

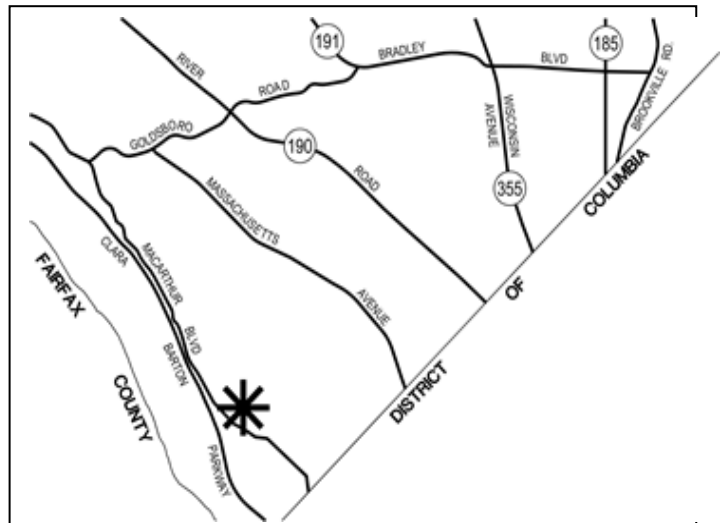
Limited Site Plan Amendment, High Acres, 82006022A

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Report Date: 4/19/13

Description

- Location: 6450 Brookes Lane
- Zone: R-90 Cluster
- Property Size: 4.4 acres
- Master Plan: Bethesda- Chevy Chase
- Limited Site Plan Amendment: Request to amend approved certified site plan to change lot lines, retaining wall, reconfigure driveway, recreational facilities, landscaping and lighting
- Applicant: Brookes Lane Development Company, LLC
- Filing Date: November 26, 2012
- **Staff Recommendation:** Approval with conditions



Summary

A site plan was previously approved as 820060220 on March 27, 2007. The subject amendment is limited in nature and the applicant has requested to: eliminate approved recreational facilities; eliminate individual underground parking garages; reconfigure two drive aisles into one roadway; replace a single retaining wall with two terraced retaining walls and increase the overall wall height; revise lot lines and revise landscaping and lighting plans. This project is exempt from the requirement to provide recreational facilities as the total number of units (12) to be constructed is less than the threshold requirement of 25 units. The requested changes are discussed more fully under the Proposal text of this staff report.

RECOMMENDATION AND CONDITIONS

The proposed modifications to the site plan do not alter the overall design or character of the development in relation to the original approval and the site remains compatible with existing and proposed development adjacent to the site. These modifications do not impact the efficiency, adequacy, or safety of the site with respect to vehicular and pedestrian circulation, open space, landscaping, or lighting.

Staff recommends approval of Site Plan Amendment 82006022A, High Acres. All site development elements shown on the site and landscape plans stamped "Received" by the M-NCPPC on April 10, 2013 are required except as modified by the following conditions. All other conditions of the previous site plan approvals are in full force and effect unless amended as below.

Conformance with Previous Approvals

1. Preliminary Plan Conformance

The proposed development must comply with the conditions of approval for preliminary plan 120050560 as listed in Planning Board Resolution No. 06-122 dated April 3, 2007.

2. Site Plan Conformance

The proposed development must comply with the conditions of approval for site plan 820060220 as listed in Planning Board Resolution No. 06-123 dated March 27, 2007, unless amended by this application.

Environment

3. Forest Conservation & Tree Save

Conditions 5 (a)(b) and (c) of Site Plan No. 820060220 are replaced by the following:

- a. The proposed development must comply with the conditions of the revised Final Forest Conservation Plan (FFCP). The Applicant must satisfy all conditions prior to the recording of a plat(s) or to the issuance of sediment and erosions control permits by the Montgomery County Department of Permitting Services.
- b. The Applicant must submit and obtain approval of a revised FFCP which shall include the following items:
 - i. Adjust the proposed retaining wall design and shift the plan elements to maintain at least 3 feet of clearance between the wall foundation and the forest conservation easement/Limits of Disturbance (LOD).
 - ii. Provide an invasive species management plan throughout the entire onsite forested slope area (rather than only within 20' of wall). Specify target species, recommended treatment methods and timing of applications.
 - iii. Clarify the tree preservation notes for Tree #54 and include improved tree preservation measures such as heavy duty temporary matting and specialized construction techniques for installation of the 8" water line.
 - iv. Update the FFCP to reflect that Tree #45 has been felled.
 - v. Add at least three American Holly Trees within the easement area in the vicinity of Trees # 45 & 47.
 - vi. Update plan references in the title blocks & developers certificate to reflect the current amendment number.
 - vii. Remove the references to a 36" tree fronting Maryland Ave (near the corner of Brooks

- Hill Court). Staff has confirmed that no such tree is present.
- viii. Adjust the planting details/notes for the tree and shrubs to clearly indicate that the size of *Plantings Pits* rather than the root balls shall be minimized when plantings within the conservation easement among the roots of saved trees.
 - ix. Revise the print quality of the plans so that all plan elements are clearly legible.
 - x. Show LOD along the proposed outer retaining wall more clearly. Adjust Tree Protection Fence/LOD lines so they are contained within the LOD.
 - xi. Add the M-NCPPC Standard plantings inspection schedule at the end of the new plantings notes on sheet FCP-3. The schedule can be found at following link http://montgomeryplanning.org/development/forms/FC_Inspection_Schedule.pdf
- c. The Applicant must submit financial security and obtain approval from the M-NCPPC Associate General Counsel Office for the planting requirements and invasive management work specified on the FFCP prior to any land disturbing activities occurring onsite.
 - d. The Applicant must perform the initial invasive species control work following the preconstruction meeting, and prior to the planting of trees and shrubs within the conservation easement. The supplemental native plantings must occur as soon as possible but no later than 2 growing seasons after the pre-construction meeting date.
4. Landscape Plan
- a. Specify the composition of fill materials shown below the 18" top soil on the revised landscape plan. Fill materials must be appropriate to sustain the proposed plantings and allow for adequate drainage.
 - b. Revise the retaining wall terrace plantings, specifically shrubs, to provide a more diversified arrangement of the species and more visual interest.
5. Lighting
- Condition #4(d) of Site Plan No. 820060220 is replaced by the following:
Illumination levels must not exceed 0.5 footcandles (fc) at any property line abutting county roads or adjacent residentially developed properties, especially at site's entrance.
6. Stormwater Management
- The proposed development is subject to Stormwater Management Concept approval conditions dated November 10, 2005 unless amended and approved by the Montgomery County Department of Permitting Services.
7. Development Program
- Conditions #3(a) and 3(c) and 3(e) of Site Plan No. 820060220 are replaced by the following:
Applicant shall construct the proposed development in accordance with Development Program. A Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of the certified site plan. The Development Program shall include the following items in addition to the approved development program.
- a. Community seating areas, benches, retaining wall and associated landscaping shall be completed as the construction of the townhouse units are finished, but no later than six months after the occupancy of townhouse units;
 - b. Pedestrian pathways shall be completed as construction of the townhouse units and private drive is completed;

- c. Phasing of dedications, stormwater management, sediment and erosion control, recreation, paths, or other features.

8. Certified Site Plan

Condition 10 of Site Plan No. 820060220 is replaced by the following:

Prior to certified site plan, the following revisions must be included and/or information provided, subject to staff review and approval:

- a. Revise plans to show a 50 foot setback from the southeast corner of proposed Lot 1 to the abutting property line, Parcel B, Block A.
- b. Include the FFCP approval, stormwater management concept approval, development program, inspection schedule, and site plan resolution on the approval or cover sheet.
- c. Add a note to the site plan stating that "M-NCPPC staff must inspect all tree-save areas and protection devices prior to clearing and grading".
- d. Ensure consistency of all details and layout between site plan and landscape lighting plan.
- e. Adjust the wall design and/or shift the plan elements to maintain at least 3 feet of clearance between the wall foundation and the forest conservation easement/LOD.
- f. Further adjust the wall detail to eliminate the reference to Nellie Stevens hollies.

DESCRIPTION

Vicinity

The subject site is located on the west side of Brookes Lane approximately 500 feet south of its intersection with Sangamore Road. The immediate vicinity of the site contains a mix of residential, commercial and institutional uses. North of and adjacent to the site, is the National Geospatial Intelligence Agency, a federal facility which is zoned R-60. Across Brookes Lane and northeast of the site, the properties are developed with Sumner Highlands, a multi-family residential complex developed under the R-30 zone. A commercial shopping center, the Shops at Sumner Place, is zoned C-1, and contains commercial and office uses; it is immediately north of the Sumner Highlands complex. Adjacent to and south of the subject property, the properties are zoned R-90 and developed with one family detached residential units. West of the site and across Mac Arthur Boulevard, is the Brookmont community which borders the Clara Barton Parkway, near the Potomac River, and is developed with one family detached residential units in the R-60 zone.

