



Nucci Subdivision, Preliminary Plan No. 120160170

- MF Marco Fuster, Planner Coordinator, marco.fuster@montgomeryplanning.org, 301-495-4521
- E Elza Hisel-McCoy, Supervisor, Area 1, Elza.Hisel-McCoy@montgomeryplanning.org, 301.495.2115
- MP Mark Pfefferle, Interim Chief, Area 1, Mark.Pfefferle@montgomeryplanning.org, 301.495.4730

Completed: 12/10/2018

Description

Nucci Subdivision, Preliminary Plan No. 120160170:

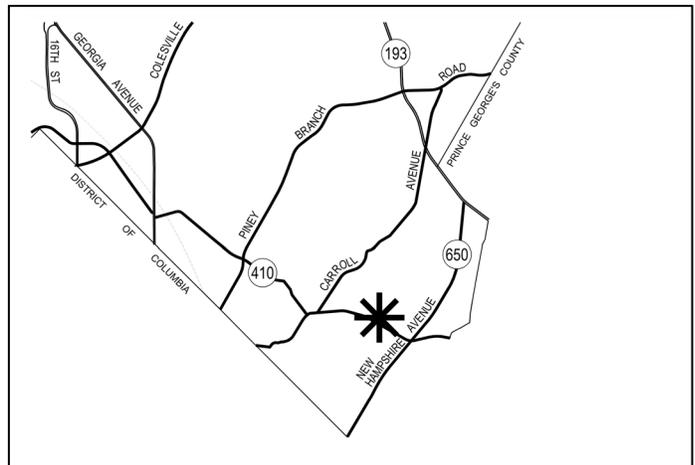
Application to create five residential lots for one single-family dwelling each; located on the north side of Ethan Allen Ave at the intersection of Prince Georges Ave; 1.5 acres, R-60 Zone, 2000 Takoma Park Master Plan.

Recommendation – Approval with conditions

Applicant: Marcello Nucci

Submittal Date: December 15, 2015

Review Basis: Chapter 50, Chapter 59, Chapter 22A



Summary

- The Application was submitted in December of 2015, prior to the adoption of the new subdivision regulations, and the Applicant has requested to be reviewed under the old version of Chapter 50.
- Resubdivision criteria of Chapter 50 do not apply to this Application as the lots shown on tax maps are not legal lots of record.
- The City of Takoma Park reviewed the application and the City Council voted on November 29, 2018 to approve the project.

SECTION 1 – STAFF RECOMMENDATION AND CONDITIONS

Staff recommends approval with conditions of the Preliminary Plan 120160170 subject to the following conditions:

1. This Preliminary Plan is limited to 5 lots for 1 single-family dwelling unit on each.
2. The Planning Board accepts the City of Takoma Park Council Resolution Number 2018-58 dated November 29, 2018, including the associated approved tree save plan and stormwater management concept plan.
3. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated January 8, 2016 and incorporates the findings as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT if the amendment does not conflict with any other conditions of the Preliminary Plan approval.
4. Before recording a plat for the Subject Property, the Applicant must satisfy requirements set forth by Maryland State Highway Administration’s (MDSHA) and the City of Takoma Park for access and improvements.
5. Prior to the issuance of any access permits, the Applicant must address the following:
 - a. Satisfy the MDSHA requirements for access and improvements.
 - b. Provide street tree plantings along the Ethan Allen Avenue frontage subject to approval by MDSHA.
6. The Applicant must provide and show on the record plat, a right-of-way dedication of five (5) feet, along Ethan Allen Avenue (MD 410). As a result of this dedication, the right-of-way between the existing pavement centerline and Subject Property frontage will be 25 feet wide.
7. The Applicant must provide sidewalks along the property frontage on Ethan Allen Avenue and extend sidewalks to the existing bus stop on the adjacent property to the east, with a minimum width of five feet as illustrated on the Certified Preliminary Plan, subject to approval by MDSHA.
8. The record plat must show all necessary easements, including common ingress/egress and utility easements over all shared driveways.
9. The Planning Board accepts the recommendations of the City of Takoma Park Department of Public Works in its stormwater management concept letter dated January 19, 2017, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by City of Takoma Park Department of Public Works provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
10. The Applicant must include the stormwater management concept approval letter and Preliminary Plan Resolution on the approval or cover sheet(s).

11. The Adequate Public Facility (“APF”) review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of this Planning Board Resolution.

12. The certified Preliminary Plan must contain the following note:

Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of building permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.

13. Prior to certification of the Preliminary/Final Forest Conservation Plan 120160170, approved as part of this Preliminary Plan, the Applicant must:

- a. Include provisions for an ISA Certified Arborist who is also a Maryland Licensed Tree Care Expert to perform or directly supervise the driveway demolition and other work outside of the LOD; and
- b. Expand the invasive control program to address the invasive vines and plants throughout the subject property.

14. Before demolition, clearing, or grading on the Subject Property, the Applicant must record a Certificate of Compliance to use an off-site forest mitigation bank easement in the Montgomery County Land Records. The certificate of compliance must be in a form approved by the M-NCPPC Office of the General Counsel.

