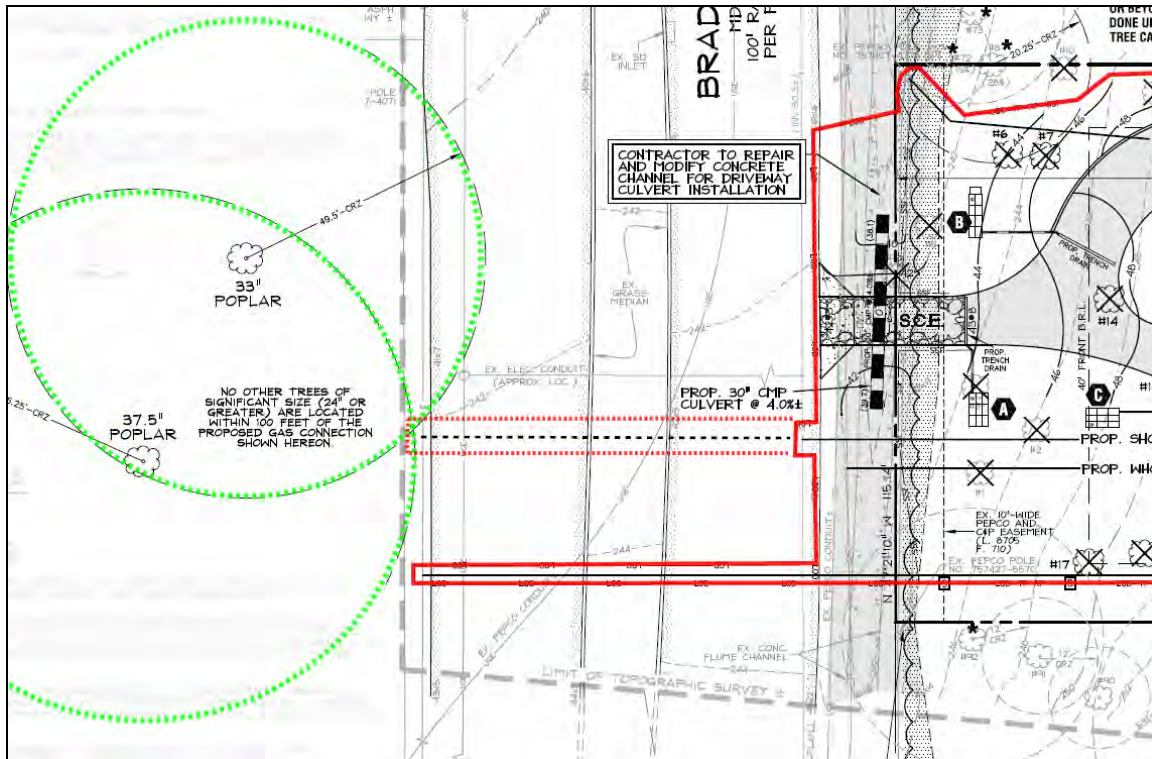


Figure 2 Possible minor impacts to offsite trees on opposite side of Bradley Boulevard

Forest Conservation Variance

Section 22A-12(b)(3) of Montgomery County Forest Conservation Law provides criteria that identify certain trees as high priority for retention and protection. Any impacts to these trees, including removal of the subject tree or disturbance within the tree’s critical root zone (CRZ), requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. Unless a variance is granted, the law requires no impact to trees that measure 30 inches DBH or greater; are part of a historic site or designated with a historic structure; are designated as national, state, or county champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species. The proposed project includes disturbance within the CRZ of trees which are subject to a variance due to their size measuring 30 inches DBH or greater. The applicant submitted a variance request for the impacts to subject trees (Attachment C). The applicant’s request is to remove four subject trees and to impact (and retain) five subject trees, affecting a total of nine trees that are considered high priority for retention under Section 22A-12(b) (3) of the County Forest Conservation Law.

On-Site Specimen Tree Data

TREE No.	TYPE	DBH	CRZ Area	Percent of CRZ Impacted by LOD	CONDITION/ STATUS
47	Tulip Tree	32.0"	7,239 sf	X	Good, REMOVE
48	Tulip Tree	33.0"	7,698 sf	24%	Good/Fair, SAVE
49	Tulip Tree	33.5"	7,933 sf	25%	Good/Fair, SAVE*
52	White Pine	34.0"	8,172 sf	16%	Fair/Poor, SAVE
59	Tulip Tree	30.5"	6,576 sf	X	Good, REMOVE
65	Tulip Tree	34.0"	8,172 sf	X	Poor, REMOVE

*Appropriate pruning of the dead limbs on this tree is also proposed.

Off-Site Specimen Tree Data

TREE No.	TYPE	DBH	CRZ Area	Percent of CRZ Impacted by LOD	CONDITION
55	Tulip Tree	31"	6,793 sf	X	Good, REMOVE*
-	Tulip Tree	37.5"	9,940 sf	<1%	Good, SAVE
-	Tulip Tree	33.0"	7,698 sf	<1%	Good, SAVE

*To be removed pursuant to a permission letter from the adjacent property owner (Attachment C).

The applicant has offered the following justifications of the current variance request:

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship.

Applicants' Response: The subject property is located among other developed properties of similar size. Properties in this area have improvements and appurtenances comparable to those proposed for this site. In order to develop the property as the homeowners intend, three existing specimen trees located on-site will be removed, three existing on-site trees will be impacted, one offsite specimen tree will be removed, and two additional offsite trees may or may not be impacted. Two of the offsite trees are not proposed to be disturbed by this plan. However, it is conceivable that Washington Gas may elect to bring gas service to the subject property at a different location than shown on this plan. Minimal disturbance (< 1%) would occur to either tree. The fourth and final offsite specimen tree is proposed for removal due to its proximity to the subject property. The site's topography combined with the placement of the proposed house, sport court, SWM structures and associated appurtenances necessitate the removal of this tree. The three property owners with shared interest in the tree have agreed upon its removal. Mitigation for the removal of this tree is provided through the planting of two rows of holly trees located along the rear of the subject property.

Staff comments: Since the entire property is forested and the buildable area is interspersed with subject trees and/or their critical root zones, development of the property would require impacts and/or removals. Therefore staff agrees that there is an unwarranted hardship.

- (2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas.

Applicants' Response: Saving onsite specimen trees 65, 59, 47, as well as Tree 55 on the adjoining property would severely limit how the property owners could develop this property. The locations of many of these trees would limit house and accessory structure placement. Additionally, proper grading, as well as the need to provide on-site stormwater management as required by the County and State, would also be limited if all specimen trees were saved.

Staff Comments: The original plan submission and associated variance request included clearing and disturbance of the entire site, which was not supported by staff. Ultimately the LOD and associated disturbance and tree clearing was reduced to the current level which is supported by staff. Based on the review of the application and the further refinement of the plans which occurred, staff agrees that enforcing the rules related to preservation of all of the trees would deprive the landowner of rights enjoyed by others in similar areas.

- (3) Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance

Applicants' Response: A Stormwater Management (SWM) Concept Plan has been approved for this project by the Montgomery County Department of Permitting Services. The approved SWM Concept Plan will ensure that water quality standards will be met in accordance with State and County criteria. None of the trees located on this site are located within streams, wetlands, floodplains, or associated buffers.

Staff Comments: Staff has reviewed the application and agrees that State water quality standards will not be violated or that a measurable degradation in water quality will not occur.

- (4) Provide any other information appropriate to support the request.

Applicants' Response: Forest conservation requirements resulting from the redevelopment of this site will be met through an off-site forest conservation easement from the Lorax Forest, LLC forest conservation bank. Furthermore, disturbance to two of the three off-site specimen trees will be minimal and will not necessitate protective measures. None of the trees proposed to be impacted or removed is rare, threatened, or endangered, per the Maryland Nongame and Endangered Species Conservation Act. The property is not part of an historic site nor does it contain any historic structures.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. Staff has made the following determinations in the review of the variance request and the proposed forest conservation plan:

Variance Findings – Staff recommends that the Planning Board make the following findings in support of granting the requested variance:

1. *Approval of the variance will not confer on the applicant a special privilege that would be denied to other applicants.*

The impacts to the trees on the opposite side of Bradley Boulevard are associated with utility tie-ins within the right-of-way where such impacts are anticipated. The impacts and removals towards the center of the site are within the buildable area established by the setbacks. Therefore, the variance request would be granted to any applicant in a similar situation.

- 2. Approval of the variance is not based on conditions or circumstances which are the result of the actions by the applicant.*

The requested variance is based on proposed development allowed under the existing zoning and the need to achieve adequate stormwater management. The variance can be granted under this condition if the impacts are avoided or minimized and that any necessary mitigation is provided. Design changes were incorporated to reduce tree disturbance and removals and mitigation is provided for the resources disturbed.

- 3. Approval of the variance is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the proposed site design and layout on the subject property and not as a result of land or building use on a neighboring property.

