



**Preliminary Plan Amendment No. 12010003A Brooke Park, Parcel A**

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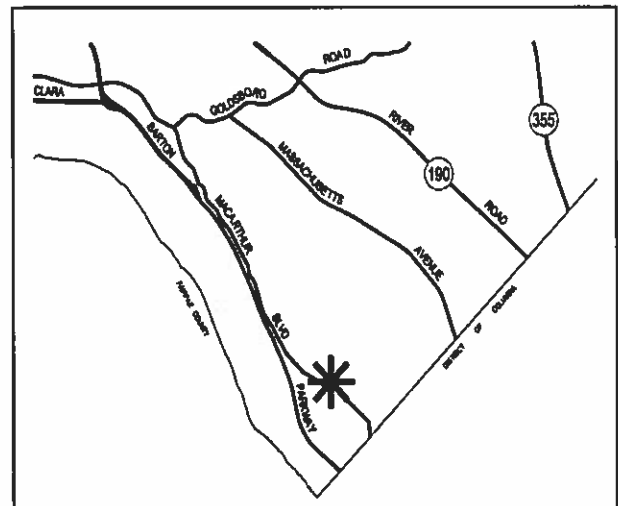
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Staff Report Date: July 9, 2018

**Description**

- Request to amend an approved Preliminary Plan to keep the existing multi-family building
- Address: 6301 MacArthur Boulevard
- Size: 1.071 ac
- Zone: R-30
- Master Plan: 1990 *Bethesda-Chevy Chase*
- Applicant: Housing Opportunities Commission of Montgomery County
- Date Accepted: January 29, 2018
- Review Authority: Chapter 50, (2017) Chapter 22A



**Summary**

- The Applicant, Housing Opportunities Commission (HOC) of Montgomery County, will renovate the existing multi-family building. HOC will redevelop, lease, and own all 17 units as Moderately Priced Dwelling Units (MPDUs).
- Staff recommends **Approval** of Preliminary Plan Amendment No. 12010003A for one platted parcel with conditions.
- Staff recommends **Approval** of the submitted Forest Conservation Plan and the variance request.
- In accordance with Chapter 50, Subdivision Regulations, Section 50.4.1.E this Application received a Planning Director extension postponing the hearing date from March 23, 2018, to May 8, 2018 and a Planning Board extension postponing the hearing from May 8, 2018 to July 19, 2018.

## SECTION 1 – RECOMMENDATION

**Recommendation:** Staff recommends approval of Preliminary Plan Amendment No. 12010003A, Brooke Park, Parcel A, Property, for one (1) lot subject to the following conditions. All site development elements shown on the latest electronic version as of the date of this Staff Report submitted to the M-NCPPC are required, except as modified by the condition of approval. The following development conditions supersede the previously approved conditions for Preliminary Plan No. 120100030.

1. Approval is limited to one residential parcel for one-multi-family building and a maximum of 17 units.
2. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS) – Water Resources Section in its stormwater management concept letter of April 18, 2018, 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 MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
3. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its letter dated April 30, 2018, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Preliminary Plan approval.
4. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated May 4, 2018 and does hereby incorporate 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 MCDOT, provided that the amendments do not conflict with other conditions of the Preliminary Plan.
5. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
6. The Applicant must construct all road improvements within the rights-of-way shown on the approved Preliminary Plan to the design standards imposed by all applicable road codes.
7. 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 resolution.

8. The Applicant must comply with the Final Forest Conservation Plan, including the following:

- a. Prior to record plat, the Applicant must record a Category II Easement as shown on the Certified Final Forest Conservation Plan by deed in a form approved by the M-NCPPC Office of General Counsel.
- b. Prior to any clearing, grading or demolition necessary to within the project area, the Applicant must submit a fee-in-lieu payment or certificate of compliance which satisfies the offsite 0.03-acre afforestation credit requirements or as shown on the certified Final Forest Conservation Plan. If a certificate of compliance is used, the M-NCPPC approved document must be recorded in the Land Records of Montgomery County prior to any clearing, grading, or demolition.
- c. Prior to clearing grading or demolition within the project area, the Applicant must install a split-rail fence along the entire length of the Category II Easement along the northern property line.
- d. Prior to Staff certification of the Final Forest Conservation Plan, the Applicant must address the following:
  - i. Minor corrections and clarifications of details, notes, tables specifications, formatting etc.
  - ii. Show all of the credited tree canopies drawn to scale, so Staff can more readily confirm that the appropriate credit is correct and accurate.
  - iii. Integrate the Soil Profile Rebuilding specifications into the plans.
  - iv. Final locations of the soil restoration areas. Provide an inset or other graphics to map the extent of the soil restoration work.
  - v. Provide at least one more tree in the proposed Category II at the southwest tip of the Subject Property.
  - vi. Provide supplemental plantings along the northern property line to comply with Section 59.6.5.3.C.5, Option A of the Zoning Ordinance, subject to Staff approval.
  - vii. An ISA certified arborist must sign and certify the final Tree Save Plan (in addition to the Qualified Professional and/or or Landscape Architect).
- e. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan as certified by Staff. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspector. The Applicant must provide mitigation for the loss of trees requiring a variance in the form of seven (7) native canopy trees with a minimum size of three (3) caliper inches. The trees must be planted on the Subject Property outside of the conservation easement areas and be at least five feet outside of any right-of-way, or utility easements, including stormwater management easements, installation must occur within 6 months of construction completion.
- f. The Applicant must ensure that the Limits of Disturbance shown on the final Sediment Control Plan are consistent with the Limits of Disturbance shown on the Final Forest Conservation Plan.