SECTION 2 – SITE DESCRIPTION

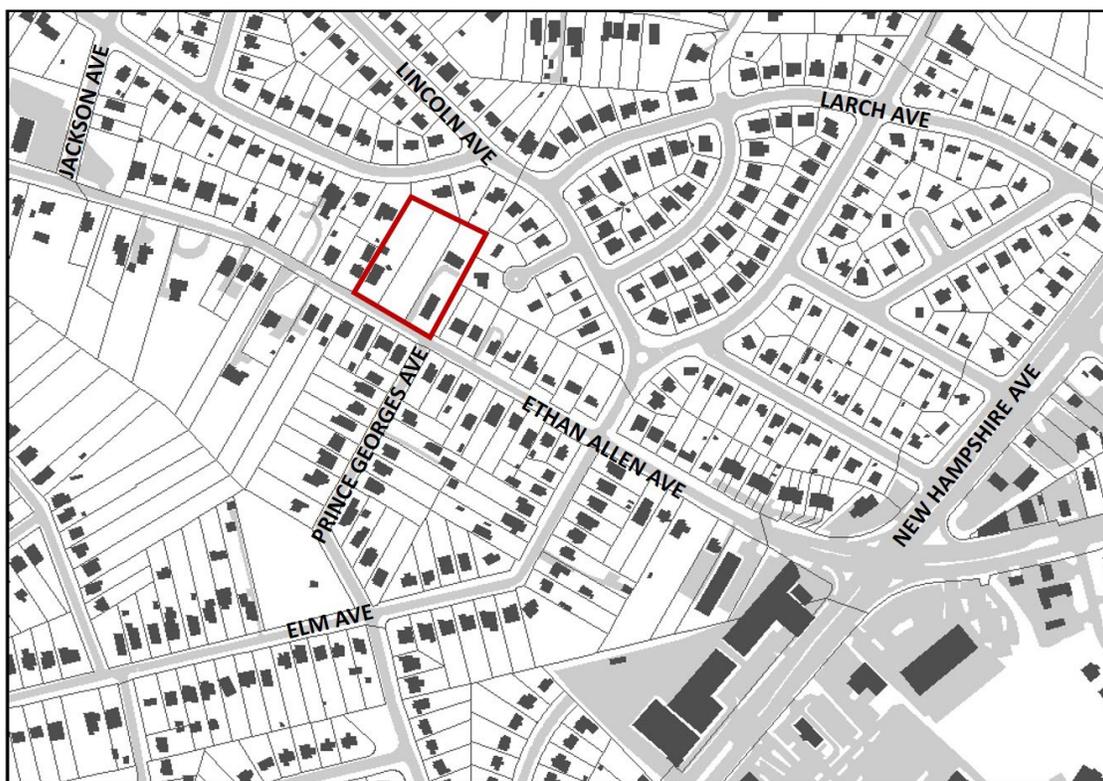


Figure 1 – Vicinity Map

Vicinity

The neighborhood surrounding the site consists of single-family homes, with Forest Park located to the south and Sligo Creek Park/Trail to the north. The Takoma Crossing commercial area is located approximately ¼ mile east at the intersection of Ethan Allen Ave and New Hampshire Ave. Ethan Allen Avenue, along the southern boundary of the site, is part of State Highway Route 410, which runs through the City of Takoma Park as Philadelphia Avenue, Carroll Avenue, Ethan Allen, and East-West Highway. The *Takoma Park Master Plan* identifies Ethan Allen Avenue as an arterial road, A-20, with a recommended minimum right-of-way of 50 feet for two lanes of traffic. The two lanes of traffic exist today, but the right-of-way varies from about 30 feet to about 70 feet, and is approximately 40 feet wide along the Property frontage.

Description

The site consists of three unrecorded tax parcels, numbered 26, 27, and 28 on the unrecorded Beales Subdivision (“Property”), and totals 65,250 square feet. This acre-and-a-half site extends into an irregularly shaped block and currently accommodates only two existing houses, with an undeveloped area in the middle. There are three existing driveways entering on the Property, with two serving the single-family dwellings and the third accessing the undeveloped area. The existing parcels of the subject property are particularly large relative to the surrounding properties, with a lot depth of approximately 300’, which is two or three times that of the adjacent lots.



Figure 2 – Aerial Map

The subject property contains several mature trees, however there are no environmentally sensitive features such as forest areas, stream buffers, wetlands, 100-year floodplains, or historic resources onsite. The site is within the Sligo Creek watershed which is a Use I¹ watershed.

SECTION 3 –PROPOSAL

The Applicant proposes to subdivide the Property to create five lots: two for the existing single-family dwellings, and an additional three lots for new construction of one single-family dwelling each. There is a large garage at the rear of one of the existing homes which will be demolished. The driveways that serve the existing single-family dwellings would remain. The existing driveway that accesses the undeveloped area will be demolished and a new shared driveway will be provided to serve the three new lots. The lot sizes will range from 8,300 square feet to 16,500 square feet, well above the 6,000 square foot minimum requirement for the R-60 zone.

The Applicant will be dedicating area along the property frontage on Ethan Allen Ave right-of-way to accommodate the Master Plan's recommended 50-foot right-of-way. The Applicant will also install 5-foot

¹ Use I: WATER CONTACT RECREATION, PROTECTION OF AQUATIC LIFE. 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; and industrial water supply.

sidewalks along the property frontage that will extend offsite to a bus stop located along the adjacent property to the east.