- 4. Approval of the variance will not violate State water quality standards or cause measurable degradation in water quality.*

The Department of Permitting Services (DPS) staff approved the stormwater management (SWM) concept for the project on December 9, 2010. The DPS review and ultimate approval of the sediment and erosion control and storm water management plans will ensure that appropriate standards are met. The property is not directly associated with any streams, wetlands or related buffers. Therefore, the project will not violate State water quality standards or cause measurable degradation in water quality.

County Arborist's Recommendations

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The applicant's request was forwarded to the County Arborist on December 9, 2011. The County Arborist issued a response to the variance request on December 16, 2011, and recommended that the variance be approved with the condition that mitigation is provided. Additionally, the County Arborist provided general recommendations which include reduction of the amount of permanent impacts to critical root zones (CRZs) by implementing temporary protective matting (Attachment D).

Mitigation for Trees Subject to the Variance Provisions

Most of the subject trees removed by the plan are contained within the forest boundary. Since the forest clearing which includes the subject trees is to be mitigated by the reforestation requirements, no additional mitigation for these trees is requested. However, the proposed removal of offsite tree #55 is not accounted for under the reforestation requirements. Therefore, mitigation for its removal is required in addition to the reforestation requirements. Generally, staff recommends that replacement

plantings for variance purposes occur at a ratio of approximately 1-inch DBH for every 4-inch DBH removed, using tree plantings that are a minimum of 3-inch caliper. This means that for the 31 diameter inches of tree removed (offsite), the applicant will provide at a minimum 8 inches of caliper replacements. For this particular site, the proposed nine native holly trees are deemed to be acceptable mitigation¹. Staff does not recommend larger size plantings at the proposed locations due to the increased impacts to the roots of existing saved trees which would occur during the installation of larger plant material. No mitigation is recommended for trees impacted but retained. Initially the seven-foot tall evergreen plantings will have a limited effect; however, they will provide some immediate benefits such as screening.

Staff Recommendation on the Variance

As a result of the above findings, staff recommends that the Planning Board approve the applicant's request for a variance from Forest Conservation Law to impact (but retain) five subject trees and remove four subject trees (affecting a total of nine subject trees) associated with the project. The variance approval is assumed into the Planning Board's approval of the Forest Conservation Plan.

Stormwater Management

The MCDPS Stormwater Management Section approved the stormwater management concept on December 9, 2010. The stormwater management concept consists of environmental site design through the use of drywells and non-rooftop disconnect.

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 proposed lot size, width, shape and orientation are appropriate for the location of the subdivision.

The lot was reviewed for compliance with the dimensional requirements for the R-200 zone as specified in the Zoning Ordinance. The lot 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:

¹ Sizes of evergreen landscape stock is classified by height, not by caliper. Staff estimates that the 7-foot height specified would correspond to at least 1 inch of caliper (per tree).

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” for evaluating the application. In this instance, the neighborhood selected by the applicant, and agreed to by staff, consists of 14 lots (Attachment E). The neighborhood includes platted lots in the R-200 zone on Bradley Boulevard. All the lots share two points of access into the neighborhood via Bradley Boulevard. The designated neighborhood provides an adequate sample of the lot and development pattern of the area. A tabular summary of the area based on the resubdivision criteria is included in Attachment F.

C. Analysis

Comparison of the Character of Proposed Lots to Existing

In performing the analysis, the above-noted resubdivision criteria were applied to the delineated neighborhood. The proposed lots are of the same character with respect to the resubdivision criteria as other lots within the defined neighborhood. Therefore, the proposed resubdivision complies with the criteria of Section 50-29(b)(2). As set forth below, the attached tabular summary and graphical documentation support this conclusion:

Frontage:

In a neighborhood of 14 lots, lot frontages range from 0 feet (no frontage) to 234 feet. Three of the lots have no frontage, nine lots have frontages between 100 and 200 feet, and the remaining two lots have frontages of more than 200 feet. The proposed lot has a frontage of 115 feet. **The proposed lot will be of the same character as existing lots in the neighborhood with respect to lot frontage.**

Alignment:

All of the 14 existing lots in the neighborhood are perpendicular in alignment. The proposed lot is perpendicular in alignment. **The proposed lot is of the same character as existing lots with respect to the alignment criterion.**

Size:

The lots in the delineated neighborhood range from 21,249 square feet to 65,675 square feet. Six of the lots are smaller than 30,000 square feet, six are between 30,000 and 50,000 square feet, and two are between 50,000 and 66,000 square feet. The Proposed Lot will be 40,151 square feet in size. **The proposed lot size is in character with the size of existing lots in the neighborhood.**

Shape:

Twelve of the existing lots in the neighborhood are rectangular, and the remaining two are irregular. The proposed lot is rectangular. **The shape of the proposed lot will be in character with shapes of the existing lots.**

Width:

The lots in the delineated neighborhood range from 114 feet to 246 feet in width. Ten of the lots have widths of less than 150 feet, three lots have widths between 150 and 200 feet, and the one remaining lot has a width of more than 200 feet. The proposed lot has a width of 115 feet. Two lots have a smaller width measurement, at 114 feet. **The proposed lot will be in character with existing lots in the neighborhood with respect to width.**

Area:

The lots in the delineated neighborhood range from 9,734 square feet to 29,992 square feet in buildable area. One of the lots has a buildable area less than 10,000 square feet, ten are between 10,000 and 20,000 square feet, and three are between 20,000 and 30,000 square feet. The proposed lot has a buildable area of 25,221 square feet. Three lots have buildable areas larger than the proposed lot. **The proposed lot will be of the same character as other lots in the neighborhood with respect to buildable area.**

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

The applicant conducted a pre-submission community meeting on September 17, 2010. No issues were raised at the meeting. In addition, written notice of the plan submittal and the public hearing dates was given by the applicant and staff. As of the date of this report, one citizen letter has been received (Attachment G). In their letter, adjacent residents at 7200 Armat Drive expressed concerns regarding the proposed clearing and disturbance adjacent to their property. However, the letter is based on an earlier version of the application, which showed clearing of the entire site. The current clearing amount has been reduced from the extent shown on the original submission. The plan also includes the supplemental planting of evergreen species. The current plan substantially satisfies the concerns raised in the letter. Most notably, the direct construction impacts to the adjacent property owner's tree roots have been reduced. Furthermore, the preservation of four large trees and installation of supplemental plantings will help address screening and wind issues.

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 proposed lot is of the same character as the existing lots in the defined neighborhood with respect to each of the resubdivision criteria, and therefore, complies with Section 50-29(b)(2) of the Subdivision Regulations. The proposed lot meets all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conforms to the recommendations of the Bethesda/Chevy Chase Master Plan. Access and public facilities will be adequate to serve the proposed lot, 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 A – Vicinity Development Map
- Attachment B – Proposed Preliminary Plan and Forest Conservation Plan
- Attachment C – Forest Conservation Variance Request
- Attachment D – County Arborist’s Variance Letter
- Attachment E – Resubdivision Neighborhood Map
- Attachment F – Resubdivision Data Table
- Attachment G – Citizen Correspondence
- Attachment H – Agency Correspondence Referenced in Conditions

Table 1: Preliminary Plan Data Table and Checklist

Plan Name: Kefauver Tract Bradley Hills				
Plan Number: 120110100				
Zoning: R-200				
# of Lots: 1				
# of Outlots: N/a				
Dev. Type: Residential				
PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval by the Preliminary Plan	Verified	Date
Minimum Lot Area	20,000 sq. ft.	40,151 sq. ft. minimum	NB	2/10/12
Lot Width	100 ft.	115 ft. minimum	NB	2/10/12
Lot Frontage	25 ft.	115 ft. minimum	NB	2/10/12
Setbacks				
Front	40 ft. Min.	Must meet minimum ¹	NB	2/10/12
Side	12 ft. Min./25 ft. total	Must meet minimum ¹	NB	2/10/12
Rear	30 ft. Min.	Must meet minimum ¹	NB	2/10/12
Height	50 ft. Max.	May not exceed maximum ¹	NB	2/10/12
Max Resid'l d.u. per Zoning	2	1	NB	2/10/12
MPDUs	N/a			
TDRs	N/a			
Site Plan Req'd?	No			
FINDINGS				
<i>SUBDIVISION</i>				
Lot frontage on Public Street		Yes	NB	2/10/12
Road dedication and frontage improvements		Yes	Agency letter	3/8/11
Environmental Guidelines		N/a	Staff memo	1/27/12
Forest Conservation		Yes	Staff memo	1/27/12
Master Plan Compliance		Yes	Staff memo	2/7/11
<i>ADEQUATE PUBLIC FACILITIES</i>				
Stormwater Management		Yes	Agency letter	12/9/10
Water and Sewer (WSSC)		Yes	Agency comments	2/7/11
10-yr Water and Sewer Plan Compliance		Yes	Agency comments	2/7/11
Well and Septic		N/a	Agency letter	2/7/11
Local Area Traffic Review		N/a	Staff memo	2/7/11
Policy Area Mobility Review		N/a	Staff memo	2/7/11
Transportation Management Agreement		No	Staff memo	2/7/11
School Cluster in Moratorium?		No	NB	2/10/12
School Facilities Payment		Yes	NB	2/10/12
Fire and Rescue		Yes	Agency letter	4/19/11

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

KEFAUVER TRACT BRADLEY HILLS (120110100)



Map compiled on February 08, 2012 at 2:09 PM | Site located on base sheet no - 211NW07

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.