9. Prior to the certification of the Preliminary Plan and Final Forest Conservation Plan the Applicant must provide a revised noise analysis addressing all applicable noise sources/roadways and be based on on-site field recordings, made during representative time periods. The analysis must also show the existing and 20-year projected noise contours and also address the proposed mitigation techniques.
10. Prior to issuance of a building permit for any residential dwelling unit(s) within the projected 65 dBA Ldn noise contour, the Applicant must provide Staff with certification from an engineer specializing in acoustics that the building shell has been designed to attenuate projected exterior noise levels to an interior level not to exceed 45 dBA Ldn.
11. Before issuance of use and occupancy permit for residential units, the Applicant must obtain certification that the noise impacted units have been constructed in accordance with the recommendations of an engineer that specializes in acoustical treatments. The certification must be based on the testing of at least two representative residential units.
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) or site plan approval. 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 Staff certification of the Preliminary Plan Amendment, the Applicant must include: the stormwater management concept approval letter, MCDOT recommendation letter, and Preliminary Plan resolution in the plan set or on the cover sheet(s).
14. Prior to Issuance of building permits and any clearing, grading or demolition on the Subject Property, the Applicant must record a new record plat reflecting the new Category II Conservation Easements and removing the common access easement on the Subject Property.

## SUMMARY

On December 10, 2010, the Planning Board approved Preliminary Plan 120100030 for one platted parcel on 1.18 acres of land in the R-30 Zone. The existing multi-family building on the property was to be gutted and two stories were to be added to the existing shell to create a 10-unit condominium structure. A record plat (#24588) was recorded for the Project on May 8, 2013. Subsequent to recording the plat, the property owner sold the site to the Housing Opportunities Commission (HOC) of Montgomery County. Attachment A contains a copy of the Planning Board resolution for 120100030 and the record plat.

At the time of record plat, the Property was to be developed as a condominium regime with a Homeowners Association. Under this Amendment, there will be no Homeowners' Association as the property will be owned and maintained by HOC. Therefore, the Applicant will need to record another plat for the Property to remove Note 9 which reads as follows:

*9. The private drives parking areas, sidewalks, and open space areas located on Parcel A will be maintained by the Homeowner's Association (H.O.A) Montgomery County Maryland will not participate in the maintenance of these private facilities.*

## SECTION 2 – SITE LOCATION AND DESCRIPTION

### Site Location

The Subject Property ("Property" or "Site") is located at the northwest quadrant of the intersection of Sangamore Road and MacArthur Boulevard in Bethesda. The surrounding area is developed with one-family detached housing units in the R-60 and R-90 zones. The Intelligence Community Campus - Bethesda (ICC-B), a federal facility zoned R-90 and The Shops at Sumner Place, a commercial shopping center zoned NR 0.75 (Neighborhood Retail 0.75) are located north of the site. The Property is the Little Falls Watershed, a use I-P watershed.



Figure 1: Vicinity Map (Subject Site outlined in blue)

### Site Description

The Property consists of approximately 1.07 acres of R-30 (Residential Multi-Family Unit - Low Density) zoned land. It is a triangularly shaped Property with approximately 183 feet of frontage on Brookes Lane, 133 feet of frontage Sangamore Road and approximately 414 feet of frontage on MacArthur Boulevard. Presently, the Property is developed with a multi-family building consisting of 17 apartments and an unmarked surface parking area. The building's entrance and surface parking area with its two vehicular access points faces onto Brookes Lane. The property slopes down from Brookes Lane to a flat area where the existing apartment building is sited; the property then slopes down again to meet MacArthur Boulevard. Landscaping and mature trees exist around the building's foundation, throughout the property and along the property line abutting the residential properties to the north.







*Figure 3: Entrance to Existing Building on Brookes Lane*

### **SECTION 3 – PROPOSAL**

#### **Proposal**

The Property was recorded on May 8, 2013 in the county land records as Plat No. 24588, Parcel A, Brooke Park. Initially, the Applicant proposed 18 multi-family units for this property; but 18 units would exceed the density of 14.5 dwelling units/acre (dac) that is permitted under the R-30 Zone. The Applicant is now proposing 17 multi-family units for the property which equals a density of 14.4 du/acre which is consistent with the development standards in the R-30 zone.

Under this Amendment, the Applicant will renovate for the existing 17 multi-family units. All the units will be developed as MPDUs that will be leased and maintained by HOC. The parking area will be reconstructed. A retaining wall, varying in height from 5 feet to 8.5 feet, will be constructed along the northern edge of the parking area. The new parking area will accommodate 13 vehicle parking spaces. Bicycle parking spaces are not required for multi-family developments with less than 20 units.