Figure 3 – Preliminary Subdivision Plan

City of Takoma Park Review

The Planning Staff and City Council of Takoma Park reviewed the application and recommended approval by Resolution number 2018-58 adopted on November 29, 2018, subject to City Stormwater Management and Tree Save approvals.

SECTION 4 – ANALYSIS AND FINDINGS

1. The Preliminary Plan substantially conforms to the Master Plan.

The Preliminary Plan substantially conforms to the recommendations within the December 2000 Takoma Park Master Plan (“Master Plan”). The Master Plan does not include site specific recommendations for the Subject property, however there are a number of general recommendations which relate to the site. The Master Plan recommends preserving the Urban Ring neighborhoods by retaining the existing single-family detached character throughout most of Takoma Park, acknowledging rights to develop existing properties and the need to improve the infrastructure of older neighborhoods by provision of sidewalks, curbs lighting, landscaping and other improvements.

The development will maintain the residential character of the neighborhood by providing only three new single-family homes, for a total of five on the existing property, which is large enough to theoretically yield 10 lots. The average lot size proposed is over twice the minimum, and the relatively moderate density of development proposed is in keeping with the character of the surrounding neighborhood.

Also, as conditioned, the development will improve the existing pedestrian infrastructure by providing a new sidewalk with street trees along the entire frontage and further eastward to connect with a nearby bus stop.

The Master Plan further recommends that new development provide enhanced landscaping and greenspaces, larger green areas, and stormwater management, and focuses on the implementation of urban forestry practices including the reduction of alien invasive plants.

As, conditioned, the project meets these recommendations by minimizing impacts to the larger trees on and near the site (no removal of variance trees is proposed), and by implementing special construction techniques and careful coordination with a contracted tree care professional to ensure that trees are appropriately protected throughout the construction. Furthermore, per the requirements of the City’s tree save plan, the Applicant will plant approximately four dozen new trees on site. An invasive species management program will also be implemented to address the considerable population of invasive plants and vines occurring in the project area.

2. Public Facilities will be adequate to support and service the area of the subdivision

The subject application generates fewer than 50 peak hour person trips and is therefore not subject to the Local Area Transportation Review (LATR). The proposed access concept and minimal increase in site-generated trips results in a development that is safe, adequate, and efficient. The *2000 Takoma Park Master Plan* designates Ethan Allen Avenue (MD 410) an arterial roadway (A-20) between Carroll

Avenue and New Hampshire Avenue (MD 650) with a minimum right-of-way of 50 feet and identifies the roadway as “a main connection between major regional bikeways.” The development is dedicating the necessary frontage to achieve this recommendation.

A pair of bus stops is located along the frontage of the abutting property at 500 Ethan Allen Avenue (westbound service) and on the opposite side of the street at the intersection of Ethan Allen Avenue/ Prince George’s Avenue (eastbound service). Transit service to these stops includes:

- Ride On 16 (Silver Spring/ Takoma Park)
- Metrobus F4 (New Carrollton – Silver Spring Line)

The three new residences will be served by the existing sewer, water and other utilities which exist along the property. Fire and rescue services has found the proposed site access to be adequate per the DPS approval stamped May 7, 2018. The additional trips generated by the new development are minimal and bus stop is located adjacent to the project area frontage. With a net of three new single family detached dwelling units, preliminary plan application #120160170 for Nucci Property falls within the de minimis (three units or less) exemption. Therefore, the project is exempt from the current residential development moratoria in the Montgomery Blair cluster and it is unnecessary to test the project’s estimated impact on school enrollment.

3. *The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development contemplated.*

The lots were reviewed for compliance with the dimensional requirements for the R-60 zone as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is included in Table 1 below.

Table 1: Development Standards

Standard	Required/Permitted	Proposed
Minimum lot size	6,000 sq ft	8,300 sf
Front setbacks	25 ft. min.	Must meet minimum
Side setbacks	8 ft. min., 18 ft. total	Must meet minimum
Rear setbacks	20 ft. min.	Must meet minimum
Min Lot Width at Front	25 ft.	Must meet minimum
Max Lot Coverage	35%	Must meet minimum
Max Building Height	35 ft max	Must meet minimum
Site Plan Required	No	No
MPDUs Required	No	No

4. *All Forest Conservation Law, Chapter 22A requirements are satisfied*

- a. Environmental Guidelines

The Planning Department approved a Natural Resource Inventory/ Forest Stand Delineation (NRI/FSD) for the project on July 13, 2015. The plan (# 420151200) identifies the existing man-made and natural features associated with the property such as the homes, driveways, trees and their associated canopy. The onsite setting currently includes two specimen trees measuring 34.5”

and 36" DBH and numerous other trees ranging in size from 5 to 24-inch DBH. The site topography is moderately sloping from the south to north. There are no known environmentally sensitive features such as rare threatened or endangered species, stream/buffers, 100-year floodplains wetlands, forests or known historical or cultural resources on site. The site is within the Sligo Creek watershed which is a Use I² watershed.

b. Forest Conservation Plan

For Forest Conservation purposes the project has a 1.60-acre net tract area, which includes 1.50 acres of onsite area, plus 0.10 acres of offsite limits of disturbance (LOD) for utility and sidewalk connections. There is no forest onsite or immediately adjacent to the property, however there is an afforestation requirement of 0.24 acres. The Applicant is proposing to meet all of the forest conservation requirements offsite and Staff is recommending a related condition of approval for the use of a certificate of compliance for an offsite bank. Staff also has a recommended condition of approval for the offsite requirements to be appropriately satisfied and recorded prior to any clearing, grading or demolition within the project area.