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Research & Technology Center

1 inch = 300 feet
1 : 3600

GENERAL NOTES

- 1) WATER CATEGORY - I SEWER CATEGORY - I
2) BOUNDARY INFORMATION BASED ON A SURVEY PERFORMED BY CAS ENGINEERING, DATED MAY, 2010.
3) TWO-FOOT CONTOUR DATA BASED ON A SURVEY PERFORMED BY CAS ENGINEERING, DATED MAY, 2010.
4) EXISTING MANMADE AND NATURAL FEATURES (INCLUDING 5-FT CONTOURS) BEYOND THE LIMIT OF TOPOGRAPHIC SURVEY ARE APPROXIMATE AND SHOWN TO THE BEST OF OUR ABILITY...

SOILS

2B GLEN SILT LOAM, 3 TO 8 PERCENT SLOPES (HYDRIC)
THIS MODERATELY FINE-TEXTURED SOIL IS VERY DEEP, WELL DRAINED AND MODERATELY FERTILE. AVAILABLE WATER CAPACITY IS HIGH, PRODUCTIVITY IS HIGH, EROSION HAZARD IS SLIGHT, POTENTIAL FOR FROST ACTION IS MODERATE. CAPABILITY SUBCLASS IS IIE.

TREE DATA

SEE TABLE, SHEET 2.

NRI NOTES

- 1) NO CULTURAL AND/OR HISTORICAL FEATURES EXIST ON SITE BASED ON OUR RESEARCH OF AVAILABLE RECORDS AND ON-SITE OBSERVATION.
2) THERE ARE NO STATE AND/OR COUNTY CHAMPION TREES OR TREES > 75% OF THE CURRENT STATE AND/OR COUNTY CHAMPION LOCATED ON THE SUBJECT PROPERTY...

UTILITY INFORMATION

EXISTING UTILITY LOCATIONS ARE APPROXIMATE. THEY ARE BASED UPON AVAILABLE RECORDS AND ARE SHOWN TO THE BEST OF OUR ABILITY. ALL UTILITY LOCATIONS MUST BE FIELD VERIFIED.

Table with columns: UTILITY, REQUEST DATE, BY, INFO REC'D, PLAN REVISED, BY

MISS UTILITY

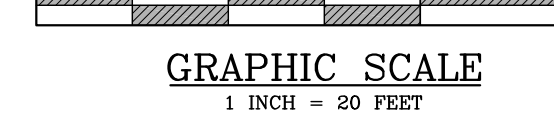
FOR LOCATION OF UTILITIES, CALL "MISS UTILITY" AT 1-800-257-7777, OR LOG ON TO WWW.MISSUTILITY.NET/VIC 48 HOURS IN ADVANCE OF ANY WORK IN THIS VICINITY...

LEGEND

Legend showing EXISTING FEATURES (storm drain, sewer line, tree canopy) and PROPOSED FEATURES (prop. hnc, prop. shc, prop. ghc, prop. ehc, etc.)

ENVIRONMENTAL DATA TABLE

Table with columns: FEATURE, EXISTING



OWNERS/APPLICANTS

SALMAAN T. AND FAIHAH K. SIDDIQUI
111 19TH STREET NORTH
APARTMENT #1802
ARLINGTON, VA 22209
917-543-6064
salmaan@gmail.com

PLANTING/TRIMMING NOTES

- 1) LOWER LIMBS ON TREE #52 (34' WHITE PINE) MAY REQUIRE PRUNING DUE TO DIE OFF. APPROVAL TO CONDUCT THIS ACTIVITY IS INCLUDED IN THE VARIANCE REQUEST.
2) AS MITIGATION FOR THE REMOVAL OF TREE #55, TWO STAGGERED ROWS OF 7 FOOT TALL HOLLY TREES (OR APPROVED EQUIVALENT) WILL BE PLANTED OUTSIDE THE NOTED LIMITS OF DISTURBANCE...

FOREST CONSERVATION TABLE

Table with columns: ACREAGE OF TRACT, ACREAGE OF ROAD AND UTILITY ROW'S, ACREAGE OF EXISTING FOREST, WETLANDS, FLOODPLAINS, AND STREAM VALLEY BUFFERS, ACREAGE OF TOTAL FOREST RETENTION, LAND USE CATEGORY AND CONSERVATION AND AFForestation THRESHOLDS...

DEVELOPER CERTIFICATE

THE UNDERSIGNED AGREES TO EXECUTE ALL THE FEATURES OF THE APPROVED FINAL FOREST CONSERVATION PLAN No. 120110100 INCLUDING, FINANCIAL BONDING, FOREST PLANTING, MAINTENANCE, AND ALL OTHER APPLICABLE AGREEMENTS.

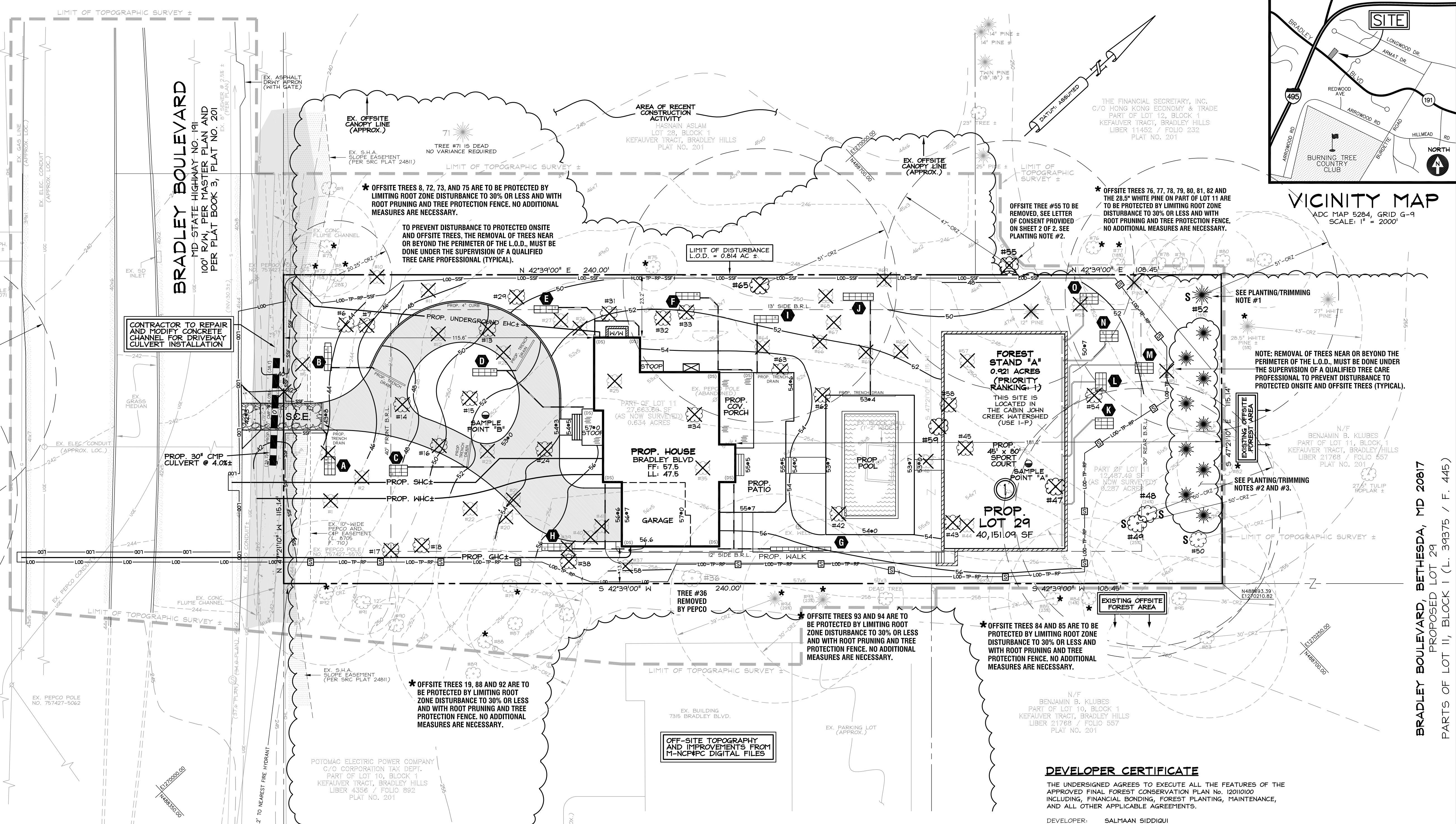
DEVELOPER: SALMAAN SIDDIQUI
OWNER: SALMAAN SIDDIQUI
ADDRESS: 1111 19TH STREET NORTH APARTMENT #1802 ARLINGTON, VA 22209
PHONE: 917-543-6064
EMAIL: salmaan@gmail.com
SIGNATURE:

CERTIFICATION OF QUALIFIED PROFESSIONAL

I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON HAS BEEN PREPARED IN ACCORDANCE WITH MARYLAND STATE AND MONTGOMERY COUNTY FOREST CONSERVATION LAWS, AND M-NCP&PC GUIDELINES.