New landscaping and screening measures including shade and ornamental trees are proposed along the northern lot line abutting residentially developed properties. New deciduous and evergreen shrubs will supplement the existing foundation plantings. Category II Forest Conservation Easements are proposed on MacArthur Boulevard at the southeast and southwest corners of the property. Finally, a variance request has also been submitted for removal and impacts to several on-site trees.

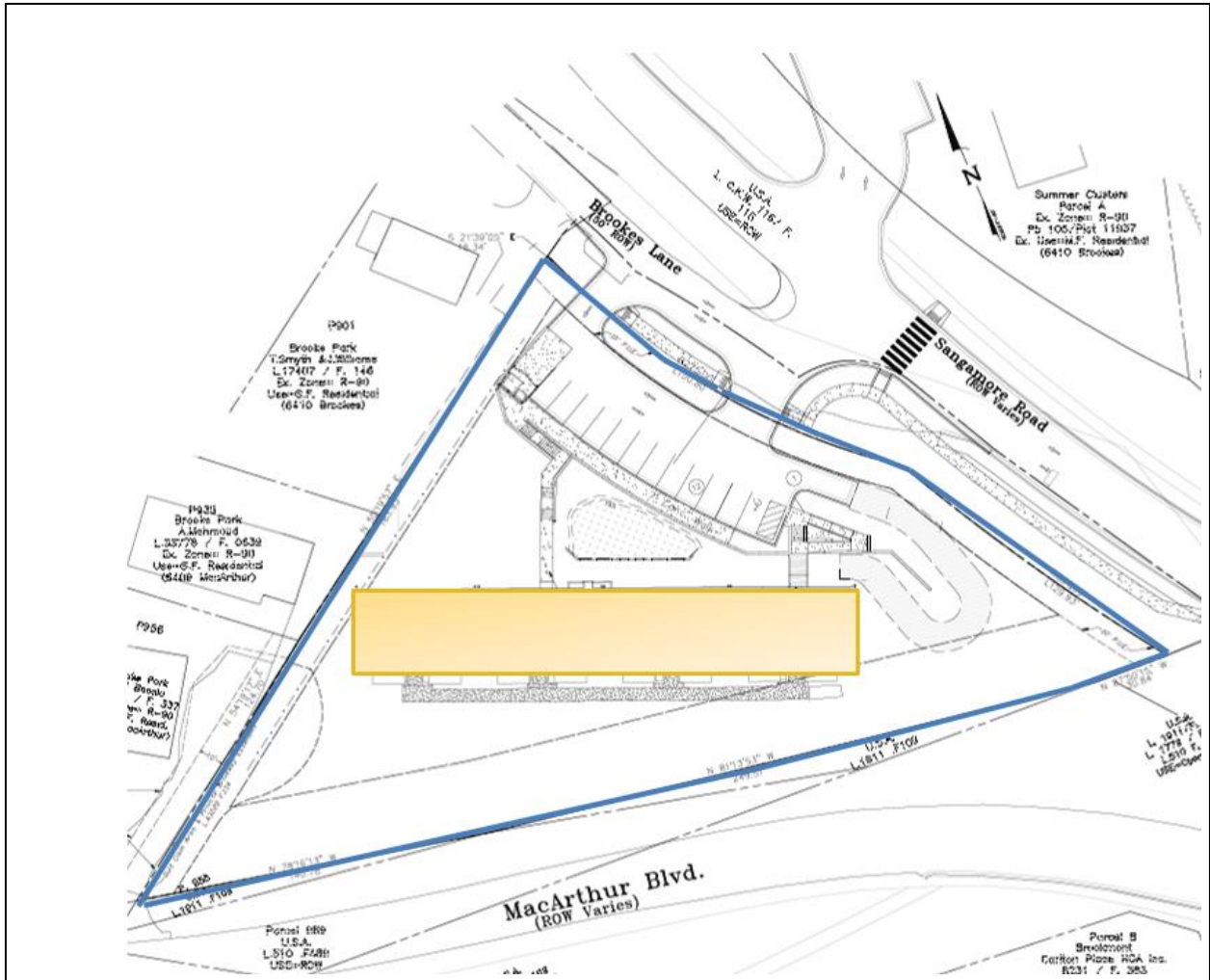


Figure 4: Proposed Preliminary Plan Amendment

#### SECTION 4 – ANALYSIS AND FINDINGS, 50.4.2.D

This Amendment and the following findings supersede all previous Planning Board findings for Preliminary Plan No. 120100030.

1. *The layout of the subdivision, including size, width, shape, orientation and diversity of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.*

The layout of this subdivision is appropriate given its size, width, location, orientation, and type of redevelopment contemplated and the requirements of Chapter 59.

*a. The block design is appropriate for the development or use contemplated.*

This Amendment is the redevelopment of an existing building on an existing residential block and will not change the overall block design. This Amendment will consist of one irregularly shaped lot that will continue to receive its vehicular and pedestrian access from Brookes Lane, a public roadway. This block design of this Amendment continues to be appropriate for the redevelopment of this Property.