The forest conservation plan includes a tree save plan component that has also been coordinated through the City of Takoma Park. Per the requirements of the City's tree save plan, the Applicant will plant approximately four dozen new trees on site. The tree plantings will provide numerous benefits including screening however, Staff notes that plantings are not formally tied to forest conservation or variance mitigation planting requirements.

c. Forest Conservation Tree Variance

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

² Use I:

WATER CONTACT RECREATION, PROTECTION OF AQUATIC LIFE. 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; and industrial water supply.

Variance Request - The Applicant submitted a variance request in a letter dated August 27, 2018, for the impacted trees. The Applicant proposes to impact five subject trees (Protected Trees) that are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law. Details of the Protected Trees to be affected but retained are listed in Table 2 below.

Table 2: Trees to be Impacted, but Retained

Tree Number	Species	DBH Inches	CRZ Impact	Notes
106	Chestnut Oak	36	20%	Located on Proposed Lot 2
A	Oak	40	5%	Offsite tree
C	Oak	30	11%	Offsite tree
D	Oak	33	10%	Offsite tree
E	Oak	30	6%	Offsite tree

Unwarranted Hardship Basis - Per Section 22A-21, a variance may only be considered if the Planning Board finds that leaving the Protected Trees in an undisturbed state would result in an unwarranted hardship, denying an applicant reasonable and significant use of a property. In addition to the required findings outlined numerically below, the Staff notes that failure to grant the variance would result in an unwarranted hardship because the new development is supported by the existing zoning and Master Plan, and proposed disturbance is strategically located in a manner that avoids removal of any subject trees and minimizes impacts which will be appropriately addressed with tree preservation and stress reduction measures. Staff has reviewed this Application and finds that there would be an unwarranted hardship if a variance were not considered.

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

Granting of the requested variance:

1. *Will not confer on the applicant a special privilege that would be denied to other applicants.*

Granting the variance will not confer a special privilege on the Applicant as the disturbance to the Protected Trees is due to the reasonable development of the Property which is supported by the existing zoning and Master Plan. The proposed disturbance is strategically located in a manner that avoids removal of any subject trees and minimizes impacts which will be appropriately addressed with tree preservation and stress reduction measures. Furthermore tree 106 which is the most impacted tree, will likely be in an improved condition after the development as the invasive vines which are now adversely affecting the tree will be addressed as part of the plan implementation.

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

The need for the variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based on proposed development allowed under the existing zoning and Master Plan.

- 3. Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested variance is a result of the current application on the subject property and is not related to land or building use on a neighboring property.

- 4. Will not violate State water quality standards or cause measurable degradation in water quality.*

The variance will not violate State water quality standards or cause measurable degradation in water quality. The City of Takoma Park approved the storm water management (SWM) concept for the project on January 19, 2017. The SWM concept proposes to meet required storm water management goals using drywells and a bio-swale. Staff notes the application does not propose the removal of any subject trees and includes the plantings of approximately 44 new onsite trees as required by the city of Takoma Park. In addition to the retained tree the new plantings will help with water quality by reducing runoff, providing shading/cooling and provide evapotranspiration and infiltration. Therefore, the project will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Protected Trees – There are five trees proposed for impacts in association with the Application, and no subject trees are proposed for removal. Each of the trees are modestly impacted (most of the impacts are 5-11 % with one tree proposed for 20% impact) and appropriate retention of the trees is anticipated, therefore, no mitigation plantings are required.

County Arborist's Recommendations

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The variance request has been available for the County Arborists review; however, a response has not been provided as of the writing of this report.

Variance Recommendation - Staff recommends that the variance be granted.

- 5. All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied*

The Preliminary Plan Application meets the stormwater management requirements of Chapter 19 of the County Code. The Applicant received a stormwater concept approval from The City of Takoma

Park Department of Public Works on January 19, 2017. The Application will meet stormwater management goals through a variety of techniques including drywells and a bio-swale.

SECTION 5 – CITIZEN CORRESPONDENCE AND ISSUES

The Applicant has met all proper signage, noticing and pre-submission meeting requirements for the submitted Applications. A pre-submission meeting for the Preliminary Plan was held on September 10, 2015 at the Takoma Park Community Center.

Staff received two letters of concern from residents during review of the Application. One letter opposes the project due to a potential change in character of the area, stating that the neighborhood was established over 50 years ago and has developed a unique character based on property lines, house development and tree preservation. The letter also cited that the three new houses would significantly impact traffic along Ethan Allen Avenue.

As discussed above, each of the lots is well over the minimum lot size, with the average of all of the lots being more than twice the 6,000 square foot minimum. The proposal to redevelop this unusually large property with three new homes will be in keeping with the residential character of the neighborhood and will provide additional housing in this desirable Urban Ring community. Also, as stated in the findings for Public Facilities and Transportation, the addition of three single family dwellings is too small to warrant traffic review and the Applicant will be adding sidewalks and street trees along Ethan Allen Avenue. Additionally, the tree protection and planting plans are robust and will appropriately address tree protection and screening.