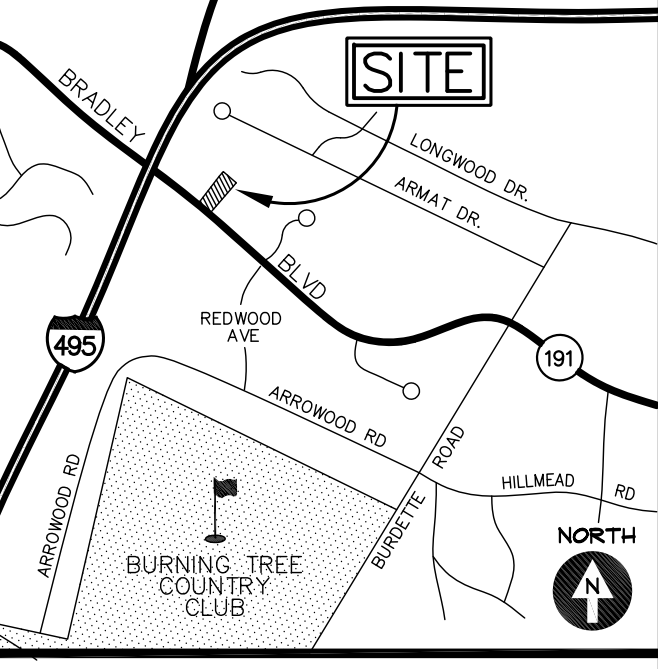
DATE: 11/01/2011
JEFFREY A. ROBERTSON
DNR/CORNER 08.19.06.01
QUALIFIED PROFESSIONAL

BRADLEY BOULEVARD
PROPOSED LOT 29
PARTS OF LOT 11, BLOCK 1
KEFAUVER TRACT, BRADLEY HILLS
FINAL FOREST CONSERVATION PLAN
M-NCP&PC PP FILE NO.: 120110100



VICINITY MAP

ADC MAP 5284, GRID G-9
SCALE: 1" = 2000'



Revision table with columns: REVISION, DATE, BY, REVISION

BRADLEY BOULEVARD, BETHESDA, MD 20817
PROPOSED LOT 29
PARTS OF LOT 11, BLOCK 1 (L. 39375 / F. 445)
KEFAUVER TRACT, BRADLEY HILLS
BETHESDA (7TH) ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND
FINAL FOREST CONSERVATION PLAN
M-NCP&PC FILE NO.: 120110100

CAS ENGINEERING logo and contact information: 108 West Ridgeville Boulevard, Suite 101, Manassas, VA 20108



ENGINEERING

A Division of CAS Enterprises, Inc.

civil engineering • surveying • land planning

108 W. Ridgeville Boulevard, Suite 101 • Mount Airy, Maryland 21771
phone 301.607.8031 • fax 301.607.8045 • www.casengineering.com

November 1, 2011

M-NCP&PC
DARC - Area 1
8787 Georgia Avenue
Silver Spring, MD 20910

Attn: Mark Pfefferle

Re: **CAS Job No. 09-092B**
Bradley Boulevard, Bethesda, MD 20814
Parts of Lot 11 (Proposed Lot 29), Block 1
Kefauver Tract Bradley Hills
Forest Conservation (Chapter 22A) Variance Request

Dear Mr. Pfefferle:

This letter is intended to serve as the Forest Conservation Variance Request pursuant to Section 22A-21 of the Montgomery County Code. Two copies of the Final Forest Conservation Plan are attached hereto for your review and comment. Digital copies are also included on the enclosed compact disc.

Variance Justification

The applicants, Salmaan T. and Faizah K. Siddiqui, are requesting a variance for the removal of or impact to specimen trees located on or near the unaddressed property on Bradley Boulevard (Parts of Lot 11, Block 1, Kefauver Tract Bradley Hills). The property is comprised of 0.921 acres (40,151.09 sq. ft.) of land and is currently unimproved. The property is zoned R-200 and is located along the northeastern side of Bradley Boulevard (MD State Route 191) northwest of Redwood Avenue. The topography is such that there is a ridge running approximately parallel to Bradley Boulevard through the center of the property and a gentle swale through the rear portion of the property. A concrete drainage channel exists in the right-of-way adjacent to the front of the property. The entire site is wooded. The Preliminary Plan proposes to combine the two Parts of Lot 11 via a one-lot subdivision.

The new lot, Lot 29, will contain a detached single family dwelling, driveway, pool, sport court, associated appurtenances and multiple stormwater management systems. Originally the Siddiquis' wished to build a larger sport court. However, in order to preserve on-site specimen trees they have made concessions as to the size, location, and orientation of the court. A letter to this effect, from the property owner, is attached.

There are nine trees included in this variance request. Six specimen trees are located on the subject property, one is located on an adjacent lot, and two are located on the opposite side of Bradley Boulevard. One large specimen tree on the adjoining property is dead (*Tree 71*) and not included in this variance. The two specimen trees located on the opposite side of Bradley Boulevard are included although no disturbance to these root zones is being proposed by this plan. The possibility exists that when installing the gas-house connection, Washington Gas could conceivably disturb a small portion of these trees' root zones.

Of the on-site trees 47, 59, and 65 are proposed for removal based on their proximity to the proposed house, sport court, pool, grading activities, and required stormwater management facilities. Trees 47 and 59 are currently in good condition while Tree 65 is in poor condition. The remaining on-site trees, Trees 48, 49, and 52 are being saved. Tree 52 has seen lower limb die off. Pruning may be done in order to ensure the tree's long term health.

Offsite Tree 55 is only 2-3 feet from the subject property and imposes a substantial burden on the development potential of the site. An arborist has been retained to assess the condition of this tree and the assessment is attached hereto. After careful consideration, the three property owners with shared interest in Tree 55 have agreed to the removal of this Tulip Poplar, a species known for sensitivity to construction impacts. A letter of consent from the primary owner of Tree 55 is attached hereto. As a result of the removal of Tree 55 the applicant proposes mitigation plantings in the form of two rows of Holly trees (or similar) along the rear property line as shown on the Final Forest Conservation Plan. These rows of trees will also serve as screening for the adjoining property in response to a letter from Risa Bender and Benjamin Klubes. The exact species and location of these trees may be modified with the approval of M-NCP&PC staff prior to planting.

No disturbance is currently proposed to the two poplars on the opposite side of Bradley Boulevard. The proposed gas house connection as been located as far as possible from their respective CRZ's, but it is conceivable that Washington Gas may choose to install the line elsewhere, resulting in minimal disturbance (< 1%) to either tree. No protective measures are being proposed for these two trees. The impact to each specimen tree, by construction activities shown on the accompanying forest conservation plan, is listed in the charts below.

In summary, per Maryland Senate Bill 666, effective on October 1, 2009, Salmaan T. and Faizah K. Siddiqui are requesting a variance for the impact to, or removal of, nine specimen trees.

On-Site Specimen Tree Data

Tree No.	Common Name	Botanical Name	D.B.H.	C.R.Z. Radius	C.R.Z. Area	% C.R.Z. Area Disturbed (on Lot 29 only)	Condition
47	Tulip Poplar	<i>Liriodendron tulipifera</i>	32.0 in.	48.0 feet	7,239 s.f.	N/A	Good (Remove)
48	Tulip Poplar	<i>Liriodendron tulipifera</i>	33.0 in.	49.5 feet	7,698 s.f.	24 %	Good / Fair (SAVE)
49	Tulip Poplar	<i>Liriodendron tulipifera</i>	33.5 in.	50.25 feet	7,933 s.f.	25 %	Good / Fair (SAVE)
52	White Pine	<i>Pinus strobus</i>	34.0 in.	51.0 feet	8,172 s.f.	16%	Fair / Poor (SAVE)
59	Tulip Poplar	<i>Liriodendron tulipifera</i>	30.5 in.	45.75 feet	6,576 s.f.	N/A	Good (Remove)
65	Tulip Poplar	<i>Liriodendron tulipifera</i>	34.0 in.	51.0 feet	8,172 s.f.	N/A	Poor (Remove)

Off-Site Specimen Tree Data

Tree No.	Common Name	Botanical Name	D.B.H.	C.R.Z. Radius	C.R.Z. Area	% C.R.Z. Area Disturbed (on Lot 29 only)	Condition
55	Tulip Poplar	<i>Liriodendron tulipifera</i>	31.0 in.	46.5 feet	6,793 s.f.	43 %	Off-site/Good (Remove)
*	Tulip Poplar	<i>Liriodendron tulipifera</i>	37.5 in	56.25 feet	9,940 s.f.	< 1%	Off-site/Good (Save)
*	Tulip Poplar	<i>Liriodendron tulipifera</i>	33.0 in.	49.5 feet	7,698 s.f.	< 1%	Off-site/Good (Save)

* These off-site trees could not be formally evaluated as they are located on private property.