*b. the lot design is appropriate for the development or use contemplated.*

The block and lot design of this subdivision continues to be appropriate in terms of size, width, shape, and orientation for the area. The proposed subdivision will be compatible with the existing development patterns and land use goals in this area. As shown on the submitted Amendment, the existing Parcel will continue to accommodate the renovated multi-family building, on-site stormwater management, as well as improved on-site parking and circulation patterns which are necessary to serve the Property. Right-of-way dedication for this Property occurred with the previous record plat and is reconfirmed with the new plat, therefore, additional dedication is not needed.

*c. Preliminary Plan provides for required public sites and adequate open areas.*

No required public sites or open areas are recommended in the Master Plan for this Property.

*d. The Lots and Use comply with the basic requirements of Chapter 59.*

The lot was reviewed for compliance with the dimensional requirements for the R-30 Multi-Family Zone as required by the Zoning Ordinance. The unique triangular shape of this site creates a property with frontage on three roadways. The Applicant contacted the Department of Permitting Service (DPS), Zoning and Site Plan Enforcement Section to determine the appropriate required yards. After review, DPS determined that the front yard is MacArthur Boulevard, the side yards are both Sangamore and Brooke Lane and the property has no rear yard. Attachment B includes DPS's written response on this issue. Therefore, as shown in Table 1 Parcel A will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone.

**Table 1**  
**Preliminary Plan Data Table for R- 30 Zone**  
**Standard Method Development**

Development Standards	Zoning Ordinance Standard	Proposed by Preliminary Plan Amendment
<b>Minimum Lot Area</b>	3,000 sf	1.07 acres, 46,609 sf.
<b>Minimum Lot Frontage</b>	75 ft.	414 feet
<b>Maximum Site Coverage</b>	18%	9.4%
<b>Minimum Building Setbacks</b>		
Front on public street	30 ft.	Must meet minimum
Side	10 ft.	8 ft <sup>1</sup>
Rear	30 ft.	Must meet minimum
<b>Maximum Building Height</b>	35 ft.	Must comply with Maximum Building Height
<b>Density (units/acre)</b>	14.50	14.44
<b>MPDUs</b>	NA	17 multi-family units
<b>Open Space Required</b>	50%	Must meet minimum
<b>Parking</b>	24 spaces	13 spaces <sup>2</sup>
<b>TDRs</b>	No	No
<b>Site Plan Required</b>	No	No

Notes:

<sup>1</sup>A legal structure or site design existing on October 30, 2014 that does not meet the zoning standards on or after October 30, 2014 is conforming, and maybe continued, renovated, repaired or reconstructed floor area height, and footprint of the structure are increased, except as provided for in Section 7.7.1 C. Thus, this structure and the existing side yard setback along the northern property line are deemed conforming under Section 7.7.1.A.1 of the Zoning Ordinance.

<sup>2</sup>Section 59.6.2 I.2 of the Zoning Ordinance states that the baseline parking requirements may be reduced for restricted housing types by multiplying the following adjustment factors times the baseline minimum. The adjustment factor for MPDU's is 0.50. The baseline parking requirement for 17 multi-family units is 24 parking spaces. The building will be redeveloped entirely at MPDU's, thus 24 parking spaces X 0.50 = 12 parking spaces. Section 59.6.2.4 of the Zoning Ordinance does not require bicycle parking spaces for multi-family units of 20 or less units.

2. *The Preliminary Plan substantially conforms to the Master Plan.*

The Property is located within the Palisades area of the 1990 *Bethesda-Chevy Chase Master Plan* which reconfirmed the R-30 Zone for this site. The Plan does not address the Subject Property. However, it does offer the following goals and objectives for land use and zoning in the Plan area and for the Palisades area:

#### *Master Plan Area*

- *Provide for a balanced housing supply so that persons of varying income levels, age, backgrounds and household characteristics may find suitable housing appropriate to their needs. (p 19)*
- *Retain and expand the supply of affordable housing. (p. 19)*
- *Maintain and enhance residential communities along major highways and arterials. (p.19)*
- *Design new projects to limit the impacts of roadway traffic noise. (p.137)*

#### *Palisades*

- *Protect the environment, character and cultural resources of the Palisades. (p.29)*

This Amendment satisfies the Plan's housing goals by providing housing that can accommodate persons of varying incomes levels, age, and household characteristics through the expansion of the county's affordable housing supply.

The residential character along MacArthur Boulevard, an arterial roadway will be maintained and enhanced with the renovated building and additional on-site landscaping which will comply with recommendations adopted in the Master Plan. Recommended conditions of approval will ensure that any roadway noise impacts to this project will be addressed through building materials that will attenuate interior noise levels not to exceed 45 dbA Ldn. A more complete discussion of the noise analysis is included in the environmental section of this report on page 20.