The second letter suggests modifying the driveway design to implement a public street square off the drive and dedicate the roadway to the City of Takoma Park, to reflect a street grid that is more consistent with the surrounding road network, instead of creating a private driveway to serve the three new lots to Secondly, the letter requests that the houses be constructed in a similar style of the surrounding historic homes.

The neighborhood street network is organic in arrangement, not rectilinear. The site occupies a “wide spot” in the block, allowing a central shared drive, but does not extend through the block so as to facilitate a connection with the nearby grid. Additionally, while staff echoes the sentiment that the architecture of the new homes should reflect well upon the surrounding neighborhood character, the Preliminary Plan alone does not have a mechanism to address architecture beyond building restriction lines and the site is outside the nearby historic district.

SECTION 6 – CONCLUSION

The proposed lots meet all of the requirements established in the Subdivision Regulations and the Zoning Ordinance and conforms to the recommendations of the 2000 *Takoma Park Master Plan*. Access to the lots is adequate and all public facilities and utilities have been deemed adequate to serve this Application. The Application was reviewed by other applicable County agencies, all of whom have recommended approval of the plans. Therefore, staff recommends approval of the Application, with the conditions as specified.

ATTACHMENTS

Attachment 1 – City of Takoma Park Resolution No. 2018-58

Attachment 2 – Agency Letters

Attachment 3 – Variance Request

Attachment 4 – Citizen Correspondence

Introduced by: Councilmember Dyballa

CITY OF TAKOMA PARK, MARYLAND

Resolution No. 2018-58

**Resolution Providing Comment on the Subdivision Application of
430-434 Ethan Allen Avenue**

WHEREAS, the owner of the property at 430-434 Ethan Allen Avenue (Plan #120160170) has submitted an application to the Montgomery County Planning Board for the subdivision of two existing parcels for the purpose of creating five residential lots with three new houses; and

WHEREAS, an engineering firm representing the property owner presented the site plan for the subdivision to Council on November 14, 2018; and

WHEREAS, the Takoma Park City Council plays an important role in the review of development applications in the City by considering the intent and potential impacts on the community and formally commenting on these impacts to the Montgomery County Planning Board; and

WHEREAS, the Council supports the construction of additional housing in the City to accommodate housing demand and improve quality of life for residents; and

WHEREAS, a stormwater management plan and tree protection plan for the site have been submitted and approved by City Staff; and

WHEREAS, the proposed subdivision adheres to Montgomery County Zoning Code requirements for R-60 residential lots;

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Takoma Park, recommends approval of the subdivision application as proposed.

Adopted this 29th day of November, 2018.

Attest:


Jessie Carpenter, CMC
City Clerk

City of Takoma Park

DEPARTMENT OF PUBLIC WORKS

Telephone: 301-891-7633

FAX: 301-585-2405



31 Oswego Avenue
Silver Spring, MD 20910

January 19, 2017

Mr. Richard McGill
19634 Clubhouse Road
Gaithersburg MD 20866

Subject: SWM Concept Approval
Application SWC-16-12-01 - Nucci property 430,432 & 434 Ethan Allen Avenue
Takoma Park, MD

Dear Mr. Richard McGill, P.E.:

The referenced Concept Approval application and response package submitted on December 7, 2016 was found acceptable. An approved tree protection plan or waiver by the City Arborist is necessary for validating this concept. Please refer to Takoma Code Title 16 for a complete description of stormwater management plan permit requirements. A list of SWM permit requirements is presented below for your reference.

1. Completed SWM permit application
2. Three (3) copies of the final SWM plans
3. One copy of approved sediment and erosion control plan (Montgomery County)
4. SWM facilities construction cost estimate for the purpose of setting the Bond
5. A performance bond equal to approved construction cost estimate of the SWM facilities
6. Complete declaration of covenants inspection/maintenance of stormwater management system
7. A maintenance schedule developed for the life of SWM facilities shall be installed on the plans
8. Schedule for staged inspection and reports (Takoma Code 16.04.210, 16.04.260)

9. A letter of designation of inspection / as -built certification entity.

Upon completion of the project and prior to Bond release, an “As-Built” plan of the SWM facilities (item 9. Above), along with certification by a professional engineer, shall be submitted to this department. Takoma Park Code Section 16.04.30 provides that *“The City Manager, at his or her sole discretion, may accept the certification of a registered professional engineer licensed in Maryland in lieu of any inspection during construction required by this chapter.”*

Under this option, we request that you provide the name of the professional engineer registered in Maryland who would be performing inspection and certification for all the stages of construction described in the referenced section of the Takoma Code, including preparation and presentation of the final “As Built” plans and certifications.

I appreciate the opportunity to be of service. Should you require additional assistance, please call the undersigned at 301-891-7620.

City of Takoma Park
Department of Public Works

Sincerely yours,


Ali Khalilian, P.E.
City Engineer

cc: Daryl Braithwaite
City Arborist
File
Planning office (Erkin02Bek)

Attachments

- #1: Requirements for Completing Performance Bond Standard Form
- #2: Performance Bond
- #3: Bond Submittal Form
- #4: Declaration of Covenants – Inspection/Maintenance of Stormwater Management System
- #5: As Built Certification



Department of Permitting Services
Fire Department Access and Water Supply Comments

DATE: 07-May-18
TO: Karen Carpenter - karencarpenter@kimengineering.
Kim Engineering
FROM: Marie LaBaw
RE: Nucci Property
120160170

PLAN APPROVED

1. Review based only upon information contained on the plan submitted **07-May-18**. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.