In accordance with Section 22A-21(b) of the Forest Conservation Law, the following is a description of the application requirements:

1. Describe the special conditions peculiar to the property which would cause the unwarranted hardship.

The subject property is located among other developed properties of similar size. Properties in this area have improvements and appurtenances comparable to those proposed for this site. In order to develop the property as the homeowners intend, three (3) existing specimen trees located on-site will be removed, one offsite specimen tree will be removed, and two additional offsite trees may or may not be impacted. Two of the offsite trees are not proposed to be disturbed by this plan. However, it is conceivable that Washington Gas may elect to bring gas service to the subject property at a different location than shown on this plan. Minimal disturbance (< 1%) would occur to either tree. The fourth and final offsite specimen tree is proposed for removal due to its proximity to the subject property. The site's topography combined with the placement of the proposed house, sport court, SWM structures and associated appurtenances necessitate the removal of this tree. The three property owners with shared interest in the tree have agreed upon its removal. Mitigation for the removal of this tree is provided through the planting of two rows of Holly trees located along the rear of the subject property.

2. Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas.

Saving onsite specimen trees 65, 59, 47, as well as Tree 55 on the adjoining property would severely limit how the property owners could develop this property. The locations of many of these trees would limit house and accessory structure placement. Additionally, proper grading, as well as the need to provide on-site stormwater management as required by the County and State would also be limited if all specimen trees were saved.

3. Verify that State water quality standards will not be avoided or that a measurable degradation in water quality will not occur as a result of the granting of the variance.

A Stormwater Management (SWM) Concept Plan has been approved for this project by the Montgomery County Department of Permitting Services. The approved SWM Concept Plan will ensure that water quality standards will be met in accordance with State and County criteria. None of the trees located on this site are located within streams, wetlands, floodplains, or associated buffers.

4. Provide any other information appropriate to support the request.

Forest conservation requirements resulting from the redevelopment of this site will be met through an off-site forest conservation easement from the Lorax Forest, LLC forest conservation bank. Furthermore disturbance to two of the three off-site specimen trees will be minimal and will not necessitate protective measures. None of the trees proposed to be impacted or removed are rare, threatened, or endangered, per the Maryland Nongame and Endangered Species Conservation Act. The property is not part of an historic site nor does it contain any historic structures.

In accordance with Section 22A-21(d) of the Forest Conservation Law, the following is a description of the minimum criteria necessary for granting a variance. The variance must not be granted if granting the request:

1. *Will confer on the applicant a special privilege that would be denied to other applicants;*

Granting the variance will not confer a special privilege as the removal and/or disturbance of the specimen trees noted above is the minimum necessary in order to redevelop the property as illustrated on the provided plan. Furthermore, the loss of certain trees and the need for a variance is often necessary and unavoidable in order to develop property in established neighborhoods and in accordance with County criteria.

2. *Is based on conditions or circumstances which result from the actions by the applicant;*

The requested variance is not based on conditions or circumstances which are the result of actions by the applicant. The variance is based upon the R-200 zoning, site topography, proposed site development, required BMP's for stormwater management, the need for connections to public utilities, as well as the applicants' desire for use and enjoyment of property. Furthermore, with the exception of Tree #55, the applicant has worked to limit impacts to off-site specimen trees to less than 30%. Grading has been minimized to the extent feasible while still enabling the applicant to meet those necessary requirements for providing stormwater management and to facilitate the proposed site improvements.

3. *Is based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property;*

The requested variance is a result of the proposed on-site development, required BMP's for stormwater management, and the need for utility connections to the proposed lot and not a result of land or building use on a neighboring property.

4. *Will violate State water quality standards or cause measurable degradation in water quality.*

The requested variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen trees being removed or disturbed are not within a stream buffer or a special protection area. A Stormwater Management Concept Plan will be approved by Montgomery County.

Should you have any questions or need any additional information, please do not hesitate to contact me.

Sincerely,



Jeffrey A. Robertson
Senior Project Manager
DNR/COMAR 08.19.06.01, Qualified Professional

cc: Salmaan T. and Faizah K. Siddiqui (letter)

Salmaan T. and Faizah K. Siddiqui

September 28, 2011

I appreciate having the opportunity to discuss my tree removal exemption rational pertaining to proposed lot # 29, block 1 located in the Kefauver Tract, Bradley Hills.

Aside from building a home for my growing family, purchasing this lot was greatly driven by having the requisite land to build health-mandated physical therapy facilities for my aging single mother who will be moving in with my family (she will be relocating from California). As a result of her specific needs, having direct and regular access to a swimming pool and tennis court is absolutely paramount.

As an alternative to building the swimming pool and tennis court on-site, I attempted to identify local health clubs that could offer my mother the level of privacy required by religion (my mother is a devout Muslim) - unfortunately all existing facilities are unable to meet the appropriate privacy standards.

In regard to the proposed on-site facilities, a regulation size tennis court (60' x 120') was going to be built length wise since the lot width is only 115'. Upon realizing placement inefficiencies, we decided to sacrifice on size and shift the tennis court width wise. Although irregular in size, the proposed tennis court location allows for pool installation closer to the house, a greater usable lawn area around the pool, and enough space around the court for screening from the adjoining properties.

I am happy to address any follow up questions and/or make myself available for in-person meetings.

Salman Siddiqui
salmaan@gmail.com
(917) 543-6064



EAP Consultants

Environmental Specialists • Land Planners • Certified Arborists

1105 Leafy Hollow Circle
Mt. Airy, Maryland 21771
301-514-2808 phone
jim@eapconsultantsmd.com
www.eapconsultantsmd.com

July 31, 2011

CAS Engineering
108 West Ridgeville Boulevard, Suite 101
Mount Airy, MD 21771

Re: **Arborist Recommendation / Analysis for Tree #55
Proposed Lot 29, Block 1, Kefauver Tract, Bradley Hills**

Dear Mr. Ochs:

We have finalized our analysis of the 31-inch diameter Tulip Poplar (identified as Tree #55) at the above referenced property. The following is our complete analysis and recommendation.

A visit to the subject property was made on July 23, 2011 to analyze an offsite tree identified as Tree #55 (31" Diameter *Liriodendron tulipifera*). We have been asked to provide our recommendation for tree care based on the grading activities on Lot 28 and the development activities proposed on the subject property. Tree #55 is located on Part of Lot 12 just northeast of the property corner between Part of Lot 12, Lot 28, and less than 3 feet from Proposed Lot 29.

Based on our visual observation the tree appears to be in good health with no signs of decline or stress. The foliage/branching appears healthy with a dense co-dominant canopy. Structurally, there was no evidence of hollowing or decay. Although this tree is visually in good condition, there has been recent offsite grading and construction on Lot 28 in which a section of the critical root zone has been filled and compacted. Based on a plan provided by CAS Engineering, approximately 18% of the tree's critical root zone has been affected. In addition to the existing disturbance, if future development on Proposed Lot 29 is limited to 30% or less, nearly half of the total critical root zone of this tree will be filled, cut, and/or compacted. Due to this potential loss of critical root zone, this tree's ability to uptake nutrients and water or to support its own weight will be severely compromised. Even with proper implementation of onsite tree preservation measures (root pruning, aeration, tree protection fencing, etc.) the probability of survival is low considering the sensitive nature of mature tulip poplars and the damage incurred on Lot 28. Furthermore, the existing onsite forest provides this tree a buffer from wind and sun exposure. When the adjacent forest is removed, Tree 55's will be subject to additional wind forces, greater sun exposure, as well as other stresses. These additional stresses, in addition to a greatly reduced critical root zone, will increase the probability of decline, and ultimately failure.

Based upon the information provided, I strongly recommend that your client discuss removal of this tree with the owners of Part of Lot 12. While there is no certainty of how a tree will respond to various disturbances, the likelihood of this tree surviving is low even if reasonable tree preservation measures are implemented. While we acknowledge the preservation of specimen trees is beneficial; there are however circumstances where removal or replacement is the better option. For example, any future hazard potential of this tree will be eliminated and replacement trees could establish within the developed environment to help regenerate the canopy. If you should have any question, please feel free to call.

Sincerely,

Jim Witmer
Certified Arborist
Certification Number MA-4587A



HONG KONG ECONOMIC & TRADE OFFICE
HONG KONG SPECIAL ADMINISTRATIVE REGION GOVERNMENT

香港特別行政區政府駐華盛頓經濟貿易辦事處

May 13, 2011

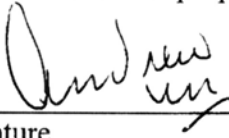
Salmaan Siddiqui
1111 19th Street North
Apartment #1602
Arlington, VA 22209

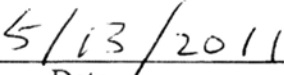
Re: **Preliminary Plan #120110100**
7317 Bradley Boulevard, Bethesda, MD
Proposed Lot 29, Block 1
Kefauver Tract Bradley Hills

Dear Mr. Siddiqui:

I hereby agree to allow, Salmaan and Faizah Siddiqui, owners of a property at 7317 Bradley Boulevard, currently known as Parts of Lot 11, Block 1, Kefauver Tract Bradley Hills, and/or your representatives, to enter our property at 7323 Bradley Boulevard, Part of Lot 12, Block 1, Kefauver Tract Bradley Hills for the purpose of removing a 31" Tulip Poplar. Said tree denoted as Tree #55 on the approved NRI/FSD Plan (#420102180). When entering the property, advance notice should be served and the time schedule agreed by both parties.