Additionally, the Master Plan emphasizes protection of the Palisades' environmental features such as mature trees. The proposed Category II Forest Conservation Easements in the southeast and southwest corners of the property along MacArthur Boulevard serve to protect these environmental features. The proposed trees and plantings elsewhere on site ensure that this project continue to substantially conform to the Master Plan recommendations for retaining and protecting the environmental features of the Palisades.

With respect to dimensions and orientation, the size of this subdivision will not change or alter the existing pattern of development or land use. The proposed amendment substantially conforms to the Master Plan recommendations for zoning and residential development.

#### Noise

The Project proposes to renovate one multi-family residential building along two major roadways, Macarthur Boulevard and Sangamore Road and is therefore subject to the Noise Guidelines for residential development based on three distinct criteria:

- 1) The site is within 300 feet of MacArthur Boulevard, which is an arterial road carrying Average Daily Traffic (ADT) 5,000 to 20,000 vehicles;
- 2) The site is within 300 feet of Sangamore Road, which is an arterial road carrying ADT of 5,000 to 20,000 vehicles; and



The noise study included on-site field measurements along MacArthur Boulevard for the current DNL and the projected DNL in 2030. Staff recommends a condition of approval for the on-site measurements along Sangamore Road be performed and the analysis (and plans as applicable) be revised prior to certification of the Preliminary Plans and FFCP. Standard conditions of approval relative to noise are also recommended.

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

a. Roads and Other Transportation Facilities

Transportation access is adequate to serve the proposed development in this Preliminary Plan Amendment. The following summarizes transportation recommendations included in the *1990 Bethesda-Chevy Chase Master Plan*:

- Sangamore Road, between Massachusetts Avenue and MacArthur Boulevard, is designated a two-lane arterial road (A-63) with an 80-foot right-of-way;
- MacArthur Boulevard, between Western Avenue and the I-495 Capital Beltway, is designated a two-lane arterial road (A-300) with a variable-width right-of-way, and a side-path on the west side of the street; and
- Brookes Lane is not discussed in the master plan and is therefore considered to be a secondary residential roadway.

*i. Existing Facilities*

The Project includes frontage improvements that will control site access by two specific points in the following configuration: The northern driveway will operate as a right-in/left-in (inbound only) and the southern access point will accommodate full movement maneuvers for both inbound and outbound vehicles as shown in Figure 6 on the next page.





Figure 6: Proposed Site Access for Inbound and Outbound Vehicular Movements

These turning restrictions are necessary on the northern driveway due to limited sight distance on Brookes Lane. The proposed access is preferable to the existing condition because it consolidates access and reduces conflict points between the site and adjacent public roadway, resulting in safer and more efficient site operations.

In addition to the vehicular improvements along the site's frontage, the project will also improve the pedestrian experience by reconstructing the existing sidewalk, located adjacent to the back of curb along Sangamore Road. The reconstructed sidewalk will measure 5 feet wide and will be separated from the vehicular travel-way by a 7-foot-wide grass buffer.

## ii. Public transportation infrastructure

An existing transit stop is located along the site's Sangamore Road frontage which includes both Ride-On Route 23 and WMATA Metrobus D5. Ride-On Route 23 provides Monday – Saturday service between the Friendship Heights Metrorail Station and Sibley Hospital while the WMATA Route D5 (MacArthur – Georgetown Line) provides Monday –

Saturday service between Massachusetts Avenue and the Foggy Bottom Metrorail Station.

b. Adequate Public Facilities Review

Based on the *2016-2020 Subdivision Staging Policy* transportation impact criteria, the proposed lot will generate fewer than 50 peak-hour person trips, therefore, the Application is not subject to a Local Area Transportation Review analysis. The Application generates fewer than 50-person trips and proposes no increase in density resulting in a condition where there is no transportation impact. As a result of the Brookes Lane frontage improvements, proposed site access, and internal circulation, vehicular and pedestrian access for the subdivision will be safe, adequate, and efficient.

c. Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The Property will be served by public water and sewer systems. The Application has been reviewed by the Montgomery County Fire and Rescue Service and emergency vehicle access has been deemed adequate. Electrical, gas, and telecommunications services are also available to serve the property. Other public facilities and services, such as police stations, firehouses and health services are available to serve the multi-family complex.

The property is in the Walt Whitman High School Cluster. To calculate the number of students generated by the proposed development, the number of dwelling units is multiplied by the applicable student generation rate for each school level. Dwelling units are categorized by structure type: single family detached, single family attached (townhouse), low- to mid-rise multifamily unit, or high-rise multifamily unit. The proposed development is categorized as a multi-family low to mid rise with the following student generation rates:

**Table 2 Per Unit Student Generation Rates**

<b>Unit Type</b>	<b>Elementary School</b>	<b>Middle School</b>	<b>High School</b>
MF Low- to Mid-Rise	0.212	0.084	0.112

The proposed project includes 17 mid-rise multifamily units replacing 17 existing mid-rise multifamily units. Therefore, with a net of zero new units, this project is estimated to generate no new elementary, middle, or high school students.