August 27, 2018

Marco Fuster
MNCPPC
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Nucci Property
Forest Conservation Plan-Variance Request
Preliminary Plan No.:120160170
Kim No. 1024

Dear Mr. Fuster:

On behalf of Burger Properties, LLC, Kim Engineering, Inc. is requesting a variance for the impact to the critical root zone of 1 on site specimen trees and 4 off site specimen trees, all 30 inches or greater in dbh, as required under Section 22A-21 of Montgomery County's Forest Conservation Law. The impact of these trees is necessary in association with the development of the above referred property, which is located in Takoma Park, MD.

The property contains numerous existing trees and grassed areas but no forested areas. The significant and specimen trees were identified and shown on the NRI/FSD. The site is bordered on the north, east and south by existing residential communities. Some of the areas immediately adjacent to the east and south contain trees greater than 30" in diameter near the property line, which are also the subject of this variance request. Specifically, tree A is located on adjacent lot 19, tree C is located on adjacent Outlot A and trees O and D are located on adjacent lot 6.

The specimen trees identified in this variance request for critical root zone impact are shown on the FFCP. The trees and/or their critical root zones to be impacted are located within the limits of disturbance and have impacts to their critical root zone.

The site design is constrained by the existence of two single family house, which are located on the eastern and western edges of the property along the Ethan Allen frontage. The property has approximately 220 feet of frontage on Ethan Allen Avenue, the existing public roadway. The site is bounded by existing residential lots on the west north and east sides. The proposed lot layout was coordinated with these existing conditions. In particular, the three new houses and lots are orientated to provide a layout that orients front yard to front yard and rear yard to rear yard as preferred by staff. The variance trees are located along the perimeter of the site and on adjacent properties. The lots are centered on the site to minimize impacts to these trees. Therefore the lot layout was established by honoring these design constraints and objectives.



Efforts were made to protect the existing specimen trees whenever possible. The three proposed houses were sited to minimize the impact on existing trees, in particular the existing specimen trees. Of the existing 12 specimen trees on the property or in close proximity, only 5 have critical root zone impact and all specimen trees are proposed to remain.

The following is a description of the specimen trees proposed to be saved, with impacts to their critical root zone areas. In most cases, the root zone impact is less than 15 percent. (See Exhibit A for a list of trees)

The majority of the existing trees located on adjacent lots will not have impacts to their critical root zones. Table 1, below, lists the specimen trees as they are identified on the Forest Conservation Plan and provides their impacts and proposed tree care methods.

TABLE 1

ON SITE SIGNIFICANT/SPECIMEN TREE LIST							
NUMBER	COMMON NAME	SCIENTIFIC NAME	DBH (inches)	CONDITION	SPECIMEN TREE	PERCENT ROOT ZONE DISTURBED	RECOMMENDATION
106	CHESTNUT OAK	QUERCUS PRINUS	36	GOOD	YES	20	SAVE, ROOT PRUNE, APPLY MYCORRHIZAL INOCULANT, WATER AS DIRECTED BY ARBORIST. LOCATED ON PROPOSED LOT 2
OFF SITE SIGNIFICANT/SPECIMEN TREE LIST							
NUMBER	COMMON NAME	SCIENTIFIC NAME	DBH (inches)	CONDITION	SPECIMEN TREE		
A	OAK	QUERCUS	40	GOOD	YES	5	SAVE, IF ARBORIST DETERMINES IT IS APPROPRIATE, ROOT PRUNE, APPLY MYCORRHIZAL INOCULANT AS PERMITTED BY PROPERTY OWNER. LOCATED OFF SITE ON ADJACENT LOT 19, SOUTHSIDE OF ETHAN ALLEN AVE.
C	OAK	QUERCUS	30	FAIR, MANY BROKEN BRANCHES	YES	11	SAVE, ROOT PRUNE, APPLY MYCORRHIZAL INOCULANT AS PERMITTED BY PROPERTY OWNER. LOCATED OFFSITE ON ADJACENT OUTLOT A, EAST OF THE PROPERTY
D	OAK	QUERCUS	33	GOOD	YES	10	SAVE, ROOT PRUNE, APPLY MYCORRHIZAL INOCULANT AS PERMITTED BY PROPERTY OWNER. LOCATED OFFSITE ON ADJACENT LOT 6, EAST OF THE PROPERTY. MINOR TREE LIMB PRUNING OF LIMBS THAT OVERHANG THE AREA OF LOT 4 HOUSE CONSTRUCTION AS DIRECTED BY ARBORIST.