As discussed when we met at the property on May 9, 2011, it is understood and agreed that you will pay for the tree removal and correct any damage to the HKE&TO fence or property within ten to fifteen days after the tree removal.


Signature


Date

Andrew Kwok, Office Manager
Please Print Name

Authorized Representative
The Financial Secretary, Inc.,



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Robert G. Hoyt
Director

December 16, 2011

Françoise Carrier, Chair
Montgomery County Planning Board
Maryland National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

RE: 7317 Bradley Boulevard, DAIC 20110100, NRI/FSD application accepted on 6/10/2010

Dear Ms. Carrier:

The County Attorney's Office has advised me that Section 5-1607 of the Natural Resources Article, Maryland Code, applies to any application required under Chapter 22A of the Montgomery County Code submitted after October 1, 2009. Since the application for the above referenced request is required to comply with Chapter 22A based on a review by the Maryland National Capital Park & Planning Commission (MNCPPC) and was submitted after this date, I am providing the following recommendation pertaining to this request for a variance.

Section 22A-21(d) of the Forest Conservation Law states that a variance must not be granted if granting the request:

1. Will confer on the applicant a special privilege that would be denied to other applicants;
2. Is based on conditions or circumstances which are the result of the actions by the applicant;
3. Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or
4. Will violate State water quality standards or cause measurable degradation in water quality.

Applying the above conditions to the plan submitted by the applicant, I make the following findings as the result of my review:

1. The granting of a variance in this case would not confer a special privilege on this applicant that would be denied other applicants as long as the same criteria are applied in each case. Therefore, the variance can be granted under this condition.

2. Based on a discussion on March 19, 2010 between representatives of the County and the Maryland Department of Natural Resources Forest Service and the MNCPPC, the disturbance of trees, or other vegetation, is not interpreted as a condition or circumstance that is the direct result of the actions by the applicant. Therefore, the variance can be granted under this condition, as long as appropriate mitigation is provided for the resources disturbed.
3. The disturbance of trees, or other vegetation, by the applicant does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. Therefore, the variance can be granted under this condition.
4. The disturbance of trees, or other vegetation, by the applicant will not result in a violation of State water quality standards or cause measurable degradation in water quality. Therefore, the variance can be granted under this condition.

Therefore, I recommend that this applicant qualify for a variance conditioned upon mitigating for the loss of resources due to removal or disturbance to trees, and other vegetation, subject to the law. In the case of removal, the entire area of the critical root zone (CRZ) should be included in mitigation calculations regardless of the location of the CRZ (i.e., even that portion of the CRZ located on an adjacent property). When trees are disturbed, any area within the CRZ where the roots are severed, compacted, etc., such that the roots are not functioning as they were before the disturbance must be mitigated. Exceptions should not be allowed for trees in poor or hazardous condition because the loss of CRZ eliminates future potential of the area to support a tree or provide stormwater management. Tree protection techniques, such as trimming branches or installing temporary mulch mats to limit soil compaction during construction without permanently reducing the critical root zone, that are implemented according to industry standards are acceptable mitigation to limit disturbance. Techniques such as root pruning should be used to improve survival rates of impacted trees but they should not be considered mitigation for the permanent loss of critical root zone. Until other guidelines are developed, I recommend requiring mitigation based on the number of square feet of the critical root zone lost or disturbed. The mitigation can be met using any currently acceptable method under Chapter 22A of the Montgomery County Code.

If you have any questions, please do not hesitate to contact me directly.

Sincerely,



Laura Miller
County Arborist

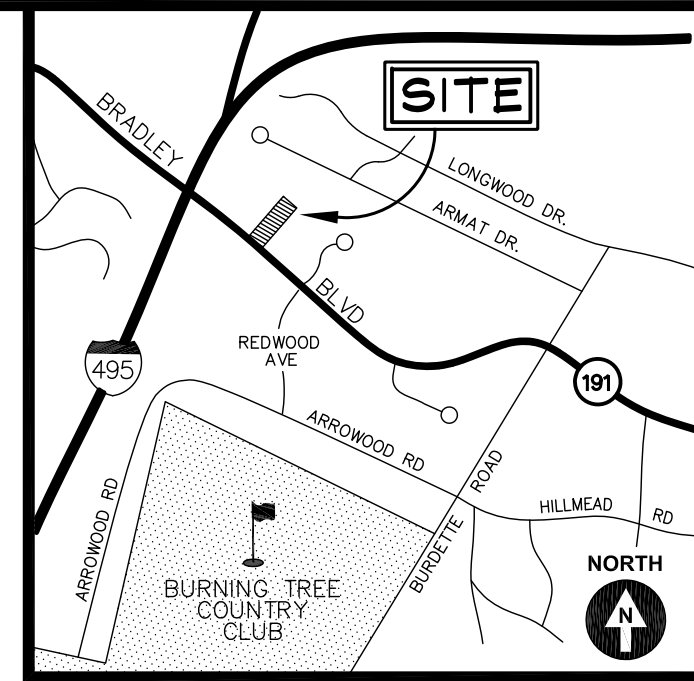
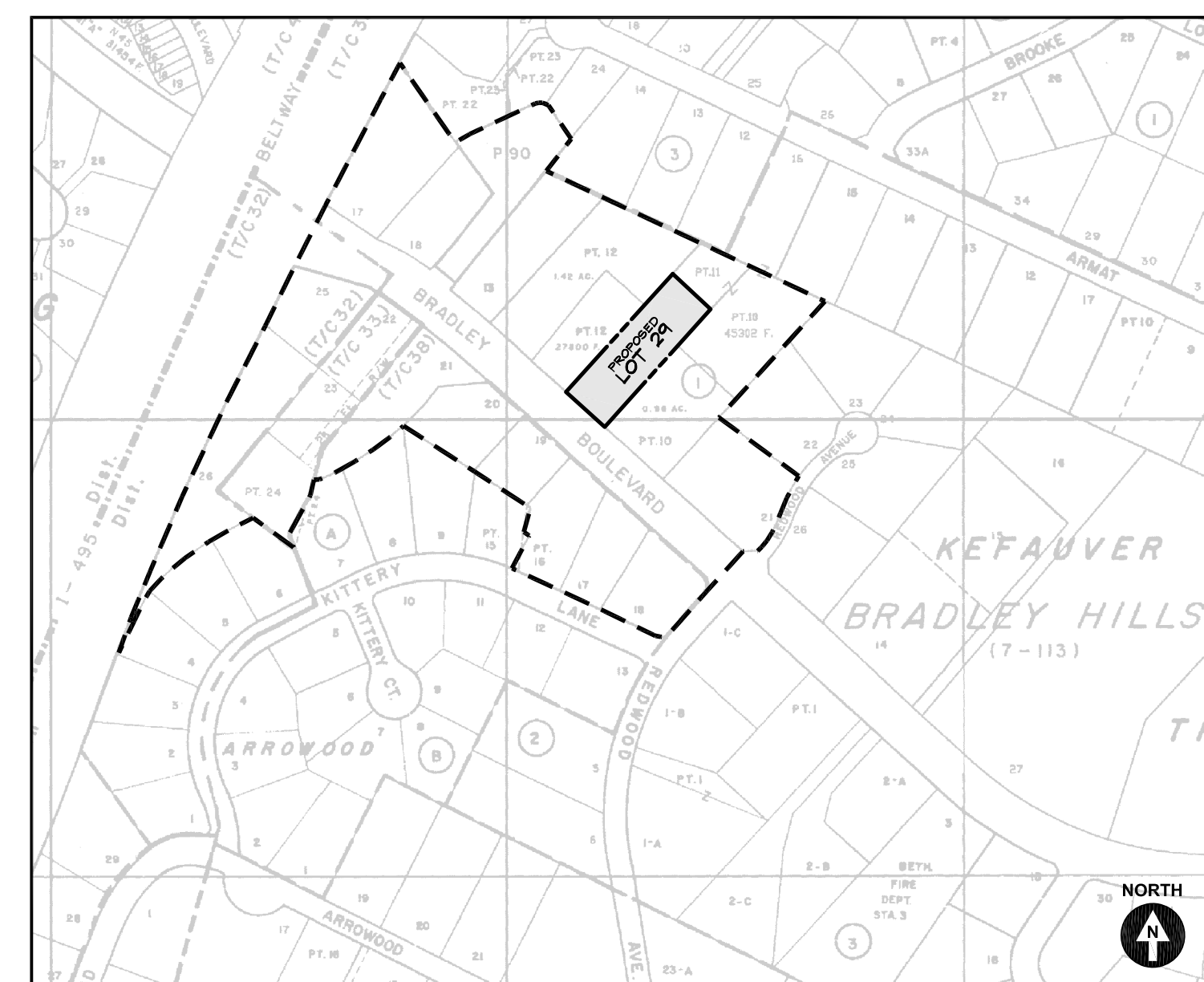
cc: Robert Hoyt, Director
Walter Wilson, Associate County Attorney
Mark Pfefferle, Acting Chief

