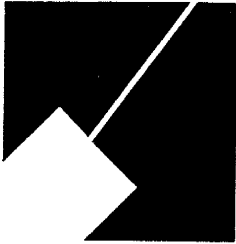


M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

MCPB
Item # 12
July 27, 2006



MEMORANDUM

DATE: June 30, 2006

TO: Montgomery County Planning Board

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

FROM: Dolores M. Kinney, Senior Planner *DK* (301) 495-1321
Development Review Division

REVIEW TYPE: Preliminary Plan Review

APPLYING FOR: Subdivision of Parcel 141

PROJECT NAME: Bernstein Property

CASE #: 120060380

REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: RC

LOCATION: Located on west side of Columbia Pike (MD 29), approximately 1,100 feet north of the intersection with Spencerville Road (MD 198)

MASTER PLAN: Fairland

APPLICANT: 15820 OP L.L.C.

ENGINEER: Gutschick, Little & Weber, P.A.

FILING DATE: September 23, 2005

HEARING DATE: July 27, 2006

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

- 1) Approval under this preliminary plan is limited to four (4) lots and four (4) residential dwelling units.
- 2) Compliance with the conditions of approval for the preliminary forest conservation plan. Conditions include, but are not limited to, the following:
 - a) Final forest conservation plan shall include the following elements:
 - i) Design and location of permanent markers (such as permanent fences or signs) to clearly identify boundaries of the Category I conservation easements that lie within lots.
 - ii) Tree protection plan for individual trees 24 inches and greater in diameter at breast height
- 3) Record plat to reflect a Category I easement over all areas of stream valley buffers and forest conservation.
- 4) Record plat to contain the following note, "The land contained hereon is within an approved cluster development. Subdivision or resubdivision is not permitted after property is developed."
- 5) Prior to the issuance of the last building permit, the Applicant shall construct an eight-foot shared use path and a tree panel along the frontage of Lots 3 and 4 from the proposed private driveway to the PEPCO right-of-way, unless already constructed as part of the Burtonsville Shopping Center project. The shared use path shall be offset two feet from the property line.
- 6) The applicant shall dedicate all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan unless otherwise designated on the preliminary plan.
- 7) Compliance with conditions of MCDPWT letter dated December 16, 2005, unless otherwise amended.
- 8) Record plat to reflect common ingress/egress and utility easements over all shared driveways.
- 9) Compliance with the conditions of the MCDPS stormwater management approval dated September 9, 2005.
- 10) Compliance with conditions of the MCDPS (Health Dept.) septic approval dated June 9, 2006.
- 11) Access and improvements as required to be approved by MDSHA prior to issuance of access permits.
- 12) Other necessary easements.

SITE DESCRIPTION:

Parcel 141 ("Subject Property") is located in the Patuxent Watershed, on the west side of Columbia Pike (US 29), approximately 1,100 feet north of the intersection with Spencerville Road (MD 198) (Attachment A). It is zoned Rural Cluster (RC) and contains 36.55 acres. The property contains streams and forested areas and is divided by a Potomac Electric Power Company (PEPCO) right-of-way.

PROJECT DESCRIPTION:

This is a preliminary plan of subdivision to create four (4) clustered lots and two (2) parcels (Attachment B). The proposed lots will be served by private well and standard private septic. Access to the proposed lots will be via a shared driveway from Columbia Pike (US 29). The property is subject to forest conservation regulations. The RC zone requires a minimum of 60% open space. The preliminary plan proposes preserving approximately 67% of the entire site for open space.

DISCUSSION OF ISSUES

Master Plan Compliance

The Fairland Master Plan does not specifically identify the Subject Property for discussion but does give general guidance and recommendations to maintain the low-density residential character of the RC zone. The plan complies with the master plan goals by proposing low-density, one-family residential detached dwellings, appropriate for the RC zone.

Environment

The 36.55-acre site lies within the Patuxent River Watershed (Use I waters). A PEPCO transmission line right-of-way bisects the property. The majority of the site is forested (35.61 acres). Four tributary streams to the Patuxent River flow through the site. The environmental buffer areas for these streams include wetlands and steep slopes.