O	OAK	QUERCUS	30	GOOD	YES	6	SAVE, ROOT PRUNE, APPLY MYCORRHIZAL INOCULANT AS PERMITTED BY PROPERTY OWNER. MINOR TREE LIMB PRUNING OF LIMBS THAT OVERHANG THE AREA OF LOT 4 HOUSE CONSTRUCTION, AS DIRECTED BY ARBORIST. LOCATED OFFSITE ON ADJACENT LOT 6, EAST OF THE PROPERTY.
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Tree 106

Trees 106 is located within proposed lot 2. This tree is a 36" Chestnut Oak and is in good condition. The proposed house on Lot 2 is sited to minimize grading and impact to the critical root zone. The proposed dry wells are located outside of the critical root zone. This lots and the proposed house cannot be adjusted in a meaningful way to further minimize impact to the critical root zone. The plan proposes 20% impact to the critical root zone of this tree. The 20% CRZ impact has been reduced from the 24% CRZ impact that was previously proposed. Root pruning and the application of Mycorrhizal inoculant and supplemental watering, as directed by the arborist, are proposed to offset these impacts.

Tree A

Tree A is an existing 40-inch Oak located on Existing Lot 19 on the south side of Ethan Allen Avenue. This tree is in good condition. Five percent of the CRZ will be impacted by the proposed water and sewer house connections and the sidewalk improvements along the property frontage. This tree will be saved due to the minimal impact to its CRZ and proposed root pruning and the application of Mycorrhizal inoculant as permitted by the property owner. Due to the tree's location on the south side of Ethan Allen Avenue, the arborist will evaluate and determine the extent of mitigation measures at the preconstruction meeting.

Tree C

Tree C is a 30-inch Oak in fair condition which is located on adjacent Outlot A. The grading impact to the critical root zone is minimal fill and is limited to 11% of the critical root zone. The 11% CRZ impact has been reduced from the 16% CRZ impact previously proposed. This tree will be saved. Root pruning and the application of Mycorrhizal inoculant are proposed to offset these impacts, as permitted by the property owner.

Trees D and O

Trees D and O are attractive trees in fair and good condition located on adjacent Lot 6 and will be retained. Tree D, an existing 33-inch oak, requires a variance, due to the proposed impact to 10% of its critical root zone. The proposed grading shows minor impacts to its critical root zone. The 10% CRZ impact has been reduced from the 16% CRZ impact previously proposed. Tree O, a 30-inch oak, also requires a variance due to minor grading impacts to its critical root zone. Approximately 6% of its critical root zone will be impacted. The 6% CRZ impact has been reduced from the 11% CRZ impact previously proposed. The



proposed houses and the bioswale located nearby, have been adjusted to minimize the critical root zone impacts to allow the trees to remain but a variance is required. The drywells have been located to avoid impact to the critical root zone of the specimen trees. These trees will be saved. Root pruning and the application of Mycorrhizal inoculant are proposed to offset these impacts, as permitted by the property owner. In addition, minor pruning of overhanging limbs may be performed as determined by the arborist, to allow for house construction on lot 4.

Trees 105, B, E, I, K, M, and P do not require a variance, because there is no proposed root zone disturbance.

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

The subject property consists of three small parcels with a gross area of 1.5 acres and is rectangular in shape. It is located on the north side of Ethan Allen Avenue, north of the intersection with Prince George's Avenue in the City of Takoma Park. The property is currently improved with two existing homes. The first home is located on the western edge of the property and has a detached garage. Both the house and garage are to remain. The second existing home is located on the eastern edge of the property. This lot also has an existing garage. Only the existing home will remain. The property is zoned R-60. The small size of the proposed and existing lots, the owner's desire to retain the two existing houses, the slope of the land away from Ethan Allen Avenue, and the requirement to provide a common fire department accessible driveway renders it nearly impossible to develop the three proposed homes without disturbing some of the critical root zone of the existing trees. Two of the major themes of the Takoma Park Master Plan that apply to residential development are "Community Preservation, Stability and Character – Preserve existing residential character, encourage neighborhood reinvestment and enhance the quality of life throughout Takoma Park and Neighborhood Friendly Circulation – Accommodate local and regional traffic, while providing safe, pleasant, and convenient access to the places people want to go." By taking care to establish a good relationship between the proposed houses and the existing houses, providing the sidewalk along the property frontage that connects to the existing bus stop and providing new housing opportunities these goals will be met by the proposed plan. It should be noted that the new lots are centered on the property to avoid and/or minimize impact to the existing trees to the greatest extent practicable. This variance is necessary to achieve the master plan densities, to meet the master plan goals for residential areas, to provide the sidewalk connection to the existing bus stop, and to provide the required setbacks and relationships to the existing neighborhood, provide service connection to the existing water and sewer lines and to meet stormwater management requirements.



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

As described above, the property is zoned R-60, is in an urban neighborhood and has two existing houses which are proposed to remain. The inability to disturb any of the critical root zones of the existing trees would cause the property to be un-developable as recommended by the master plan. Efforts have been undertaken during the design phase to limit the grading and disturbance within the critical root zone areas of the trees subject to the variance request, 4 of which are located on adjacent properties. Considering the size and configuration of the property and the requirement to retain the two existing homes, the proposed lots and home locations cannot be adjusted in a meaningful way to avoid impacts to the critical root zones. The same criteria has been applied to similar projects where CRZ disturbance is unavoidable. Therefore, the potential inability to impact the critical root zones of the existing specimen trees would create a significant disadvantage for the applicant that deprives the applicant of the opportunities afforded to the neighboring or similar properties that have not experienced this unique review and approval process.