Site Description

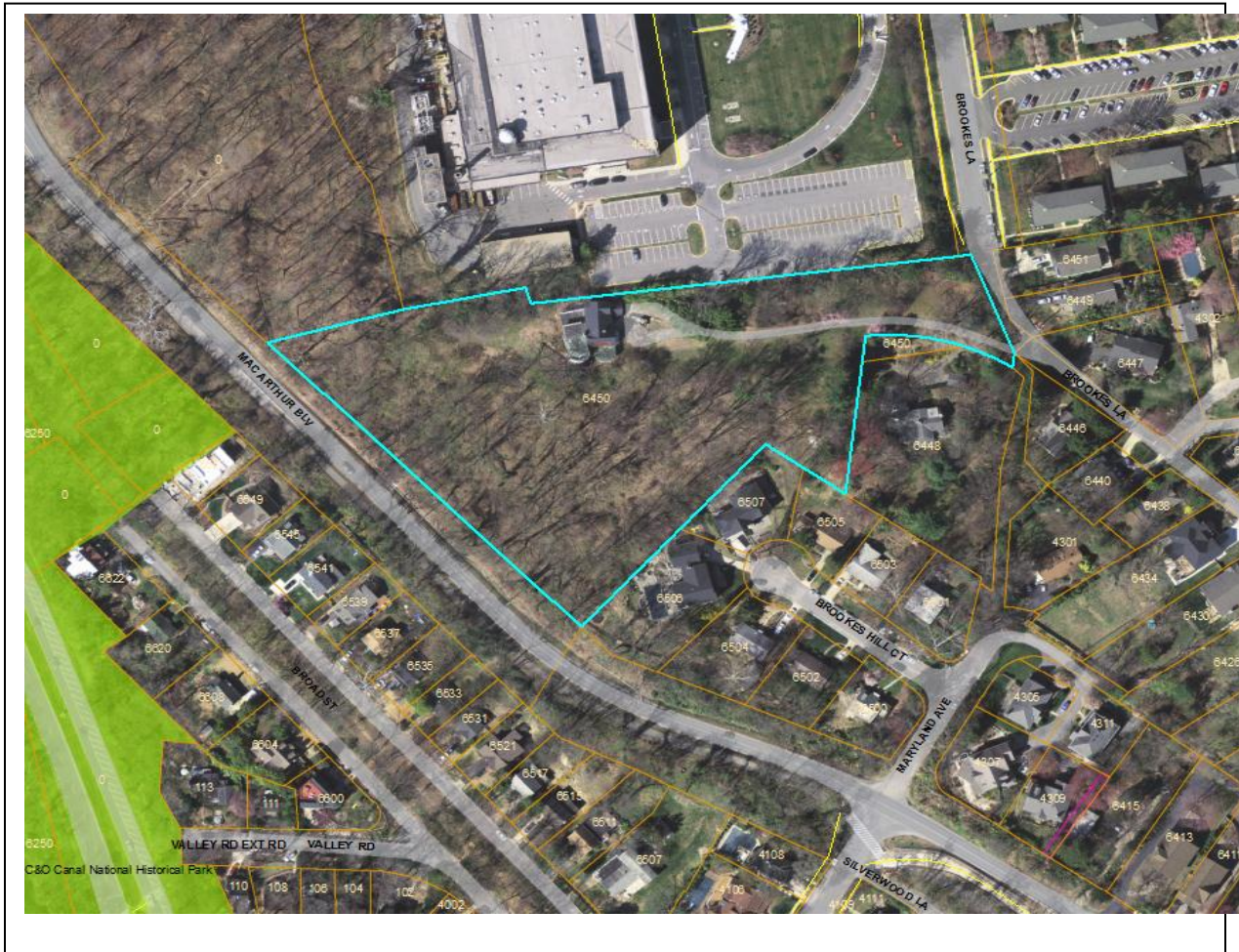
The subject site contains 4.4 acres and is zoned R-90. The property has frontage on both MacArthur Boulevard and Brookes Lane. However, steep slopes along MacArthur Boulevard prohibit access from this roadway, thus access is provided from a single driveway off of Brookes Lane. Brookes Lane is a right of-way, maintained by Montgomery County.

From Brookes Lane, west into the property, a distance of approximately 410 feet, the terrain is slightly rolling with a large flat clearing. A vacant one family house is located within this flat clearing. Behind the house, the property slopes down sharply to MacArthur Boulevard. These slopes are classified as steep slopes because they are in excess of 25% or greater. The steep slopes are also associated with highly

erodible soils. However the slopes do not currently have signs of erosion due to the protective cover of the existing high priority forest containing mature trees.

The subject site is within the Little Falls lower mainstem watershed and the Potomac River direct watershed, (Use Class I-P watersheds¹). There are no known rare, threatened, or endangered species on site; there are no streams, 100-year floodplains, stream buffers, or wetlands on site. The site is currently served by public water and sewer.

Aerial View of Site



¹Use I-P:

WATER CONTACT RECREATION & PROTECTION OF AQUATIC LIFE, AND PUBLIC WATER SUPPLY

Waters that are suitable for: water contact sports: play and leisure time activities where the human body may come in direct contact with the surface water; fishing; the growth and propagation of fish (other than trout); other aquatic life, and wildlife; agricultural water supply, industrial water supply, and use as a public water supply.

Previous Approvals

Both Preliminary Plan 120050560 and Site Plan 820060220 were heard and approved concurrently at the Planning Board on December 21, 2006 for 12 lots on the subject property. The R-90 zoned property was approved under the cluster provisions of the Zoning Ordinance. Eleven lots were to be developed as townhouses, with lots ranging in size from 2,007 square feet to 3,634 square feet. The twelfth lot contains the existing one family dwelling to remain with a lot size of 20,529 square feet. Appendix A contains copies of approved resolutions.

PROJECT DESCRIPTION

Proposal

This site plan amendment is limited in nature and will focus only on those areas the applicant has requested to change. The ownership of this property has changed and the current applicant/owner is seeking the following changes to the approved certified site plan:

- to eliminate the recreational facilities of clubhouse and pool and replace with benches and tables in a sitting area;
- to eliminate the underground parking garages for each unit and replace with at-grade parking garages for each unit;
- to reconfigure the two private drives aisles into one private roadway that will terminate in a cul-de-sac to serve all proposed and existing residential units;
- to eliminate the courtyard above the underground parking;
- to replace the single retaining wall at the rear of each lot with two terraced retaining walls and increase the overall wall height;
- to adjust the townhouse lot lines;
- to relocate the approved light fixtures in conjunction with the reconfigured driveway; and
- to revise landscaping plans.



Proposed Development view from Brookes Lane

PROJECT ANALYSIS

Master Plan

The site is located in the Potomac Palisades. Specifically, the Bethesda Chevy Chase Master Plan (the Plan) specifically addresses this site (parcel #2) which is located within the Palisades area of the Master Plan. It makes the following recommendation:

“Cluster development in the form of townhomes and single-family detached units is recommended on specific vacant and redevelop able parcels of three acres or larger.” It recommends only “cluster development” on parcel #2. (p.69)

The Plan also states (p.69) that clustering is being recommended as a “means to protecting the open space and green character of the area, as well as preventing steep slopes from being disturbed”. This is important as protection of the environment is considered an important component of the Plan.

This proposal is consistent with the master plan recommendations since it is: compatible with the existing neighborhood; meets the requirements of the R-90 cluster zone. Additionally, the proposal

further the Plan's general guidance and is consistent with the Bethesda Chevy Chase Master Plan. Thus, the proposed use continues to be appropriate in this location.

Transportation and Circulation

Each of the eleven townhouses was approved with a two car garage that would be located in an underground structure. Access to the underground structure was proposed from a single access drive aisle that curved slightly and then split into two separate drives. One drive went below grade to the garage structures and served the eleven townhouses, while the other drive was above ground and terminated in a cul-de-sac to serve the existing one family house.