Forest Conservation

The preliminary forest conservation plan proposes to clear 8.69 acres of forest. The remaining 26.92 acres will be retained and protected through Category I conservation easements. About 24.34 acres of forest retention will lie within the proposed common open space parcels, and 2.58 acres will lie within private lots. This amount of forest retention exceeds the break-even point of 21.74 acres. Therefore, the proposed plan meets forest conservation requirements, and no forest planting is required.

Environmental Buffers

Environmental buffers comprise 16.38 acres of the site. All of the buffers will be located within the open space parcels and will be protected by Category I conservation easements, as recommended by the Board's Environmental Guidelines.

Patuxent River Primary Management Area (PMA)

The "Environmental Guidelines" recommends the application of a 10 percent imperviousness limit for land development projects that lie within the PMA and are

reviewed by the Planning Board. This subdivision proposes an imperviousness of 2.6 percent over the subject site, as shown in the applicant's impervious area plan. This meets the PMA imperviousness guideline limit.

Community Outreach

This plan submittal pre-dated new requirements for a pre-submission meeting with neighboring residents, however, written notice was given by the applicant and staff of the plan submittal and the public hearing. As of the date of this report, no citizen correspondence has been received.

ANALYSIS:

Staff's review of Preliminary Plan #120060380, Bernstein Property, indicates that the plan conforms to the recommendations of the Fairland Master Plan. The proposed preliminary plan is consistent with the master plan goal to maintain the area's residential character. The plan does not generate enough peak-hour trips, which require application of the Local Area Transportation Review (LATR) Guidelines. Staff also finds that the proposed preliminary plan complies with Chapter 50 of the Montgomery County Code, Subdivision Regulations, and that public facilities will be adequate to support and service the area of the proposed subdivision as demonstrated in the Data Table (Attachment C). Staff further finds that the size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.

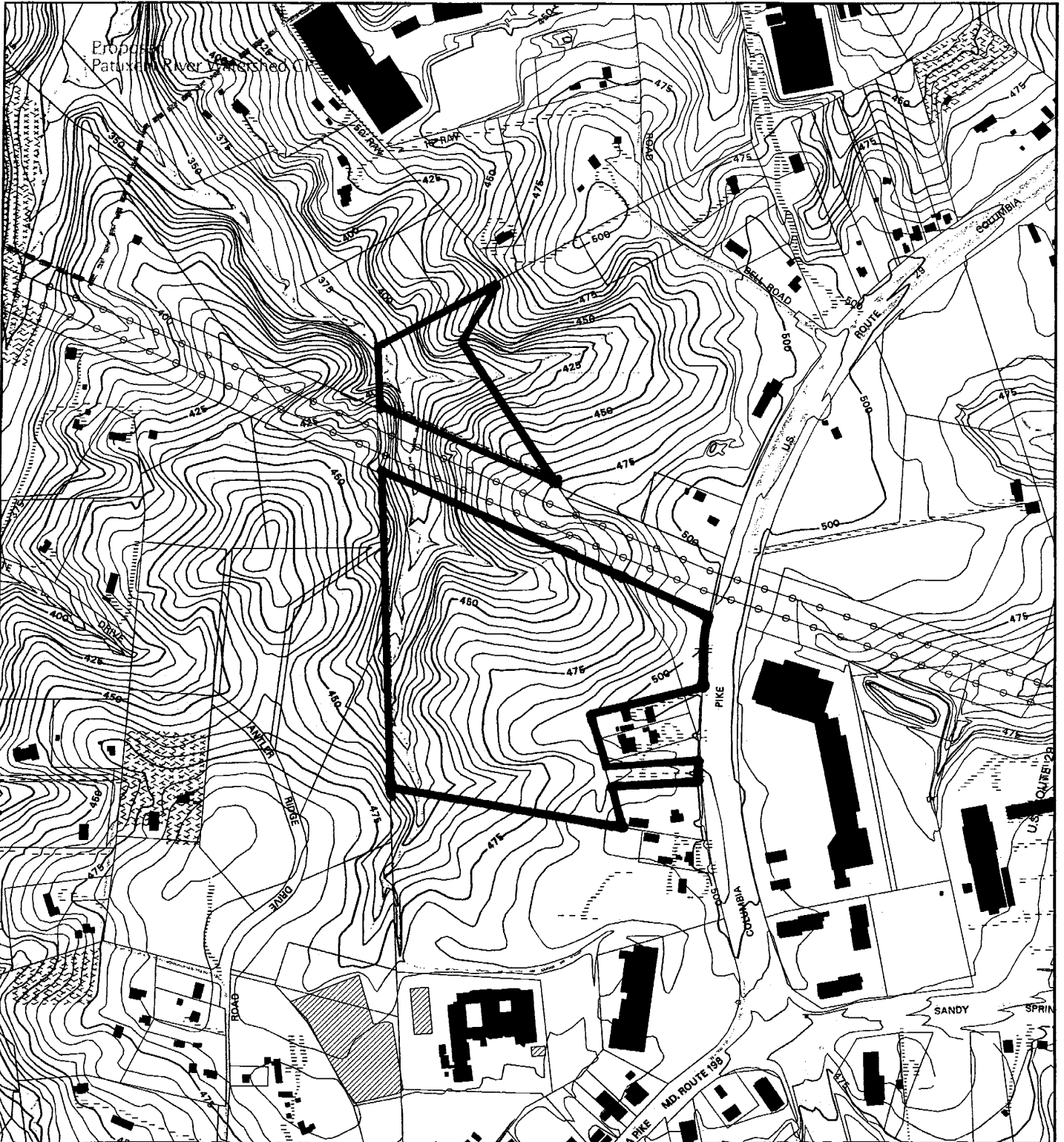
CONCLUSION:

In Staff's opinion, Preliminary Plan #120060380, Bernstein Property, is consistent with the recommendations of the Fairland Master Plan and complies with the Montgomery County Subdivision Regulations. As such, Staff recommends approval of the preliminary plan, subject to the specified conditions.

Attachments

- Attachment A Vicinity Development Map
- Attachment B Proposed Development Plan
- Attachment C Data Table
- Attachment D Agency Comments

BERNSTEIN PROPERTY (1-20060380)



Map compiled on October 12, 2005 at 1:37 PM | Site located on base sheet no - 221NE04

NOTICE

The planimetric, property, and topographic information shown on this map is based on copyrighted Map Products from the Montgomery County Department of Park and Planning of the Maryland-National Capital Park and Planning Commission, and may not be copied or reproduced without written permission from M-NCPPC.

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

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

Key Map



N

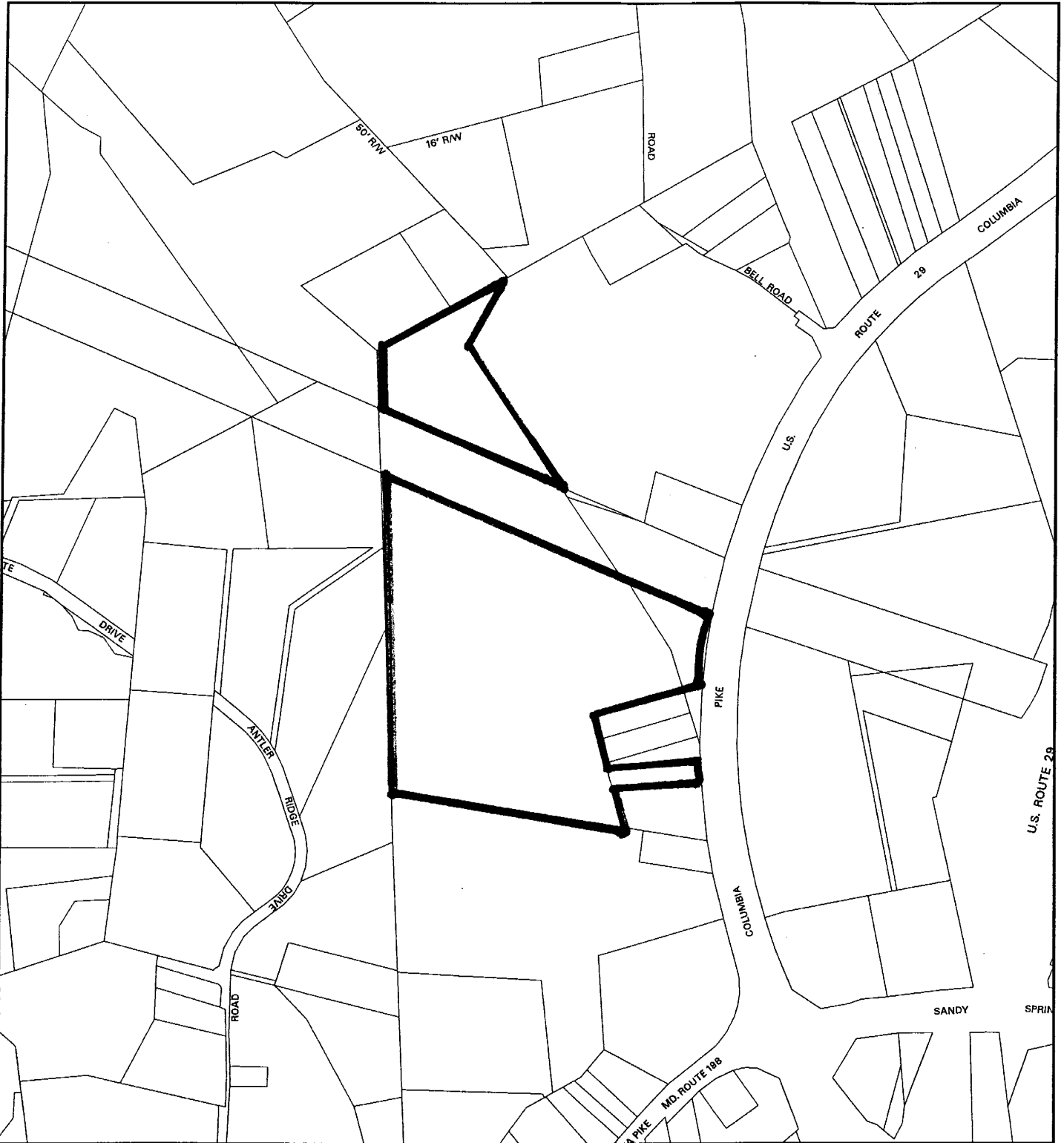


Research & Technology Center



1 inch = 600 feet
1 : 7200

BERNSTEIN PROPERTY (1-20060380)



Map compiled on October 12, 2005 at 1:50 PM | Site located on base sheet no - 221NE04