GENERAL NOTES

- ZONING: R-200
MIN. LOT AREA = 20,000 SQ FT
MIN. LOT WIDTH AT R/W = 25 FT
MIN. LOT WIDTH AT B.R.L. = 100 FT
FRONT B.R.L. = 40 FT (ESTABLISHED)
REAR B.R.L. = 30 FT
SIDE B.R.L. = 12 FT MIN. EACH SIDE,
25 FT MIN. TOTAL
- WATER CATEGORY - 1 SEWER CATEGORY - 1
- BOUNDARY INFORMATION BASED ON AVAILABLE RECORD INFORMATION.
- TOTAL LOT AREA = PROPOSED LOT 29 = 40,151.09 SF
- PROPERTY SHOWN ON TAX MAP GP 341, KEFAUVER TRACT, BRADLEY HILLS
- PROPERTY SHOWN ON WSSC 200' SHEET 211 NH 07.
- SITE IS LOCATED IN THE CABIN JOHN CREEK WATERSHED.
- LOCAL UTILITIES INCLUDE:
WATER & SEWER - WASHINGTON SUBURBAN SANITARY COMMISSION
ELECTRIC - PERCO
TELEPHONE - VERIZON
GAS - WASHINGTON GAS

LEGEND

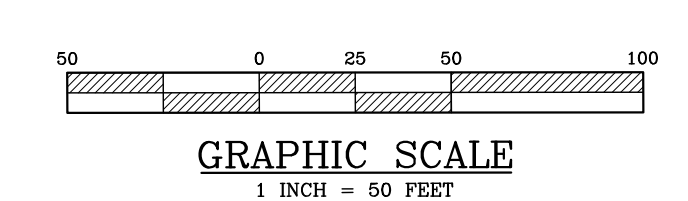
	PARTS OF LOTS AND PARCELS (NOT INCLUDED)
	BUILDING RESTRICTION LINES (PER PLAT # R-200 ZONE)
	EXTENT OF NEIGHBORHOOD
	SUBJECT PROPERTIES



VICINITY MAP
ADC MAP 5284, GRID G-9
SCALE: 1" = 2000'



APPLICANT
SALMAAN SIDDIQUI
1111 19TH STREET NORTH
APARTMENT #802
ARLINGTON, VA 22209
917-543-6064
sidiqaan@gmail.com



**BRADLEY BOULEVARD
PART OF LOT 11 AND
PART OF LOT 11, BLOCK 1
KEFAUVER TRACT, BRADLEY HILLS
NEIGHBORHOOD MAP**

Attachment E

DATE	10/2010	REVISION	
BY	JMO	BY	JMO
DATE	11/05/10	REVISION	INITIAL SUBMITTAL TO FNCPPC-DEV. REVIEW DIV.
DATE	12/22/10	REVISION	FULL SUBMITTAL TO FNCPPC-DEV. REVIEW DIV.
PROJECT	09-092B	ILLUSTRATION	JMO
DATE	10/2010	SCALE	1"=50'
ENGINEERING	N/A	APPROVAL	CAS

BRADLEY BOULEVARD, BETHESDA, MD, 20817
PART OF LOT 11 AND PART OF LOT 11, BLOCK 1
KEFAUVER TRACT BRADLEY HILLS
BETHESDA (7TH) ELECTION DISTRICT
MONTGOMERY COUNTY, MARYLAND
NEIGHBORHOOD MAP

ENGINEERING
CAS
CIVIL • SURVEYING • LAND PLANNING
A DIVISION OF CAS ENTERPRISES, INC.
108 West Ridgeville Boulevard, Suite 101, Mount Airy, Maryland 21771
DC Metro (301) 607-8031 FAX (301) 607-8045
sidiqaan@gmail.com

N:\year_2009\09092B_NMap.dwg 10/28/2010 11:52:05 AM DDT

PROPOSED LOT 29, BLOCK 1, KEFAUVER TRACT, BRADLEY HILLS

Comparable Lot Data Table – Sorted in descending order by Lot Size

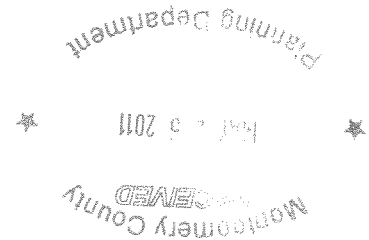
Lot	Block	Subdivision	Frontage	Alignment	Lot Size	Lot Shape	Width @ BRL	Buildable Area
26	A	ARROWOOD	0 Feet	perpendicular	65,675 S.F.	irregular	145 feet	10,720 S.F.
17	1	KEFAUVER TRACT, BRADLEY HILLS	138 Feet	perpendicular	55,291 S.F.	rectangular	149 feet	26,754 S.F.
21	1	KEFAUVER TRACT, BRADLEY HILLS	234 Feet	perpendicular	47,588 S.F.	rectangular	246 feet	12,607 S.F.
21	A	ARROWOOD	204 Feet	perpendicular	44,158 S.F.	irregular	164 feet	27,297 S.F.
13	1	KEFAUVER TRACT, BRADLEY HILLS	134 Feet	perpendicular	43,560 S.F.	rectangular	134 feet	29,992 S.F.
29	1	KEFAUVER TRACT, BRADLEY HILLS	115 Feet	perpendicular	40,151 S.F.	rectangular	115 feet	25,221 S.F.
18	A	ARROWOOD	160 Feet	perpendicular	31,243 S.F.	rectangular	176 feet	12,835 S.F.
18	1	KEFAUVER TRACT, BRADLEY HILLS	135 Feet	perpendicular	31,198 S.F.	rectangular	135 feet	17,660 S.F.
25	A	ARROWOOD	196 Feet	perpendicular	30,736 S.F.	rectangular	190 feet	10,724 S.F.
20	A	ARROWOOD	100 Feet	perpendicular	29,899 S.F.	rectangular	136 feet	16,605 S.F.
24	A	ARROWOOD	0 Feet	perpendicular	29,105 S.F.	rectangular	145 feet	17,995 S.F.
17	A	ARROWOOD	100 Feet	perpendicular	26,630 S.F.	rectangular	128 feet	13,559 S.F.
22	A	ARROWOOD	113 Feet	perpendicular	24,317 S.F.	rectangular	114 feet	11,038 S.F.
19	A	ARROWOOD	135 Feet	perpendicular	21,450 S.F.	rectangular	135 feet	9,734 S.F.
23	A	ARROWOOD	0 Feet	perpendicular	21,249 S.F.	rectangular	114 feet	10,749 S.F.

1. Lot statistics taken from available record plats.
2. Parts of lots and parcels were not included.
3. Longest front property line used for frontage calculation on corner lots
4. 40' Front BRL (per R-200 Zone) assumed for buildable area calculations.
5. Lot width measured at front building restriction line.

Risa Bender and Benjamin Klubes
7200 Armat Drive
Bethesda, Maryland 20817



May 23, 2011



Chair of Commissioner
Development Review Division
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

**Re: Preliminary Plan 120110100 (the "Plan"),
Bradley Blvd 2 Parts of Lot 11, 400 feet northwest of Redwood Avenue (the Property)**

Dear Chair of Commissioner:

We are writing to oppose the Plan put forth by applicant, Salmaan Siddiqui. In particular, the forest conservation plan does not preserve anything. As an adjacent property owner, our family and the Burning Tree community will be directly and adversely affected by the removal of literally all the trees from the Property. We are deeply concerned because the Plan calls for the destruction of a number of exceptionally large mature (our arborist estimated several to be between 70 and 90 feet tall) and numerous specimen trees on the property (as well as certain trees offsite) in order to put up a long double drive, house, pool and extra large sport court. It is especially disturbing that the reforestation requirement to replant .58 acres of trees is being transparently circumvented by the proposal to plant trees miles away somewhere in Montgomery County. Such a "reforestation" does nothing to address the problems created by the implementation of the Plan. Indeed, the "procedure for reforestation" only comes into play "[a]fter all attempts to maximize the areas of forest retention on a tract have been exhausted". There appears to have been no attempt whatsoever to maximize forest retention here.

We have several specific concerns arising from the potential complete removal of all trees from the Property:

- **Noise.** The noise level to our home from the traffic on Bradley Blvd. and from Interstate 495 will increase dramatically.
- **Visibility.** We will see through to Bradley Blvd. from our property as substantial screening from trees on the Property will be gone.
- **Wind.** The wind level will increase to such an extent that it could make our trees quite vulnerable and increase the risk that our trees could be affected by wind and storms.
- **Roots.** The destruction of such a large number of significant trees will impact the root system of some of our trees. The Plan itself reveals that the path of planned removal extends into the CRZ (Critical Root Zone) of our trees and may cause them to be damaged.

Our layman observations about the obvious effects on our property by the plan were confirmed by a discussion with our Arborist from The Care of Trees, Andrew Walker.