Under this amendment, the underground parking structure has been replaced with above ground garages for each unit. The two drive aisles will be reconfigured into one private roadway. This roadway, 26 feet wide, will terminate in a cul-de-sac. All proposed and existing residential units will receive their access from the private driveway which fronts the units. This configuration will also eliminate the courtyard above the underground parking structures and replace it with a sidewalk. The brick path that connected to the previous cul-de-sac has also been eliminated. The center of the cul-de-sac will be landscaped with groundcover and shrubs in containers. The proposed amendment will not affect vehicular or pedestrian traffic. The pedestrian paths are improved under this amendment and continue to be safe and adequate for future residents and visitors.

Recreational Facilities

The certified site plan specified recreational facilities to include a clubhouse with indoor lap pool. Under this amendment, applicant has eliminated the approved club house and lap pool and replaced it with benches and tables in a sitting area. The recreational guidelines exempt subdivisions with less than 25 single family homes from meeting the adequacy of recreational facilities. However, a common area such as a sitting area is recommended for subdivisions that are exempt from this requirement. The applicant is providing a sitting area to fulfill this recommendation.

Environment

The original final forest conservation plan was approved on 12/19/2007; therefore, no forest conservation variance is triggered by the proposed amendment. The current plan follows the same forest conservation easement boundaries and associated Limits of Disturbance (LOD). No additional tree clearing or disturbance is proposed,

Under the current amendment the forest conservation easement area will receive supplemental plantings of native trees and shrubs along with the control of invasive species. The additional plantings will provide environmental enhancement of the area. These plantings are included to help visually buffer the substantial expansion of the proposed retaining wall as discussed in further detail under the *Design* section of this report.

The original plan included the removal of Tree # 54 which is an approximately 32" dbh tree. In response to concerns raised by adjacent residents within the community. The applicant agreed to save the tree. Staff has included recommended conditions of approval to improve the tree save measures specified for Tree #54 that will help ensure its survival. The recommendations include the use of heavy-duty root

protection matting and specialized construction techniques for installation of 8" water line.

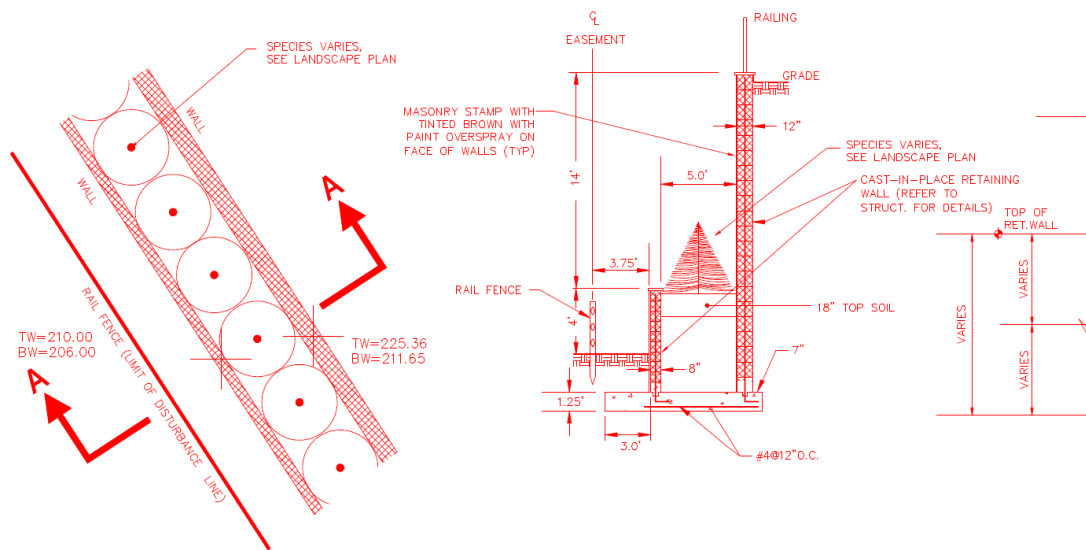
Design

Retaining Wall

Under the approved site plan, the underground parking structure took up the grade for the units. With the elimination of the underground structure, it was necessary to accommodate the site's steep grades by other means; hence, the proposed retaining wall at the rear of each lot was expanded in length and in height. The previous site plan approved one retaining wall approximately 273 feet in length and 9 ½ feet in height at its tallest point.

As originally submitted under this amendment, the applicant proposed one retaining wall approximately 306 feet in length, up to 17 feet in height at its tallest point and made of interlocking concrete blocks. Due to the monolithic size of the proposed wall, the incidence of failure of such retaining wall systems and discussions with staff, the applicant revised the plan to show two terraced retaining walls. The smaller (outer) wall is approximately 250 feet in length and varies from up to 4 feet in height. The larger (inner) wall is 306 feet in length and varies in height from up to 13 feet. Between each wall is a terrace that serves as a planting strip. This planting strip is 5 feet in width and will contain shrubs and groundcover. Staff believes that this tiered cast in place concrete wall would be more stable and less visually intrusive in this location.

Details of Retaining Wall



The terracing of the retaining walls with the intervening landscaping breaks up the view of what would have been an overwhelmingly large retaining wall and mitigates its visual impacts from the abutting residential properties west and south of the site and the view shed along Mac Arthur Boulevard. Both retaining walls will be constructed of stamped concrete and color stained to blend with the adjacent forest. A condition of approval is recommended to adjust the wall coloring specifications to include various shades of color and also to include gray tones in addition to brown. Additionally, the applicant has agreed to plant beech trees within the conservation easement. Beech trees hold their foliage longer than other on site trees and planting them further lessens the impact of this wall on the neighborhood.

As a point of reference, a few blocks north of the subject site at 6699 MacArthur Boulevard, a retaining wall was recently built to accommodate new home construction. This site is a setting similar to the subject site. The views of the constructed wall are screened from MacArthur Boulevard due to the understory of beech trees growing on the site's slope, as beech trees retain their old leaves throughout the winter. The following photograph of 6699 MacArthur Boulevard shows the house and the retaining wall are slightly visible in the background.



View from MacArthur Boulevard of 6699 MacArthur Boulevard

Nonetheless, the currently proposed design of the wall as shown on the submitted plans requires the excavation of a three foot deep foundation trench located only a few inches away from the forest conservation easement/LOD. Furthermore sediment control devices would need to be maintained within the few inches remaining between the trench and the LOD.

The conservation easement area which protects the forest setting contains steep slopes and highly erodible soils associated with the Palisades. A forest conservation variance would also be needed for any downslope LOD expansion due to the presence of numerous trees which are ≥ 30 " DBH. Since there is limited access below the wall and the work is proposed in extreme proximity to the highly sensitive areas and mature trees, staff continues to have major concerns on the constructability of the wall as proposed. Therefore staff is recommending a condition of approval to redesign the wall foundation and/or shift the proposed plan elements further away from the easement area.

Landscape Plan

A number of revisions to the approved landscape plans have been proposed and these changes are highlighted as follows and recommended for approval under this amendment:

- Replaced Canadian hemlocks with American Holly (a native evergreen) which are less prone to pest infestation.
- Added a screen of evergreens to block headlight glare onto residential properties east of and across Brookes Lane from the subject property's driveway.
- Landscaped the cul-de-sac with containerized plantings to lessen its visual impact.
- Added additional plantings to enhance the site and to buffer it from adjacent properties and uses.
- Terraced the retaining wall and added plantings to break up the visual impacts of the expanded wall.
- Added supplemental plantings within the forest conservation easement area as shown on the FFCP to screen the wall when viewed from MacArthur Boulevard.

Development Standards

Development Standard for R-90	R-90C Zone	Approved by Planning Board & binding on the applicant	Proposed by 82006022A
Area of Development	3 ac	4.4 ac	4.4 ac
Density of Development	3.6 du/ac	2.7 du/ac	2.7 du/ac
Minimum Lot Area Townhouses	2,000	Varies 2,007 sq ft 3,634 sq ft	Varies 2,007 sf – 3,395 sf
Minimum Setbacks from Lot or Property Lines			
Front	NA	3 ft	3 ft
Side	NA	6 ft	6 ft
Rear	NA	20 ft	20 ft
From Boundary Line	50 ft	50 ft	50 ft
Lot Width (Townhouses)	18 ft	18 ft	20 ft
Green Space	None	3.6 ac	3.6 ac
Maximum Building Height	35 ft	30 ft	31 ft

COMMUNITY OUTREACH

The Applicant has met all proper signage, noticing, and submission meeting requirements. The applicant met with the surrounding community on the following dates: November 18, 2012, December 13, 2012, February 12, 2013 and March 27, 2013. Appendix B contains letters of support from the community for this project.

Additionally, staff met with a neighborhood resident on this amendment. His concerns were additional landscaping along Brookes Lane to shield automobile headlights from the site into adjacent residential properties and preservation of an existing oak tree located on Brooke Hill Court. Appendix C contains letters of opposition from the community on this project.