NOTICE

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Key Map



Research & Technology Center

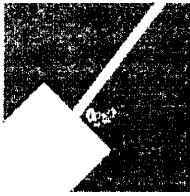


1 inch = 600 feet
1 : 7200

Preliminary Plan Data Table and Checklist

Plan Name: Bernstein Property				
Plan Number: 120060380				
Zoning: Rural Cluster (RC)				
# of Lots: 4 lots and 2 parcels				
# of Outlots: 0				
Dev. Type: 4 one-family detached dwelling units				
PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval on the Preliminary Plan	Verified	Date
Minimum Lot Area	40,000 sq. ft. with a density of 5 acres per d.u.	84,071 sq. ft. is minimum proposed	<i>Dmm</i>	June 30, 2006
Lot Width	125 ft.	Must meet minimum	<i>Dmm</i>	June 30, 2006
Lot Frontage	25 ft.	Must meet minimum	<i>Dmm</i>	June 30, 2006
Setbacks				
Front	50 ft. Min.	Must meet minimum	<i>Dmm</i>	June 30, 2006
Side	17 ft. Min./ 35 ft. total	Must meet minimum	<i>Dmm</i>	June 30, 2006
Rear	35 ft. Min.	Must meet minimum	<i>Dmm</i>	June 30, 2006
Height	50 ft. Max.	May not exceed maximum	<i>Dmm</i>	June 30, 2006
Max Resid'l d.u. per Zoning	7 dwelling units	4 dwelling units	<i>Dmm</i>	June 30, 2006
Site Plan Req'd?	No	No	<i>Dmm</i>	June 30, 2006
FINDINGS				
SUBDIVISION				
Lot frontage on Public Street	Yes	Yes	<i>Dmm</i>	June 30, 2006
Road dedication and frontage improvements	Dedication	Yes	SHA/ DPWT Memo	October 26, 2005/ Dec. 16, 2005
Environmental Guidelines	Yes	Yes	Environmental memo	July 10, 2006
Forest Conservation	Yes	Yes	Environmental memo	July 10, 2006
Master Plan Compliance	Yes	Yes	<i>Dmm</i>	June 30, 2006
Other				
ADEQUATE PUBLIC FACILITIES				
Stormwater Management	Yes	Yes	DPS memo	Sept. 9, 2005
Well and Septic	Yes	Yes	DPS memo	June 9, 2006
Local Area Traffic Review	N/A	N/A		
Fire and Rescue	Yes	Yes	MDFRS memo	June 27, 2006

**AGENCY
CORRESPONDENCE**



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

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

MEMORANDUM

TO: Dolores Kinney, Development Review Division

FROM: Candy Bunnag, ^{CB}Planner Coordinator, Environmental Planning Section,
Countywide Planning Division

DATE: July 10, 2006

SUBJECT: Preliminary Plan 120060380, Bernstein Property

RECOMMENDATION

The Environmental Planning staff has reviewed the preliminary plan referenced above. Staff recommends approval of the preliminary plan of subdivision with the following conditions:

1. Forest retention areas and environmental buffers shall be placed in Category I conservation easements. Easements shall be shown on record plats.
2. Compliance with the conditions of approval of the preliminary forest conservation plan. Conditions include, but are not limited to, the following:
 - a. Final forest conservation plan shall include the following elements:
 - i. Design and location of permanent markers (such as permanent fences or signs) to clearly identify boundaries of the Category I conservation easements that lie within lots.
 - ii. Tree protection plan for individual trees 24 inches and greater in diameter at breast height.

DISCUSSION

The 36.55-acre site lies within the Patuxent River watershed (Use I waters). A PEPCO transmission line right-of-way bisects the property. The majority of the site is forested (35.61 acres). Four tributary streams to the Patuxent River flow through the site. The environmental buffer areas for these streams include wetlands and steep slopes.

Forest Conservation

The preliminary forest conservation plan proposes to clear 8.69 acres of forest. The remaining 26.92 acres will be retained and protected through Category I conservation easements. About 24.34 acres of forest retention will lie within the proposed common open space parcels, and

2.58 acres will lie within private lots. This amount of forest retention exceeds the break-even point of 21.74 acres. Therefore, no forest planting is required.

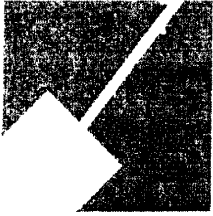
Staff finds the preliminary forest conservation plan to be in conformance with the Forest Conservation law and recommends approval with conditions.

Environmental Buffers

Environmental buffers comprise 16.38 acres of the site. All of the buffers will be located within the open space parcels and will be protected by Category I conservation easements.

Patuxent River Primary Management Area (PMA)

The "Environmental Guidelines" recommends the application of a 10 percent imperviousness limit for land development projects that lie within the PMA and are reviewed by the Planning Board. This subdivision proposes an imperviousness of 2.6 percent over the subject site, as shown in the applicant's impervious area plan. This meets the imperviousness guideline limit.