### Cluster Adequacy Test

The project is located in the Walt Whitman High School Cluster. Based on the FY18 Annual School Test results, the student enrollment and capacity projections for the Whitman Cluster are noted in Table 3:

**Table 3 Cluster Adequacy test**

<b>School Level</b>	<b>Projected Sept. 2022 Enrollment</b>	<b>100% Projected MCPS Program Capacity, 2022</b>	<b>Cluster % Utilization 2022-2023</b>	<b>Moratorium Enrollment Threshold</b>	<b>Projected Enrollment + Application Impact</b>
Elementary	2,179	2,538	85.9%	3,046	2,179
Middle	1,359	1,502	90.5%	1,803	1,359
High	2,305	2,397	96.2%	2,877	2,305

The Moratorium Enrollment Threshold identified in the table is the enrollment at which the 120% utilization threshold is exceeded, resulting in a cluster-wide residential development moratorium. As indicated in the last column of Table 3, the projected enrollment plus the estimated impact of this application fall below the moratorium thresholds at all three school levels. Therefore, there is sufficient capacity at the elementary, middle and high school cluster levels to accommodate the estimated number of students generated by this project.

### Individual School Adequacy Test

The applicable elementary and middle schools for this project are Bannockburn Elementary School and Thomas W. Pyle Middle School, respectively. Based on the FY18 Annual School Test results, the student enrollment and capacity projections for these schools are noted below in Table 4

**Table 4 Enrollment and Capacity**

<b>School</b>	<b>Projected Sept. 2022 Enrollment</b>	<b>100% Projected MCPS Program Capacity, 2022</b>	<b>School % Utilization 2022-2023</b>	<b>Moratorium Enrollment Thresholds</b>		<b>Projected Enrollment + Application Impact</b>
				<b>120% Utilization</b>	<b>Seat Deficit</b>	
Bannockburn ES	370	365	101.4%	439	475	370
Pyle MS	1,359	1,502	90.5%	1,803	1,682	1,359

Under the individual school adequacy test, a school is deemed inadequate if the projected school utilization rate exceeds 120% and if the school seat deficit meets or exceeds 110 seats for the elementary school or 180 seats for the middle school. If a school's projected enrollment exceeds both triggers, then the school service area is placed in a residential development moratorium.

The Moratorium Enrollment Thresholds identified in the Table 4 are the enrollments at which the 120% utilization threshold and the seat deficit threshold are exceeded. As

indicated in the last column, the projected enrollment plus the estimated impact of this application fall below the applicable moratorium thresholds for both Bannockburn Elementary School and Pyle Middle School. There is sufficient capacity at these schools to accommodate the estimated number of students generated by this project. Therefore, based on the school cluster and individual school capacity analysis performed, there is adequate school capacity for the amount and type of development proposed by this application.

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

a. Environmental Guidelines

The surrounding neighborhood has many mature trees which characterize the Palisades community. Approximately four specimen trees (measuring  $\geq 30''$  DBH) are located on or near the site boundary and a number of significant and minor-size trees are also associated with the property.

There are no forested areas, wetlands, streams or associated buffers affecting the site. There are no highly erodible soils on or near the site and the closest occurrences are approximately 600 feet away. A pocket of steep slopes exists near the western end of the site and band of steep slopes also runs parallel to the north of the building. The steep slope north of the building is below the existing parking area and was created as part of the original site grading to create level areas for the parking area and building footprints. Given that the steep slope north of the building is manmade and not associated with any other environmentally sensitive features (such as forest, mature trees, highly erodible soils, wetlands, streams or associated buffers) it is not a significant concern for protection. The property is in the Little Falls Watershed, a use I-P watershed<sup>1</sup>.

A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) # 420091790 was originally approved for the site on May 21, 2009, therefore a new NRI/FSD is not required. Some existing trees have increased in size or their health has declined since the NRI/FCP approval therefore this new information was included on the Forest Conservation Plan (FCP) submitted with this Amendment.

b. Forest Conservation and Tree Save Plan

This Application is subject to Chapter 22A, the Montgomery County Forest Conservation Law. There is an approved existing forest conservation plan for the property. However, this Project proposes to revise the limits of disturbance, and the associated tree save plan to provide new stormwater management and address an existing erosive condition. The increased tree clearing over the previous approval is offset by the inclusion of a

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<sup>1</sup> Use 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 public water supply.

Category II Conservation Easement which will provide long-term protection of existing and supplemental trees.

The submitted FCP amendment includes changes to the Limits of Disturbance (LOD) which result in the clearing of trees which were previously protected under the original approval and helped achieve Master Plan conformance relative to tree canopy and Palisades character. To help offset the tree clearing, Category II Easements are now proposed, in addition to other landscape and mitigation plantings. See Figure 7. The Category II Easements will contain existing and planted trees and the Applicant is seeking forest conservation credit for the areas.

The proposed easements qualify for credit under the Forest Conservation Regulations 22A.00.01.08 G.(5)(a)(i). However, the variance mitigation trees need to be over and above the FCP worksheet requirements. Therefore, the plantings in the easement areas cannot also be applied toward variance mitigation credit. There is space between building and MacArthur Boulevard which should be planted with the mitigation trees which would help recreate the existing screening that would otherwise be diminished by the proposed storm drain pipework. A condition of approval is recommended to add new mitigation plantings outside of easement footprints, without reducing the plantings proposed within the easements.