At his request, the applicant added several trees along Brooke’s Hill Court to screen vehicle headlights leaving the site from nearby residences. The oak tree on Brooke’s Hill Court is located within the site’s LOD and is also within a WSSC Public Utility Easement (PUE) for a sewer line to serve the future townhouses. This tree was designated for removal under the previous site plan approval and this amendment is not requesting any changes within the PUE. Any action to change within this utility easement including preservation of trees within the easement is under the purview of the WSSC.

SITE PLAN FINDINGS

1. *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional*

method of development, if required, unless the Planning Board expressly modifies any element of the project plan.

No development, diagrammatic, schematic plans were required for this site.

- 2. The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The site plan amendment continues to meet the requirements of the R-90 Zone and will be developed under the cluster provisions of this zone. There is no urban renewal plan associated with this amendment.

- 3. The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

Buildings

The proposed townhouses will now have at grade garages instead of underground structures. It also minimizes the buildings impact on the site's steep slopes by reducing the amount of imperviousness and continues to be in accordance with the previous site plan approval. As conditioned, the terraced retaining wall will be located a minimum of 3 feet from the forest conservation easement to allow for installation, maintenance and additional plantings.

Open Space

Under this amendment, the approved open space shown as 3.6 acres remains unchanged. This open space contains an undisturbed area of forested steep slopes which clearly distinguishes between the developed and undeveloped areas of the site. By placing the forested steep slopes in this open space easement and leaving them undisturbed the natural features of the site are protected from erosion and runoff.

Landscaping

The landscaping has been reviewed and is safe, adequate and efficient. As revised, the proposed landscaping consists of a mix of trees, shrubs, groundcover and container plantings. Beech trees will be added to the conservation easement to adequately and effectively screen the proposed retaining wall from adjacent residential properties south of the site. Additional landscaping has been added near the site's driveway entrance on Brookes Lane to screen the glare of vehicular headlights from the residential properties opposite Brookes Lane. The lighting remains adequate and ensures the safety for residents and visitors either walking or driving onto the site.

Recreational Facilities

The original application included a small clubhouse lap pool and sitting areas which have proved to be excessive for the number of units and burdensome for future residents. This amendment eliminates the clubhouse and pool due to the revised parking and garage configuration. Under the recreational guidelines, this project is exempt from meeting the adequacy of recreation facilities because it contains less than 25 single family dwelling units. However, the applicant is proposing to place a sitting area with benches and tables onsite, which satisfies the Guidelines recommendation for sitting areas in lieu of facilities.

Pedestrian and Vehicular Systems

The vehicular circulation pattern has been redesigned to minimize vehicular and pedestrian conflicts. The rear loaded alley has been eliminated in favor of front end garages to help alleviate concerns for vehicular movements in the alley. The sidewalks continue to provide safe connection throughout the site and connect to Brookes Lane where it will meet an existing sidewalk that leads to Sangamore Road. The proposed sidewalk adequately and efficiently integrates this site into the surrounding area. The NO right turn sign at the site's entrance, a previous condition of approval, continues to reinforce safe pedestrian and vehicular movement from the site into the adjacent community.

4. *Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development.*

The structures and uses are compatible with existing and proposed adjacent development. The scale, design and orientation of the townhouse units are appropriate relative to the existing steep slopes and forested character of the property to the surrounding area. The townhouse units have been designed to ensure compatibility with approved uses within the site and with the general neighborhood. The proposed development is in accordance with the Bethesda Chevy Chase Master Plan which recommended clustering of new residential development on this property. The retaining wall has been redesigned to be terraced and to be compatible and less visible from the adjacent development and from MacArthur Boulevard.

5. *The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

The limits of disturbance have not changed from the original approval and continue to meet the forest conservation requirements. This Amendment protects approximately 1.5 acres of forest under a Category I easement. The approved Stormwater management concept plan has been reconfirmed by the Department of Permitting Services.

APPENDICES

- A. Prior Resolutions
- B. Community Correspondence- Support
- C. Community Correspondence - Opposition

COPY

APPENDIX A



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

APR - 3 2007

MCPB No. 06-122
Preliminary Plan No. 120050560
High Acres
Date of Hearing: December 21, 2006

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION¹

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on November 23, 2004, Bloom Builders ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 12 lots on 4.4 acres of land located on the west side of Brookes Lane, the east side of MacArthur Boulevard, north of Brooke's Hill Court ("Property" or "Subject Property"), in the Bethesda Chevy Chase Master Plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120050560, High Acres ("Preliminary Plan" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated December 8, 2006, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staffs of other governmental agencies, on December 21, 2006, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on December 21, 2006, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Perdue; seconded

¹ This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.

Approved as to
Legal Sufficiency:

[Handwritten signature] 3/20/07

M-NCPPC Legal Department

8787 Georgia Avenue, Silver Spring, Maryland 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

by Commissioner Bryant; with a vote of 4-1, Chairman Hanson and Commissioners Bryant, Perdue, and Robinson voting in favor; Commissioner Wellington voting against.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120050560 to create 12 lots on 4.4 acres of land located on the west side of Brookes Lane, the east side of MacArthur Boulevard, north of Brooke's Hill Court ("Property" or "Subject Property"), in the Bethesda Chevy Chase Master Plan area ("Master Plan"), subject to the following conditions:

- 1) Development on the property is limited to eleven (11) one family attached dwelling units and one (1) existing, one family detached dwelling unit.
- 2) The proposed development shall comply with all conditions of the final forest conservation plan. The applicant shall satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits, except as specified below. Approval includes:
 - a) Prior to any clearing or grading, implementation of tree protection plan and compliance with all ISA certified arborist's recommendations to protect trees as specified on final FCP and per Arborist's March 8, 2006 Davey Tree Expert report. Variations in protection measures listed on signed FCP and in the Arborist report can only occur with signoff from ISA Certified arborist and MNCPPC Inspector;
 - b) Prior to occupancy, split rail fencing and permanent signage, or staff approved equivalent, shall be placed along Natural Regeneration Area #1, with permanent signage only to be placed along remainder of easement boundary which adjoins the residential buildings; and
 - c) Required site inspections by M-NCPPC monitoring staff (as specified in Section 110 of the Forest Conservation Regulations).
- 3) Record plat shall reflect a Category I forest conservation easement over onsite forest to be saved.
- 4) Prior to issuance of the initial building permit, the applicant shall secure air traffic noise information from the Airport Authority of noise levels from National Airport affecting this site, and provide that information to M-NCPPC Countywide Environmental Staff. If noise levels exceed 65 dBA Ldn, the applicant will be required to demonstrate achievement of an interior noise level of 45 dBA Ldn or less for the residential units.

- a) An acoustical consultant shall provide a detailed analysis of the proposed building shell to determine if it will meet acoustical design specifications as necessary to achieve no greater than a 45 dBA Ldn interior noise level.
 - b) The builder must agree to construct in accord with those specifications, or receive written approval from the consultant for any changes that may affect acoustical performance.
- 5) The applicant shall comply with the conditions of the Montgomery County Department of Public Works and Transportation (DPWT) approval letter dated April 19, 2006, unless otherwise amended.
 - 6) The applicant shall provide an easement for future dedication of Brookes Lane as shown on the approved preliminary plan.
 - 7) Record plat to reflect common ingress/egress and utility easements over all shared driveways.
 - 8) Note on record plat to state, "At the time of plat recordation, the lots shown hereon are located adjacent to a federal installation which has the potential for 24 hour operations that may include, but not limited to, vehicular and pedestrian traffic, security lighting, security patrols and security cameras along the perimeter."
 - 9) No later than 30 days prior to commencement of land disturbing activities, the applicant shall be responsible for providing notification to the Site Manager of National Geospatial-Intelligence Agency of the intent to commence such activities.
 - 10) Compliance with the conditions of approval of the MCDPS stormwater management approval dated November 10, 2005.
 - 11) Record Plat shall reflect all stormwater management parcels and areas under Homeowners Association control.
 - 12) Record plat to have the following note: "The land contained hereon is within an approved cluster development, resubdivision is strictly controlled."
 - 13) Record plat to reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant shall provide verification to Commission staff prior to release of final building permit that Applicant's recorded HOA Documents incorporate by reference the Covenant.