MARYLAND-NATIONAL CAPITAL
PARK & PLANNING COMMISSION
FOREST CONSERVATION PLAN RECOMMENDATIONS

TO: Dolores Kinney, Development Review Division

SUBJECT: Preliminary Forest Conservation Plan # 120060380
Preliminary Plan Bernstein Property

SENT VIA FAX TO: Kevin Foster, GLW, fax: 301-421-4186

The subject Forest Conservation Plan has been reviewed by Environmental Planning to determine if it meets the requirements of Chapter 22A of the Montgomery County Code (Forest Conservation Law). The following determination has been made:

SUBMISSION ADEQUACY

Adequate as submitted

RECOMMENDATIONS

Approve subject to the following conditions:

Required site inspections by M-NCPPC monitoring staff (as specified in "Trees Technical Manual")

Record plat to show appropriate notes and/or easements. Agreements must be approved by M-NCPPC staff prior to recording plats.

Others:

1. Forest retention areas and environmental buffers shall be placed in Category I conservation easements. Easements shall be shown on record plats.
2. Final forest conservation plan shall include the following elements:
 - a. Design and location of permanent markers (such as permanent fences or signs) to clearly identify boundaries of the Category I conservation easements that lie within lots.
 - b. Tree protection plan for individual trees 24 inches and greater in diameter at breast height.
 - c. Critical root zone analysis for trees at least 10 inches or greater in diameter at breast height within 25 feet on either side of the limits of disturbance.

SIGNATURE: Candy Bunnag (301) 495-4543
Environmental Planning Division

DATE: July 10, 2006



DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan
County Executive

Robert C. Hubbard
Director

MEMORANDUM

June 9, 2006

TO: Ms. Cathy Conlon, Development Review,
Maryland National Capital Park and Planning Commission

FROM: Robert Hubbard, Director
Department of Permitting Services

SUBJECT: Status of Preliminary Plan: #1-20060380, Bernstein Property, 4 lots

This is to notify you that the status of the plan received in this office on June 6, 2006, is as follows:

Approved with the following reservations:

1. The record plat must be at the same scale as the preliminary plan, or submit an enlargement of the plat to match the preliminary plan.

If you have any questions, contact Gene von Gunten at (240) 777-6319.

cc: Owner
Surveyor
File

Handwritten signature

JUN 12 2006

Attw: [Handwritten signature]

Kevin Fost

GW

lrc
6/12/06





DEPARTMENT OF PERMITTING SERVICES

Douglas M. Duncan
County Executive

Robert C. Hubbard
Director

September 9, 2005

Mr. Brian Lewandowski
Gutschick, Little & Weber, P.A.
3909 National Drive, Suite 250
Burtonsville, MD 20866

Re: Stormwater Management **CONCEPT** Request
for Bernstein Property /20060380
Preliminary Plan #: TBD
SM File #: 220250
Tract Size/Zone: 36.5/RC
Total Concept Area: 36.5ac
Lots/Block: 6 Proposed
Parcel(s): 141,382,410,543
Watershed: Lower Patuxent

Dear Mr. Lewandowski:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept consists of on-site water quality control via and onsite recharge via the use of non structural practices. Channel protection volume is not required because the one-year post development peak discharge is less than or equal to 2.0 cfs.

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

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. Several types of non structural practices may be utilized to provide water quality for the common driveway.

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 Thomas Weadon at 240-777-6309.

Sincerely,

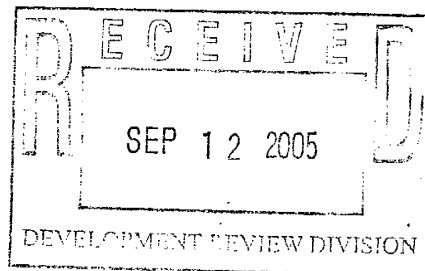


Richard R. Brush, Manager
Water Resources Section
Division of Land Development Services

RRB:dm CN 220250

cc: C. Conlon
S. Federline
SM File # 220250

QN - On Site; Acres: 36.5ac
QL - On Site; Acres: 36.5ac
Recharge is provided





DEPARTMENT OF PUBLIC WORKS
AND TRANSPORTATION

Douglas M. Duncan
County Executive

December 16, 2005

Arthur Holmes, Jr.
Director

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

RE: Preliminary Plan #1-20060380
Bernstein Property

Dear Ms. Conlon:

We have completed our review of the preliminary plan that was signed on 09/22/05. This plan was reviewed by the Development Review Committee at its meeting on 10/24/05. 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 MCDPS 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. Access and improvements as required by the Maryland State Highway Administration.
2. Reciprocal access and public utilities easement for common driveway.