Figure 7: Proposed Category II Forest Conservation Easements shown in green

### Forest Conservation 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.

This project triggers variance requirements because of proposed removal/impacts to trees which measure 30 inches DBH or greater. The Applicant submitted a variance request to remove two specimen trees and to impact, but retain, one specimen tree. A copy of the Applicant's variance request is included as Attachment C.

As shown in Tables 5 and 6, the current variance request and associated plan proposes to remove, rather than impact, Tree #2 and remove Tree #6, in addition to minor impacts of the Critical Root Zones (CRZ) of offsite Tree #11.

**Table 5: Subject Trees to Be Removed**

Tree#	Name	DBH	Condition	Comments
2	Sycamore	42"	Fair/Poor	100%
6	Silver Maple	32"	Poor	42%

**Table 6: Subject Tree to Be Impacted but Retained**

Tree #	Name	Size	Condition	Percent of Impact
11	Silver Maple	30"	Good	4%

Staff has determined that the Applicant has shown that enforcement of the Forest Conservation Law for the designated trees would result in an unwarranted hardship for the following reasons:

- Two of the trees proposed for removal under the variance, Trees #2 and #6 are declining in health, and retention of these trees would create a significant maintenance burden and a potential liability. Additionally, targeting the drainage modifications and pipework near the declining trees will allow the retention of other more viable trees; and
- Not granting a variance would severely limit the ability to upgrade the site, due to the locations of the CRZ's of subject trees which occupy key areas where drainage and stormwater management modifications need to occur.

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. Based on the review of the variance request, and



proposed Preliminary Forest Conservation Plan, Staff makes the following findings:

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

The building and subject property need reasonable updates which include providing stormwater management on a site that currently has no formal stormwater management and addressing existing erosive conditions. CRZs of the subject trees occupy key portions of the property where the drainage and stormwater management modifications need to occur. Allowing the proposed work to be implemented would result in an improved condition relative to stormwater management and water quality since the redevelopment will have approximately the same amount of imperviousness as the existing conditions but with the benefit of enhanced stormwater management features. Additionally, the modest redevelopment retains a similar amount of green space that exists today, providing adequate areas for tree retention and replanting. Therefore, the variance request would be granted to any applicant in a similar situation.

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

The requested variance is based on the proposed development allowed under the existing zoning and the need to achieve adequate drainage and stormwater management modifications and upgrades. Staff finds the variance can be granted under this condition if the impacts are avoided or minimized and that any necessary mitigation is provided. The Applicant incorporated design changes to reduce tree disturbance, and on-site mitigation plantings of native canopy trees are addressed.

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 proposed site design and layout of the Subject Property and the impacts are not as a result of land or building use on a neighboring property.

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

As conditioned, the project will also provide soils profile rebuilding within most of areas of the Limits of Disturbance (LOD) that are not paved. This soil restoration work will enhance the soils ability to infiltrate rainfall and thereby further reduce runoff. Furthermore, the proposed Category II Easement, along with the supplemental landscape and mitigation plantings, will help provide water quality enhancements associated with shading and water retention/uptake. Therefore, the project will not violate State water quality standards or cause measurable degradation in water quality.

#### *County Arborist 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 Applicants' request was forwarded to the County Arborist on June 1, 2018 (the day it was received). The County Arborist response to the variance request is anticipated to be available prior to the Planning Board hearing and will be presented at that time.

#### *Mitigation for Trees Subject to the Variance Provisions*

The LOD and associated variance request includes the removal of Trees #2 & #6, each of which measure 30" DBH or greater, with a total DBH of 74". Planting mitigation for the proposed removals should be at a rate that approximates the form and function of the trees removed, at a ratio of approximately 1" DBH for every 4" DBH removed, using trees that are a minimum of 3" caliper. This means that for the 74 diameter inches of tree to be removed, the Applicant must provide mitigation of at least 18.5 inches of caliper replacements. Therefore, the mitigation requirements are addressed by the planting of 7 (quantity) 3"-caliper trees for a total of 21 caliper inches of on-site mitigation trees.

No mitigation is recommended for trees impacted but retained. Based on the above findings, Staff recommends that the Planning Board approve of the Applicant's request for a variance from Section 22A-12(b) of the County Code, to remove two variance trees and to impact, but retain, one variance tree associated with the application. The variance approval is incorporated into the Planning Boards approval of the Forest Conservation Plan. Staff is also recommending approval of the Final Forest Conservation Plan with conditions listed at the front of this staff report.

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

The Montgomery County Department of Permitting Services (MCDPS) Stormwater Management Section approved a stormwater management concept plan on April 18, 2018. Based on the approval letter, this concept plan meets stormwater management requirements via the use of a micro bioretention area.

#### *6. Any other applicable provisions specific to the property and necessary for approval of the subdivision is satisfied.*

No other provisions specific to the property and necessary for approval of this subdivision are required.