- 14) No clearing, grading or recording of plats prior to certified site plan approval.
- 15) Final approval of the number and location of dwelling units, on-site parking, site circulation, and sidewalks will be determined at site plan.
- 16) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion.
- 17) The record plat shall show that the limit of disturbance for this development shall be restricted to the limit shown on Applicant's Exhibit B.
- 18) Prior to recordation of the initial plat for this property, applicant to provide M-NCPPC with a copy of a recorded easement to provide access to Brookes Lane for the subject property, liber and folio of said recorded easement to be referenced on the record plat.
- 19) Other necessary easements shall be reflected on the record plat.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Preliminary Plan substantially conforms to the master plan.*

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

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

effectively reduced the disturbed areas of the site and minimized environmental impact.

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

- 2. Public facilities will be adequate to support and service the area of the proposed subdivision.*

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

- 3. The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.*

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

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

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

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

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

5. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

The MCDPS Stormwater Management Section approved the stormwater management concept for the project on November 10, 2005, which includes a detailed review of the stormwater management computations, engineered sediment control plan and pipes that drain to an existing storm drain.

6. *The Application satisfies the requirements of Section 50-29(a)(2) regarding frontage on a public road.*

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

In this subdivision, the Planning Board finds that the proposed private street that provides frontage to individually recorded lots can meet the minimum standards necessary to make the finding that it has the status of a public road. These standards include: minimum pavement widths and turning radii; appropriate circulation pattern and terminus, access for emergency vehicles and adequate parking design, including sidewalks. In the Board's opinion, the proposed subdivision will not be detrimental to future subdivision of adjacent lands since surrounding property is already developed. A public use ingress/egress easement will be recorded over the road and reflected on the record plat(s). The proposed preliminary plan includes appropriate public utility easements to serve the 12 lots. The proposed private street will be placed in a public use easement to provide ingress and egress to the lots. The proposed street meets county standards for emergency vehicle access and has been approved by the County Fire and Rescue Service. The Board finds that the private street will be built, and that it will function as, a public street.

7. *Issues raised at the public hearing have been appropriately addressed.*

Citizens who spoke at the public hearing raised the following issues for the Planning Board's consideration:

- a) The project does not protect the scenic values of the Potomac River valley because the lack of building elevation drawings does not allow the scenic impacts to be adequately evaluated and the buildings are too massive with respect to the surroundings.
- b) The project is overly dense, that cluster development is not appropriate for this site and that the allowance of clustering in the Master Plan is a recommendation, not a right.

- c) The Bethesda-Chevy Chase Master Plan should be reevaluated with respect to its recommendation that the site be suitable for cluster development.
- d) A property dispute exists between the applicant and an adjacent property owner that may affect access to the site.

With respect to issues a, b, and, c above, the Planning Board finds that the project protects scenic values of the surrounding area, that the project is developed at an appropriate and allowable density, that cluster development is appropriate for the site, that the Bethesda-Chevy Chase Master Plan was duly adopted and is now in effect, and that the project is substantially in conformance with that Master Plan. The Planning Board recognizes and agrees that the cluster option is only a recommendation of the Master Plan but finds that cluster development is appropriate for the site and that any development of the site that did not involve a cluster would greatly endanger the trees and slope of the Palisades.

With respect to issue d above, an adjacent neighbor testified that there exists a dispute over who owns the land between the subject property and Brookes Lane, the right-of-way that will be accessed by the proposed development. The neighbor testified that she owned a portion of the disputed property and the owner next door to her also owned a portion while the applicant maintained that it owned all of the disputed property. Without conceding its claim to ownership, the applicant testified that it had an agreement with the next door neighbor to access Brookes Lane across their portion of the disputed property and proffered a condition requiring the applicant to provide a copy of the recorded agreement and reference the agreement on the record plat. In addition, the applicant agreed to condition approval of the Application by restricting the limits of disturbance in order to ensure that no disturbance takes place on that portion of the disputed property claimed to be owned by the adjacent neighbor. The Planning Board found that, with these two conditions (Conditions 17 and 18), the access issue over the disputed property was adequately and appropriately addressed.

Commissioner Wellington noted that she still had questions regarding the dispute over the property line and the limit of disturbance issue and, accordingly, she could not support approval of the Application.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded

among the Montgomery County Land Records or a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that the date of this Resolution is APR - 3 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

At its regular meeting, held on Thursday March 22, 2007, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission ADOPTED the above Resolution, on motion of Commissioner Robinson, seconded by Commissioner Bryant, with Commissioners Robinson, Bryant, and Perdue present and voting in favor, with Commissioner Wellington abstaining and Chairman Hanson absent. This Resolution constitutes the final decision of the Planning Board, and memorializes the Board's findings of fact and conclusions of law for Preliminary Plan No. 120050560, High Acres.



Royce Hanson, Chairman
Montgomery County Planning Board



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

MAR 27 2007

MCPB No. 06-123
 Site Plan No. 820060220
 High Acres
 Date of Hearing: December 21, 2006

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Division 59-D-3, the Montgomery County Planning Board ("Planning Board" or "Board") is required to review site plan applications; and

WHEREAS, on November 7, 2005, Bloom Builders, Inc. ("Applicant"), filed an application for approval of a site plan for 11 new townhouses and an existing detached unit on 4.4 acres of land in the R-90 Zone ("Site Plan" or "Plan") on the west side of Brookes Lane, north of Brookes Hill Court, between Sangamore Road and MacArthur Boulevard in Bethesda ("Property" or "Subject Property"); and

WHEREAS, Applicant's site plan application was designated Site Plan No. 820060220, High Acres (the "Application"); and

WHEREAS, Planning Board Staff ("Staff") issued a memorandum to the Board, dated December 8, 2006, setting forth its analysis of, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staffs of other governmental agencies, on December 21, 2006, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, on December 21, 2006, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on December 21, 2006, the Planning Board approved the Application subject to conditions on the motion of Commissioner Perdue, duly seconded by Commissioner Bryant, on a vote of 4-1, with Chairman Hanson and Commissioners

Approved as to
 Legal Sufficiency:

[Handwritten signature] 3/20/07

8787 Georgia Avenue

M-NCPPC Legal Department
www.MCParkandPlanning.org

Chairman's Office: 301.495.4605 Fax: 301.495.1320

E-Mail: mcp-chairman@mncppc.org

Bryant, Perdue and Robinson voting in favor, and Commissioner Wellington voting against the motion.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the relevant provisions of Montgomery County Code Chapter 59, the Montgomery County Planning Board approved Site Plan No. 820060220 for a maximum of 11 new townhouses and an existing detached unit on 4.4 gross acres of land in the R-90 Zone on the west side of Brookes Lane, north of Brookes Hill Court, between Sangamore Road and MacArthur Boulevard in Bethesda , subject to the following conditions:

1. Preliminary Plan Conformance

The proposed development shall comply with the conditions of approval for Preliminary Plan 120050560 for High Acres.

2. Common Open Space Covenant

Record plat of subdivision shall reference the Common Open Space Covenant recorded at Liber 28045 Folio 578 ("Covenant"). Applicant shall provide verification to Commission staff prior to release of final building permit that Applicant's recorded HOA Documents incorporate the Covenant by reference.

3. Development Program

Applicant shall construct the proposed development in accordance with Development Program. A Development Program shall be reviewed and approved by M-NCPPC staff prior to approval of the certified site plan. The Development Program shall include a phasing schedule as follows:

- a. Community recreation facilities, including the clubhouse shall be completed as the construction of the townhouse units is finished, but no later than six months after occupancy of townhouse units;
- b. Landscaping, including buffer plantings adjacent to the northern and southeastern property lines, and the required No Right Turn sign shall be installed on completion of the townhouse units and the private drive;
- c. Pedestrian pathways, including the five-foot lead-in sidewalk, the five-foot sidewalk around the clubhouse and the four-foot sidewalk in the courtyard, and seating areas associated with the courtyard shall be completed as construction of the townhouse units and private drive is completed;
- d. Clearing and grading shall correspond to the construction phasing, to minimize soil erosion;
- e. Phasing of dedications, stormwater management, sediment/erosion control, recreation, paths, or other features.

4. Lighting

- a. Provide a lighting distribution and photometric plan with summary report and tabulations to conform to IESNA standards for residential development;
- b. All light fixtures shall be full cut-off fixtures;
- c. Deflectors shall be installed on all fixtures causing potential glare or excess illumination, specifically on the perimeter fixtures abutting the adjacent residential properties;
- d. Illumination levels shall not exceed 0.5 footcandles (fc) at any property line abutting county roads or adjacent residential properties;
- e. The height of the light poles shall not exceed 16 feet including the mounting base.