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

Sincerely,

Gregory M. Leck, P.E., Manager
Traffic Safety Investigations And Planning Team
Traffic Engineering and Operations Section

m:/subdivision/farhas01/Preliminary Plans/1-20060380, Bernstein Prperty.doc

cc: Kevin Foster, Gutschik, Little & Weber, P.A.
Joseph Y. Cheung; MCDPS Subdivision Development
Christina Contreras; MCDPS Subdivision Development
Dale Mangum



Division of Operations

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



Robert L. Ehrlich, Jr., *Governor*
Michael S. Steele, *Lt. Governor*

Robert L. Flanagan, *Secretary*
Neil J. Pedersen, *Administrator*

Maryland Department of Transportation
October 26, 2005

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

Re: Montgomery County
US 29
Bernstein Property
File No. 1-20060380

Dear Ms. Conlon:

The State Highway Administration (SHA) would like to thank you for the opportunity to review the preliminary plan application for the Bernstein Property development. We have completed our review and offer the following comments:

- Truncations (right of way flares) and right-of-way dedications need to be in accordance with the Master Plan of Highways. SHA will require that right-of-way dedications and changes to access controls be platted to SHA standards. These plats must be submitted in hard copy format for review, checking and final issuance. Please contact Mr. Daniel Andrews of the Plats and Surveys Division @ 410-545-8860 for additional information. For questions regarding the plat review process, please E-mail Mr. Andrews at dandrews@sha.state.md.us.
- Access to this property is subject to the "Rules and Regulations" of this Administration with a permit issued by this office for one (1) 20' residential driveway. The permit will also cover closure of existing driveway along US 29
- Please resubmit the preliminary plan at a larger scale so that access improvement details can be evaluated more carefully. A scale of 1"=50' or larger is preferable. In addition, clearly show existing conditions along US 29 and any proposed roadway improvements from the SHA project.
- Please submit a sight distance evaluation along with a sight distance profile on the provided forms for the access point that will be used to connect the private drive to US 29.
- Plans have been passed along to SHA-HDD for review with work associated with US 29. They will provide comments to you in 30 days once they have completed their review.

My telephone number/toll-free number is _____
Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

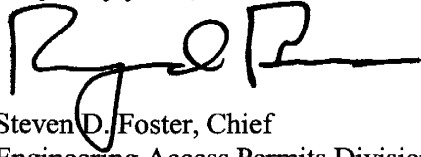
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone: 410.545.0300 • www.marylandroads.com



Ms. Cathy Conlon
Page 2

If additional information is required from SHA regarding this project, please do not hesitate to contact Mr. Raymond Burns at 410-545-5592, Mr. John Borkowski at 410-545-5595, or by using our toll free number in Maryland only, 1-800-876-4742 (x-5592 for Ray, x-5595 for John). You may also E-mail Ray at rburns1@sha.state.md.us or John at jborkowski@sha.state.md.us. Thank you for your cooperation.

Very truly yours,


for Steven D. Foster, Chief
Engineering Access Permits Division

SDF/jb

cc: Mr. Darrell Mobley (Via E-mail)
Mr. Augustine Rebish (Via E-mail)
Mr. Daniel Andrews (Via E-mail)
Ms. Melinda Peters (Via E-mail w/copy of plan)
Mr. Richard Weaver, M-NCPPC (Via E-mail)
Mr. Kevin Foster (Gutschick, Little & Weber, P.A. w/SHA Sight Distance Form)



FIRE MARSHAL COMMENTS

DATE: 6-27-06
TO: PLANNING BOARD, MONTGOMERY COUNTY
VIA:
FROM: JOHN FEISSNER 240 777 2436
RE: APPROVAL OF ~ *BERNSTEIN PROPERTY #1-20060380*

1. PLAN APPROVED.

- a. Review based only upon information contained on the plan submitted 6-27-06. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
- b. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

cc: Department of Permitting Services