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

The critical root zones of the specimen trees that are proposed to be impacted are not within a stream buffer, wetland or a special protection area. Kim Engineering has prepared a Stormwater Management Concept which has been approved by the Public Works Department of the City of Takoma Park, MD, application number SWC-16-12-01. That concept proposes to address stormwater management requirements through Environmental Site Design, by providing dry wells and a bioswale, therefore State water quality standards will not be violated or a measurable degradation in water quality will not occur as a result of the granting of the variance request.

- 4. Provide any other information appropriate to support the variance.*

Please note that no specimen trees are proposed to be removed, in fact, the proposed disturbance to the 5 existing specimen trees is minimal and can be mitigated by root pruning and the application of Mycorrhizal inoculant. Also note that the proposed disturbance to tree A is due to the proposed new sidewalk along the frontage of the property. this sidewalk will provide a safe place for pedestrians to travel along this portion of Ethan Allen Avenue and allow safe travel to the existing sidewalk and bus stop.

Also note that the applicant will be planting 44 new trees on the property as required by the City of Takoma Park. A copy of that plan is included with this letter. These trees will provide shade and aesthetic benefit to the property and the community. These trees will also help to improve water quality at the site by reducing runoff and erosion, providing shade to reduce the temperature of the runoff and promote overland filtering, evapotranspiration and infiltration.



Thank you for your consideration of this Tree Variance request. In summary, we believe that the information provided in this letter justifies the variance to impact the critical root zone of five (5) specimen trees that are to be preserved.

Sincerely,

A handwritten signature in blue ink that reads "Karen V. Carpenter". The signature is fluid and cursive, with a large initial "K" and "C".

Karen V. Carpenter, RLA
Senior Project Manager
Kim Engineering, Inc.

cc: Marcello Nucci – Burger Properties LLC

Enclosure: Landscape Plan for Tree Replacement



Jeff Tessin <jtessin121@gmail.com>

Braunstein, Neil

1/4/2016

Nucci property development

i You replied to this message on 1/5/2016 2:08 PM.



Dear Mr. Braunstein,

I received a copy of the preliminary plan for developing the Nucci property on Ethan Allen Avenue in Takoma Park (proposal number 120160170). I own the neighboring property at 501 Ethan Allen Ave.

Generally speaking, the plan seems to be a reasonable development proposal for the neighborhood. The proposed houses and driveway do not appear to destroy trees, vegetation, and wildlife habitat, which is an important criterion in my opinion. The houses also make effective use of existing infrastructure and likely would not substantially increase traffic congestion. The size of the new houses seems appropriate, given the other houses on the street.

I have two concerns with the proposal, however. First, the development appears to use a private, shared-access driveway to serve the three new houses. This is a cul-de-sac style plan that does not reflect Ethan Allen Ave and the surrounding neighborhood, which was developed in the 1920s using a grid of public streets and sidewalks. I would prefer a plan where the street would be squared off and annexed as a Takoma Park public right of way, with public sidewalks on at least one side. Residents on the north side of Ethan Allen Ave have often been concerned about the lack of a sidewalk, and this development should provide public infrastructure.

Second, the design of the houses should reflect the surrounding historic buildings. Although this part of Ethan Allen Ave is not part of the Takoma Park Historic District, it is adjacent to it and contains many historically valuable houses from the 1920s. There has been tear-down development near Jackson Ave that has replaced small Cape Cods with large McMansions. The development at the Nucci property should emphasize historic styles that blend with other houses on Ethan Allen Ave, without using suburban subdivision architecture that makes the houses look identical, uses standardized materials like beige vinyl siding, has large attached garages facing the street, and so on.

Many thanks for the opportunity to review this development.

Sincerely,

Jeff Tessin
501 Ethan Allen Avenue
Takoma Park

907 Larch Avenue
Takoma Park, MD 20912
January 20, 2016

Neil Braunstein, Lead Reviewer
Maryland National Capital Park and Planning Commission, DAIC
8787 Georgia Ave.
Silver Spring, MD 20910-3760

Dear Mr. Braunstein:

I have seen the proposed development at 430-434 Ethan Allen Avenue to reconfigure three house lots to become five house lots and build three new single family houses in addition to the existing two houses. I am opposed to this proposed development.

This neighborhood was established more than 50 years ago and has developed a unique character based on the original property lines, house development, and tree preservation. People bought their houses with the expectation that the established neighborhood and their property values, which depend on the established neighborhood, would be preserved.

One of the properties in question has already been enlarged so that it is approximately four times the size of the original home. Impervious surfaces have been significantly increased and 200 year old oaks have been destroyed in the construction process. There was nothing wrong with the oaks before construction. The proposed new homes would be very close to the back of the existing houses on Boyd Avenue, significantly diminishing the quality of life and home values for those properties. In addition, three new homes—and the construction activity to build them—would significantly impact traffic on Ethan Allen Avenue, which is already very narrow and very backed up during rush hours. The additional traffic would cause drivers to cut through even more narrow neighborhood streets, endangering residents and their vehicles.

This neighborhood is zoned R-60. Not R-90 or R-120. A property owner does not have the right to build for their own personal gain at the expense of his neighbors. This proposed development is simply not appropriate for this neighborhood.

I urge you to protect our neighborhood and our property values by denying this development proposal.

Sincerely,



Catherine S. Tunis