5. Forest Conservation

The applicant shall comply with the conditions of approval stated in the memorandum from the Department's Environmental Planning unit dated June 7, 2006:

- a. Implementation of tree protection plan and compliance with all ISA certified arborist's recommendations to protect trees as specified on final FCP and per Arborist's March 8, 2006 Davey Tree Expert report. Variations in protection measures listed on signed FCP and in the Arborist report can only occur with signoff from ISA Certified arborist and M-NCPPC Inspector;
- b. Split rail fencing and permanent signage, or staff approved equivalent, shall be placed along Natural Regeneration Area #1. Permanent signage shall be placed along remainder of easement boundary that adjoins the residential buildings;
- c. Required site inspections by M-NCPPC monitoring staff (as specified in Section 110 of the Forest Conservation Regulations).

6. Noise Attenuation

The applicant shall comply with the conditions of approval stated in the memorandum from the Department's Environmental Planning unit dated June 7, 2006:

- a. Prior to issuance of any building permit, the applicant shall secure air traffic noise information from the Airport Authority of noise levels from National Airport affecting this site, and provide that information to M-NCPPC Environmental Planning staff. If noise levels exceed 65 dBA Ldn, the applicant will be required to demonstrate achievement of an interior noise level of 45 dBA Ldn or less for the residential units. To do so, the applicant shall:

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

7. Stormwater Management

The proposed development is subject to Stormwater Management Concept approval conditions dated November 10, 2005 unless amended and approved by the Montgomery County Department of Permitting Services.

8. Transportation

- a. The applicant shall comply with the conditions of the Montgomery County Department of Public Works and Transportation (DPWT) approval letter dated April 19, 2006, unless otherwise amended.
- b. The applicant shall install, and the homeowners association shall permanently maintain, a No Right Turn sign at the Brookes Lane exit from the community.

9. Clearing and Grading

No clearing or grading prior to M-NCPPC approval of Certified Site Plan.

10. Certified Site Plan

Prior to signature set approval of site and landscape/lighting plans the following revisions shall be included and/or information provided, subject to staff review and approval:

- a. A data table setting out the approved development standards for the proposed development, including: the area under development; the number of dwelling units; the minimum lot areas for each housing type; setbacks from public streets, rear yards and side yards; and building heights, which must be delineated in feet;
- b. The size of each lot shown on the site plan drawings;
- c. A development program, inspection schedule, and Site Plan Resolution;
- d. The limits of disturbance;
- e. The methods and locations of tree protection;

- f. A note stating that M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading;
- g. The location of outfalls such that they are away from tree preservation areas.

BE IT FURTHER RESOLVED that all site development elements shown on High Acres plans stamped by the M-NCPPC on December 1, 2006, shall be required except as modified by the above conditions of approval; and

BE IT FURTHER RESOLVED that this Resolution incorporates by reference all evidence of record, including maps, drawings, memoranda, correspondence, and other information; and

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff, which the Planning Board hereby adopts and incorporates by reference (except as modified herein), and on consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all bindings elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan.*

There is no development, diagrammatic, schematic development or project plan required for this proposal.

2. *The site plan meets all the requirements of the zone in which it is located, and where applicable conforms to the urban renewal plan approved under Chapter 56.*

The Board finds, based on the data table provided in the Staff Report, and other evidence and testimony of record, that the Application meets all of the applicable requirements of the R-90 Zone. The following data table sets forth the development standards that are approved by the Planning Board and are binding on the Applicant.

Development Data Table

Development Standard	R-90 Zone	Approved by the Planning Board and binding on the Applicant
Zone	R-90	
Area of Development	None ¹	4.4 acres
Density of Development	3.6 units/acre	2.7 units/acre
Dwelling Units	15	12
One-family Detached		1 (existing)
Townhouse		11
Minimum Lot Area (square feet)		
One-family Detached	5,000	20,577
Townhouse	2,000	2,000
Setback from Public Street		
One-family Detached	25 feet	200 feet
Minimum Lot Width at Street Line		
One-family Detached	25 feet	25 feet
Setback from Lot or Property Line		
One-family Detached	None	15 feet (front) 8 feet (side) 40 feet (rear) ² 200 feet (rear) ³
Townhouse	None	3 feet (front) 6 feet (side) ⁴ 20 feet (rear)
Minimum Lot Width (Townhouses)	18 feet	18 feet
Average lot frontage for townhouse group	20 feet	22 feet
Green Space	None required	81 percent (3.6 acres)
Building Height	35 feet (sfd, th) 25 feet (clubhouse)	See following table

1. There is no minimum area of development when a master plan recommends cluster development. The 1990 Bethesda-Chevy Chase Master Plan recommends cluster development for this property.
2. To property line along HOA open space.
3. To subdivision boundary line.
4. For end units only.

Building Height Table

Unit	Measuring Point	Building Height (feet)
1	Face of Building	29.5
2	Face of Building	29.5
3	Face of Building	29.5
4	Centerline of Street	30
5	Centerline of Street	30
6	Centerline of Street	30
7	Face of Building	29.5
8	Face of Building	29.5
9	Face of Building	29.5
10	Face of Building	29.5
11	Face of Building	29.5
12	Face of Building	29.5
Clubhouse	Centerline of Street	25

- The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient.*

Buildings

The applicant has concentrated the buildings on the higher portion of the property and avoided construction on steep and sensitive forested slopes. In addition, the proposal groups new houses around the existing house and attaches them as a way to minimize the impact of the buildings on the extensive natural portions of the property and reduce impervious areas. This approach increases efficiency by consolidating and shrinking the amount of space needed for vehicles. Use of underground parking creates similar efficiencies by, in effect, getting more value from impervious areas.

Open Spaces

The proposed development leaves existing open space in an undisturbed state and creates a clear distinction between developed and undeveloped portions of the neighborhood. Leaving steep slopes forested and undisturbed contributes to safe and efficient control of rainwater runoff and prevents erosion, which can create severely unsafe conditions on hillsides.

Landscaping

The proposed development uses a broad mix of shrubs, groundcovers, shade trees and ornamental trees to augment existing forested open space. In particular, landscaping is used to enhance already planted areas nearest neighboring houses and to supplement existing plantings along the boundary with the National Geospatial-Intelligence Agency. The proposed landscaping adequately provides screening from existing activities and reduces the impact of new construction on those land uses.

Recreational Facilities

This 12-unit project includes a clubhouse that will provide exercise facilities. In addition, the courtyard offers a seating wall and several benches that are conveniently located for residents' use. These facilities, and the undeveloped natural area, provide recreational opportunities on site that exceed the County's Recreational Guidelines.

Pedestrian and Vehicular Circulation Systems

The proposed vehicular circulation system includes an underground garage for each house, which efficiently uses existing topography and minimizes impervious surfaces. The underground drive aisle is wide enough to accommodate passing cars and includes parking spaces for long-term visitors. The entrance has been configured to discourage right turns on to Brooke Lane and will include a No Right Turn sign.

The underground garage system effectively separates drivers from pedestrians and sidewalks will allow residents to reach neighbors' homes and the clubhouse safely, without the need to cross the surface drive.

- 4. Each structure and use is compatible with other uses and other site plans, and with existing and proposed adjacent development.*

The 1990 Bethesda-Chevy Chase Master Plan recommended cluster development for this property, recognizing that environmental resources would best be protected if all development on this property was concentrated away from steep and forested slopes. The Master Plan anticipated attached houses on this property and recognized that environmental benefits of cluster development warranted the use of attached houses in a neighborhood dominated by one-family detached houses. This project achieves compatibility by clustering houses away from the steep slopes to MacArthur Boulevard, protecting views and environmentally sensitive areas. It also uses distance, topography and

landscaping to shield adjacent homes from the new homes and to minimize their visual impact on their neighbors and on those who travel past the project.

At the Hearing, some neighbors testified in support of the Application and some neighbors testified against the Application. Those that testified against the Application raised, among other things, an issue related to compatibility of the proposed development.

With respect to compatibility, neighbors acknowledged that the Master Plan recommends cluster development for the subject property but maintained that clustering is an option, not a mandate. The neighbors further pointed out that the Master Plan is 17 years old and questioned whether the proposed density and clustering should still be approved given the new Council's desire to limit development. The neighbors also argued that the proposed development is too intense for their neighborhood stating that their street only has 20 other homes on it and that this development would add an additional 11 homes.

Based on the evidence of record, the Planning Board finds that the project is developed at an appropriate and allowable density and that cluster development is appropriate for the site. The Board further finds that the proposed development protects scenic values of the surrounding area and that any development of the site that did not involve a cluster would greatly endanger the trees and slope of the Palisades. The Board noted that there are townhomes developed directly to the north of the proposed development and there are apartment buildings to the south and found that the proposed development is compatible with the overall neighborhood.