Fundamentally, the plan strikes us as wholly contrary to the Forest Conservation Law that is designed “to save, maintain and plant forested areas for the benefit of county residents and future generations.....Trees cleanse the air, offset the heat generated by development and reduce energy needs. And in a less tangible sense, trees improve quality of life in a community by providing recreation and visual appeal”. Clearly recognizing the benefits of trees, Montgomery County has launched a tree planting program, Leaves for Neighborhoods, “to increase the county’s tree canopy on residential property.” That program delineates all the benefits of the trees: “to protect soil and help prevent erosion, absorb carbon dioxide and improve local air quality (this is especially important to our family which includes two young children), filter storm water runoff to improve local water quality in streams, rivers and tributaries, [the ones] that are native are drought tolerant and need less water than non-native trees.” The County characterizes the planting of trees, correctly, as proactive environmental stewardship. Certainly the benefits of retaining as much of the existing, mature canopy as possible is less costly, and provides a more immediate and significant benefit, than planting young trees.

In addition to the environmental benefits described by the County, there are tangible economic benefits to trees that include, according to the County, an increase in residential property values by as much as 15%. We are very concerned that the destruction of a large swath of trees in our neighborhood will have a significant negative effect on our property value precisely because those looking to purchase in our neighborhood expect a beautiful mature tree canopy throughout the neighborhood. The value of homes in our neighborhood could be negatively affected as well. According to the County, specific economic benefits flow from mature trees: (i) shade trees lower energy costs in the summer and (ii) proper placement of trees on the property can block wind for energy savings in the winter.

Finally, the impact of the destruction on the wildlife habitat could be significant. Native trees, according to the Montgomery County website, “need less water and maintenance and attract birds, butterflies, squirrels, small animals and deer whose habitat will be minimized by land development. Some birds pollinate flowers and consume garden pests.” All those animals and birds that currently inhabit the adjacent Property will be forced out to other properties, upsetting the delicate balance that currently exists.

Given the tremendous benefits of maintaining trees – and Montgomery County’s clear recognition of those benefits in its laws and regulations -- we, as well as neighbors with whom we have discussed this, were shocked and dismayed to learn that the reforestation of .58 of an acre, somewhere else in Montgomery County, is all that the plan contemplates. An offsite easement which is not even in our neighborhood does not protect us and our neighbors. The notion that one can destroy an acre of trees on the Property (with a request to remove offsite trees as well) is particularly disturbing for the Burning Tree neighborhood because of the unique and highly valued beauty of its mature tree cover. It certainly was one of the main reasons we moved here, as is the case for many neighbors. Most homes and improvements in our area have been designed to keep as many trees as possible, and we would hope and expect that new development in our neighborhood can be done in the same manner.

Given the location of many of the trees to be removed near the edge of the Property, surely there is a way to retain many trees while permitting the building of a beautiful home, pool and Sport Court --without having to decimate irreparably the entire forest cover. This emphasis on retaining existing trees should be reflected in the Forest Conservation Plan: "Priority must be given to techniques for retaining existing forest on the site." Forest Conservation Plan p.23. In fact, the Findings of the County Council itself [in promulgating the Forest Conservation Plan] state that "tree loss as a result of development ...is a serious problem for the County."

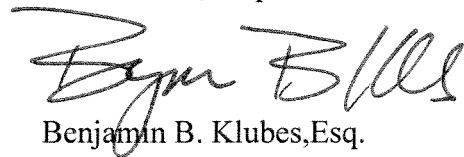
We truly believe that the purpose of the law, "to minimize tree loss as a result of development and to protect trees and forests during and after construction...", can be accomplished here with a modified plan that avoids the destruction of the trees and the "scorched earth" plan that has been submitted. We urge MNCPPC to prevent the total destruction of the habitat, so that our family can enjoy the fresh air, the natural buffer from noise, and the protective screening that the trees on the Property provide. Bradley Boulevard is not nearly as aesthetically pleasing as viewing the scores of majestic poplars, maples, pines and other beautiful trees to be lost as a result of the Plan. The house, court and pool to be constructed on the Property should be built in accordance with Montgomery County's laws and regulations and in a manner so as to preserve as many trees as possible for our family's benefit as well as that of the Burning Tree community.

Thank you for your consideration of our views.

Very truly yours,



Risa Bender, Esq.



Benjamin B. Klubes, Esq.

cc: Neil Braunstein
Marco Fuster
Bradley Boulevard Citizens Association
Jeffrey Zyontz, Esq
Patrick F. Greaney, Esq.



Our Business is People
And Their Love for Trees®

The Care of Trees
8000 Queenair Drive
Gaithersburg, MD 20879

Tel: 301.444.9041
Fax: 301.444.9049
Web: www.thecareoftrees.com

PROPOSAL:

May 23, 2011

Ms. Bender
7200 Armat Dr.
Bethesda MD

RECOMMENDATIONS

From my meeting with Ms. Bender on the 16th of May, and our discussion on the 20th of May, I have come to the conclusion that the neighbor to the rear right of Ms. Bender's property will have an impact on her trees in several different ways if every tree is removed.

If the neighbor removes every tree in the rear yard for their swimming pool and sports court, wind levels will change, and can increase the risk of Ms. Bender's trees to be more vulnerable to fail, and possible fall over. This could cause possible harm to the property and her family.

Noise level will increase. Trees not only shield and block winds, but reduce noise levels from traveling. Ms. Bender's privacy will also be compromised as well, as there will be zero barrier from her back yard to the neighbor's.

Ms. Bender has three trees that are close to the neighbor's property line. If the grade were to change and be lowered, this could impact the "critical root zone" of Ms. Bender's trees, and if there is major root loss, tree lose is possible.

I would suggest on keeping as may trees as possible on the property, most importantly are the large mature trees close to Ms. Bender's property

Andrew Walker
ISA Certified Arborist MA-4453A
Maryland Tree Expert License 001741



awalker@thecareoftrees.com
Office # 301-444-9048



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Carla Reid
Director

December 9, 2010

James Ochs
CAS Engineering
108 W. Ridgeville Boulevard, Suite 101
Mount Airy, Maryland 21771

Re: Stormwater Management **CONCEPT** Request
for Kefauver Tract, Bradly Hills
Preliminary Plan #:
SM File #: 239067
Tract Size/Zone: 0.92 Acres / R-200
Total Concept Area: 0.92 Acres
Lots/Block: Proposed Lot 29
Parcel(s):
Watershed: Cabin John Creek

Dear Mr. Ochs :

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 meeting stormwater management requirements through Environmental Site Design (ESD) utilizing 15 drywells and non-rooftop disconnect.

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.

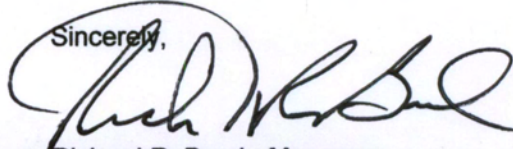
This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 is not required.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Ellen Rader at 240-777-6336.

Sincerely,



Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB:tla CN239067.BradleyHills.EBR

cc: C. Conlon
S. Federline
SM File # 239067

QN -on-site; Acres: 0.92
QL - on-site; Acres: 0.92
Recharge is provided



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Arthur Holmes, Jr.
Director

March 8, 2011

Ms. Rose Krasnow, Team Leader Area 1
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan No. 120110100
Kefauver Tract, Bradley Hills

Dear Ms. Krasnow:

We have completed our review of the preliminary plan dated December 22, 2010. This plan was reviewed by the Development Review Committee at its meeting on February 7, 2011. 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 along Bradley Boulevard (MD 191) site frontage 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. Access and improvements along Bradley Boulevard (MD 191) as required by the Maryland State Highway Administration.
4. We recommend the applicant be required to construct Dual Bikeway DB-4 (shared use path and signed shared roadway) across their site frontage.
5. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.

Division of Traffic Engineering and Operations

100 Edison Park Drive, 4th Floor • Gaithersburg, Maryland 20878
Main Office 240-777-2190 • TTY 240-777-6013 • FAX 240-777-2080
trafficops@montgomerycountymd.gov

Ms. Rose Krasnow
Preliminary Plan No. 120110100
March 8, 2011
Page 2

6. If the proposed development will alter or impact any existing County maintained transportation system management component (i.e., traffic signals, signal poles, handboxes, surveillance cameras, etc.) or communication component (i.e., traffic signal interconnect, fiber optic lines, etc.), please contact Mr. Bruce Mangum of our Transportation Systems Engineering Team at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Mr. David Adams, our Development Review Area Engineer for this project, at david.adams@montgomerycountymd.gov or (240) 777-2197.

Sincerely,



Gregory M. Leck, Manager
Development Review Team

m:/subd/gml/docs/pp/1-20110100, Kefauver Tract Bradley Hills.doc

Enclosure

cc: James M. Ochs; CAS Engineering
Salmaan Siddiqui
Neil Braunstein; M-NCPPC Area 1
Cherian Eapen; M-NCPPC Area 1
Catherine Conlon; M-NCPPC RC
Raymond Burns; MSHA EAPD
Preliminary Plans Notebook
Preliminary Plan Folder

cc-e: Henry Emery; MCDPS RWPR
Bruce Mangum; MCDOT DTEO
David Adams; MCDOT DTEO