The neighbors also raised issues regarding the access to the proposed development, which involved a property line dispute. This issue is addressed in MCPB Resolution No. 06-122 for Preliminary Plan 120050560, the preliminary plan for this proposed development, which was heard concurrently with this Site Plan Application. Commissioner Wellington noted that she still had questions regarding the dispute over the property line and the limit of disturbance and, accordingly, she could not support approval of this Application.

5. *The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.*

The proposed project satisfies forest conservation requirements by preserving approximately 1.44 acres of forest on existing steep, forested slopes. The project also preserves 22 specimen trees in this area.

The proposed project has a stormwater management concept that has been accepted by the Montgomery County Department of Permitting Services. The concept includes a water quality control system that uses a Storm Filter and credits for preserving the natural areas. The Department waived recharge requirements for the site and channel protection volume requirements for three of eight drainage areas. Channel protection volume is not required for the remaining drainage areas because one-year, post development peak discharge is less than or equal to two cubic feet per second.

BE IT FURTHER RESOLVED, that this site plan shall remain valid as provided in Montgomery County Code § 59-D-3.8; and

BE IT FURTHER RESOLVED, that the date of this Resolution is MAR 27 2007 (which is the date that this resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

At its regular meeting, held on Thursday March 22, 2007, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission ADOPTED the above Resolution, on motion of Commissioner Robinson, seconded by Commissioner Bryant, with Commissioners Robinson, Bryant, and Perdue present and voting in favor, with Commissioner Wellington abstaining, and Chairman Hanson absent. This Resolution constitutes the final decision of the Planning Board, and memorializes the Board's findings of fact and conclusions of law for Site Plan No. 8200600220, High Acres.



Royce Hanson, Chairman
Montgomery County Planning Board

March 6, 2013

Robert Kronenberg, Acting Chief Area 1
Kathleen A. Reilly, AICP, Coordinator Area 1
Montgomery County Planning Department
M-NCPPC
8787 Georgia Avenue
Silver Spring MD 20910

Re: High Acres, 6450 Brookes Lane Bethesda MD 20816, Site plan # 820060220 A

Dear Mr. Kronenberg and Ms. Reilly,

My husband and I live near Brookes Lane and I am writing this letter in support of the approval of the High Acres development project. I regularly walk on the C&O towpath and the nearby Capital Crescent Trail. After reviewing the drawings and discussing the project in detail with Michael Schecter, my husband and I hope to be one of the first owners to move into High Acres and believe this development would greatly enhance the area and ultimately benefit the current neighbors of Brookes Lane.

If you have any questions, I can be reached by e-mail at LGattozzi@cathedral.org or by phone at 301-320-2079.

Sincerely,
Lynda Gattozzi
Lynda Gattozzi
5919 Massachusetts Avenue
Bethesda, MD 20816

Robert Kronenberg
Acting Chief Area 1
M-NCPPC
8787 Georgia Avenue
Silver Spring MD 20910

Kathleen A. Reilly, AICP
Coordinator
Area 1
Montgomery County Planning Department
M-NCPPC
8787 Georgia Avenue
Silver Spring MD 20910

Re: High Acres, 6450 Brookes Lane Bethesda MD 20816, Site plan # 820060220 A

Dear Robert and Kathleen,

I am a resident of Brookes Lane and a neighbor of the proposed development at High Acres.

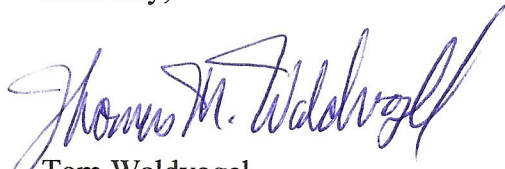
Last fall, several partners of the developers (Brookes Lane Development Company, LLC) reached out to our neighbors to explain what they were hoping to build at the High Acres site. I reviewed the original plans and their proposed modifications and I am an advocate of their proposed modifications as being in the best interests of both the neighborhood and the environment.

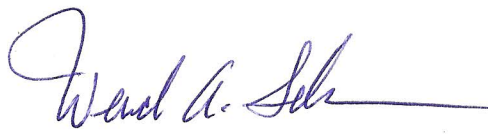
The developers hosted an open house on their site on December 2nd and presented their ideas and reviewed the plans and the proposed modifications. More than 20 of my neighbors attended and had the opportunity to speak to the developers about their concerns.

We had some follow up questions and concerns and the developers met with us at the Crawford's house and we resolved all of the questions and concerns to our satisfaction. Those concerns were documented in a signed letter back to us by the developer. They have promised to keep an open dialog with the neighbors throughout the process for which we are appreciative.

If you have any questions, please do not hesitate to call us at (301) 229-3140.

Sincerely,


Tom Waldvogel


Wendy Seher

March 7, 2013

Robert Kronenberg
Acting Chief, Area 1
M-NCPPC
8787 Georgia Ave
Silver Spring, Maryland 20910

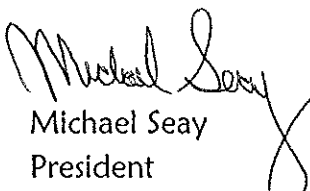
Kathleen A. Reilly, AICP
Coordinator, Area 1
Montgomery County Planning Department
M-NCPPC
8787 Georgia Ave
Silver Spring, Maryland 20910

Re: High Acres, 6450 Brookes Lane, Bethesda Maryland 20816, Site Plan
No. 820060220 A

Dear Mr. Kronenberg and Ms. Reilly,

I have been aware and watched the proposed "High Acres" development neighborhood for the past several years. I have a company office a stone's throw away from the site at Little Falls Mall. I was excited to learn that Hal Stuart, HALCO HOMES is a partner in the project and the builder. Hal has reached out and explained plans and modifications. Without a doubt this has less impact on the environment and neighborhood disturbance. I am more than satisfied that Brookes Lane Development Company has improved the project and I look forward to seeing project moving forward.

Sincerely,


Michael Seay
President

Robert Kronenberg
Acting Chief Area 1
Montgomery County Planning Commission
M-NCPPC
8787 Georgia Avenue
Silver Spring, MD 20910

Kathleen A. Reilly, AICP
Coordinator, Area 1
Montgomery County Planning Commission
M-NCPPC
8787 Georgia Avenue
Silver Spring, MD 20910

RE: Site Plan #820060220 A, High Acres, 6450 Brookes Lane, Bethesda, Md. 20816

Mr. Kronenberg and Ms. O'Reilly:

We are residents of 6448 Brookes Lane and are the neighbors most closely affected both by proximity and length of shared boundaries with the proposed development at 6450 Brookes Lane, or "High Acres", as it was named by former owners Mr. and Mrs. Howard K. Smith.

On several occasions we have had the opportunity to meet with some of the partners of the Brookes Lane Development Company (BLDC) to discuss their plans and to voice our concerns about how those plans would affect the small neighborhood we live in. It was gratifying to see that they were making an effort to involve the neighbors and get their feedback, as in the years since the Smiths' deaths, other developers made no such efforts.

As we understand it, BLDC has proposed modifications to the the site's original plans, already approved by the Planning Commission. These changes seem to make more environmental sense than the original plan. And it appears they have taken great pains to address concerns of water runoff and tree removal; with a redesign of the proposed townhomes, the need for a massive removal of soil has been eliminated.

As their nearest neighbor, they have assured us that they will be attendant to our unique concerns, be it restoring our mutual fenceline or shielding us from debris and unsightly vistas during construction time. They were also responsive to our concerns regarding water runoff onto our property, which happens during heavy rainfall and has resulted in erosion alongside our driveway and parking area. They have also agreed to remove some non-indigenous trees which have proven to be nuisances and potential hazards to our property.

We endorse this proposal without hesitation. Please contact us if you have any questions or concerns.

Sincerely,

Joseph P. and Linda A. O'Neill
301-229-5595

ROBERT NIGHSWANDER
Acting Chief Area 1
M-NCPPC
8787 Georgia Avenue
Silver Spring MD 20910

Kathleen A. Reilly, AICP
Coordinator
Area 1
Montgomery County Planning Department
M-NCPPC
8787 Georgia Avenue
Silver Spring MD 20910

Re: High Acres, 6450 Brookes Lane Bethesda MD 20816, Site plan # 820060220 A

Dear Robert and Kathleen,

I am a resident of Brookes Lane and a neighbor of the proposed development at High Acres.

Last fall, several partners of the developers (Brookes Lane Development Company, LLC) reached out to our neighbors to explain what they were hoping to build at the High Acres site. I reviewed the original plans and their proposed modifications and I am a strong advocate of their proposed modifications as being in the best interests of both the neighborhood and the environment.

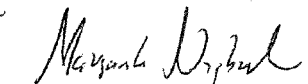
The developers hosted an open house on their site on December 2nd and presented their ideas and reviewed the plans and the proposed modifications. More than 20 of my neighbors attended and virtually every one of them were supportive of the modifications to the approved site plan.

We had some follow up questions and concerns, the developers met with us and resolved all of the questions and concerns to our satisfaction. They have promised to keep an open dialog with the neighbors throughout the process for which we are appreciative.

If you have any questions, please do not hesitate to call me at (240) 271-7674.

Sincerely,


Peter Nighswander


Margarida Nighswander

Louise and Gil Crawford

6446 Brookes Lane, Bethesda, MD 20816

louise.stonercrawford@gmail.com Home: 301.320.9671 Cell: 202.441.8913

March 5, 2013

Robert Kronenberg
Acting Chief Area 1
M-NCPPC
8787 Georgia Avenue
Silver Spring MD 20910

Kathleen A. Reilly, AICP
Coordinator
Area 1
Montgomery County Planning Department
M-NCPPC
8787 Georgia Avenue
Silver Spring MD 20910

Re: High Acres, 6450 Brookes Lane Bethesda MD 20816, Site plan # 820060220 A

Dear Mr. Kronenberg and Ms. Reilly,

I am a resident of Brookes Lane and a neighbor of the proposed development at High Acres. Last fall, several partners of the developers (Brookes Lane Development Company, LLC) reached out to our neighbors to explain what they were hoping to build at the High Acres site. I reviewed the original plans and their proposed modifications and support their proposed modifications as being in the best interests of both the neighborhood and the environment.

The developers hosted an open house on their site on December 2nd and presented their ideas and reviewed the plans and the proposed modifications. More than 20 of my neighbors attended and had the opportunity to speak with the developers about their concerns. We and most of our neighbors appreciate the developers' outreach and their willingness to accommodate our concerns.

A follow-up meeting was held at our home where the developers met with many of High Acre's immediate neighbors. At that point, our questions and concerns were resolved to our satisfaction. We look forward to continuing our dialog with the developers.

If you have any questions, please do not hesitate to call me at the number above.

Sincerely,



Louise Stoner Crawford



Gil Crawford

4301 Maryland Avenue
Bethesda, MD 20816
April 9, 2013

Kathleen A. Reilly, AICP
Coordinator
Area 1
Montgomery County Planning Department
M-NCPPC

Ms. Reilly –

I am writing to you to follow up on my earlier email requesting that the Planning Board consider on the full agenda proposed modifications to the certified site plan for High Acres 82006022A. I hope to testify about these concerns during the portion of the Planning Board meeting on May 2, 2013, when High Acres will be discussed. I have raised with the developers several concerns without certain results, including:

1. Retaining wall: The wall and townhomes above it will be massive when viewed from below by residents of Brookmont and people passing on MacArthur Blvd. This masonry wall should be (a) constructed of materials that appear natural and blend in with native rocks, preferably stone, (b) stepped to break up its mass, and (c) screened from view. To screen it, the developers should be required to plant numerous native holly trees at least 6' tall below the wall and on the planting area between the steps – or other plants that will achieve this effect.
2. Transition zone: The developers plan to remove all of the tall trees on the hillside between the houses on Brookes Hill Court and the retaining wall behind the new townhomes. These trees comprise the part of the Palisades when High Acres is viewed from the south. We would have liked these trees to have been protected. However, the Planning Board approved their removal years ago. Please direct the developers to plant diverse types of large native trees and bushes in this area to screen, as quickly as possible, the view of the development from the south. Small trees will take many extra years to grow. I suggest oaks and beech at least 12' tall, native holly, and 6' to 10' tall understory trees, such as red buds and dogwoods.
3. Tree on Brookes Hill Court: The developers state that the county has approved the removal of this mature, healthy tree in order to install two sewers (sanitary and storm). It is the only tree in the right of way on all of Brookes Hill Court. Its removal would be tragic. Fortunately, there is no need to remove this tree, and the neighbors are united in opposition. I proposed that the developers modify their plan to put an elbow in both sewer pipes to direct them away from as much of the roots of this tree as possible. The developers said that they must connect the storm sewer at a manhole in the middle of the cul de sac at the end of Brookes Hill Court. There is no storm sewer at all on Brookes Hill Court and no manholes on that street. Someone made a mistake. The Planning Board should correct it.
4. Forest conservation area: This area is choked with invasive species. The developers should be directed to remove as much of the invasives as possible.

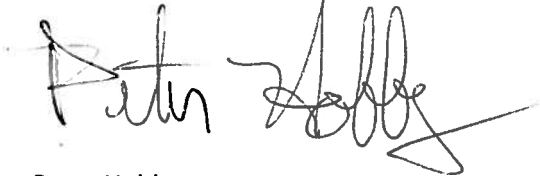
Dear Kathleen A. Reilly,
AICP Coordinator, Area 1
Montgomery County Planning Department (M-NCPPC),

I am writing to you on behalf of the Civic League of Brookmont and Vicinity to express our concerns about the certified site plan for High Acres 82006022A. We are looking forward to testifying about these concerns during the portion of the Planning Board meeting on May 2, 2013, when High Acres will be discussed. We have discussed the concerns below with the developers and are trying to reach a letter of agreement with them on a satisfactory resolution. However, despite attempts to craft an agreement, as of this date we have been unable to complete documentation of terms to address the issues below. We look forward to speaking at the hearing about them. Brookmont concerns are as follows:

1. Retaining wall: We recommend the masonry wall at the base of the development be stepped to break up its mass to better complement the viewscape from Brookmont and MacArthur Boulevard. The wall will measure approximately 20 feet in places and would have a significant visual impact as a single massing. It should be constructed of materials that appear natural and blend in with the natural environment; we would prefer a stone finish if feasible and would appreciate your direction on the matter. It should also be screened from view; we suggest that the developers be required to plant numerous native Hollies at least 6' tall below the wall and on the planting area between the steps – or other plants that will achieve this effect.
2. Transition zone: The developers expect to remove all of the tall trees on the hillside between the houses on Brookes Hill Court and the retaining wall behind the new townhomes. This area is the part of the Palisades looking north towards High Acres. We are aware the Planning Board approved their removal and we would now like to assure the Palisades is properly restored to its natural state in the future. We recommend the developers be directed to plant diverse types of large native trees and bushes in this area to screen the view of the development from Brookes Hill Court and the intersection of MacArthur and Sangamore, as quickly as possible. Small trees will take many extra years to grow. We have suggested oaks, beech, native holly, and understory trees, such as red buds and dogwoods.
3. Tree on Brookes Hill Court: The developers state that the county has approved the removal of this mature, healthy tree in order to install two sewers (sanitary and storm). It is the only tree in the right of way on all of Brookes Hill Court. Its removal would be a significant loss to the neighborhood. Drilling under the tree is not feasible for both sewers we understand. We have suggested an alternative to mediate the need to remove the tree. I understand the immediate neighbors are united in opposition to removing the tree as well. We suggested that the developers modify their approved plan to put an elbow in both sewer pipes to keep them away from as much of the roots of this tree as possible. The developers were under the impression they had to connect the storm sewer at a manhole in the middle of the cul de sac at the end of Brookes Hill Court. The storm water connection is in fact at Maryland Avenue – providing an opportunity to re-route the two lines if existing sewer lines can be accommodated and any additional easements granted. The Planning Board's attention to fully documenting options would be greatly appreciated.

4. Tree #54: This tree was mislabeled on the approved plans. It is a large and beautiful walnut, rather than a tulip poplar. It is not in the way of the new driveway. The developers should be directed to preserve and protect this tree, and not to cut it down or damage it.

To reiterate - we have discussed these concerns with the developers and are trying to reach a letter agreement and the developers have been making some efforts to accommodate our concerns. The most significant outstanding issue is the disposition of the tree on Brookes Hill Court and routing of the sewer lines. We appreciate your support in considering these concerns.

A handwritten signature in black ink, appearing to read "Peter Hobby". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Peter Hobby
President
Civic League of Brookmont and Vicinity

4/10/13

5. Tree #54: This tree was mislabeled on the approved plans. It is a large, beautiful, and mature walnut, rather than a tulip poplar. It is not in the way of the new driveway. The developers should be directed to preserve and protect this tree.

The developers have not been responsive to these modest requests. Please consider these concerns. I hope to speak to them at the hearing. –

David Berg
301-229-1399