## **SECTION 6 – CITIZEN CORRESPONDENCE**

The Applicant has met all proper signage, noticing, and pre-submission meeting requirements for the submitted Application. A pre-submission meeting for the Preliminary Plan Amendment was held on October 16, 2017 at the Waldorf School located at 4800 Sangamore Road, Bethesda. To date, Staff has not received any correspondence on the subject Application.

## **SECTION 7– CONCLUSION**

The proposed platted parcel meets all the requirements established in the applicable Subdivision Regulations (Chapter 50) and the Zoning Ordinance (Chapter 59), and substantially conforms to the recommendations of the 1990 *Bethesda-Chevy Chase Master Plan*. Access to the Parcel 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 Preliminary Plan Amendment, for 17 multi-family units with the conditions specified at the beginning of this staff report

### **Attachments**

Attachment A: Previous Approval and Record Plat

Attachment B: MCDPS Zoning Interpretation

Attachment C: Applicant's Variance Request Letter

Attachment D: Memos - Other Agencies Memos



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

**MCPB No. 10-164**  
**Preliminary Plan No. 120100030**  
**Brooke Park**  
**Date of Hearing: December 2, 2010**

**MONTGOMERY COUNTY PLANNING BOARD**

**RESOLUTION**

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 October 13, 2009, Brooke Park venture, L.L.C., ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create one lot on 1.18 acres of land in the R-30 zone, located at the intersection of Brookes Lane/Sangamore Road and MacArthur Blvd ("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. 120100030, Brooke Park ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated November 19, 2010, 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 Staff and the staff of other governmental agencies, on December 2, 2010, 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 2, 2010, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Presley; seconded by Commissioner Wells-Harley; with a vote of 5-0, Commissioners Alfandre, Carrier, Dreyfuss, Presley and Wells-Harley voting in favor.

NOW, THEREFORE, BE IT RESOLVED, that, pursuant to the relevant

Approved as to  
Legal Sufficiency:

*Christina Jones* 4/28/11

8787 Georgia Avenue, Suite 100, Silver Spring, MD 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

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



provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120100030 to create one lot on 1.18 acres of land in the R-30 zone, located at the intersection of Brookes Lane/Sangamore Road and MacArthur Blvd in the Bethesda - Chevy Chase Master Plan area, subject to the following conditions:

- 1) Approval under this Preliminary Plan is limited to one (1) lot for ten (10) multi-family (condominium) units.
- 2) Applicant must meet the forest conservation planting requirements off site. A determination of the method and/or location is to be shown on the final forest conservation plan.
- 3) Applicant must submit and obtain approval of a final forest conservation plan prior to any land disturbing activities occurring onsite.
- 4) Applicant must prepare and submit specific tree save measures as part of the final forest conservation plan.
- 5) The Applicant must 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.
- 6) The Applicant must construct all road improvements within the rights-of-way shown on the approved Preliminary Plan to the full width mandated by the Staff and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the Preliminary Plan, "To Be Constructed By \_\_\_\_\_" are excluded from this condition.
- 7) Applicant must construct an off-site sidewalk along the Sangamore Road frontage to connect to the crosswalk located at the intersection of MacArthur Boulevard and Sangamore Road.
- 8) The record plat must reflect a public use and access easement over all shared driveways and off-site sidewalks not within the public right-of-way.
- 9) The record plat must reflect all areas under Homeowners Association ownership and specifically identify stormwater management parcels.
- 10) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated February 12, 2010. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 11) The Applicant must comply with the conditions of the letter from MCDOT dated October 13, 2010. These conditions may be amended by MCDOT provided the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 12) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution.
- 13) Other necessary easements must be shown on the record plat.



BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff as presented at the Hearing and as set forth in the Staff Report, 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 Bethesda-Chevy Chase Master Plan land use map shows that this Property is suitable for medium density residential and has recommended an R-30 zone designation which allows up to 17.69 units per acre. The R-30 zone does not allow individually recorded townhouse lots. As such, this property will develop under a condominium regime for 10 multi-family units. The Master Plan contains the following language that applies to the overall area that includes the Subject Property:

*"Provide for a balanced housing supply so that persons of varying income levels, age backgrounds, and household characteristics may find suitable housing opportunities."*

The site is rather small, and the opportunity to provide a varied supply of housing for different income levels within the confines of the Subject Property is limited. However, the Master Plan recommended that this property remain in the R-30 zone with no other apparent R-30 zones within the immediate area. Since the R-30 zone allows multi-family type development which is somewhat lacking in the general area, the Board finds the proposal provides for a type of use that was envisioned by the Master Plan.

The Master Plan also recognizes the significance of the "Palisades" which is the remnants of the ancient stream bank created by the former alignment of the Potomac River. The Palisades are defined by a linear stretch of steep slopes, mostly wooded, and running parallel to the current Potomac River. On page 64, the Master Plan provides the following guidance on protection of the Palisades:

*"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."*

and



*"Their preservation in an undisturbed state is essential to minimize erosion and stream degradation."*

The Master Plan recommended as the first and foremost means of preserving this sensitive feature to rezone a certain area from Massachusetts Avenue to the Potomac River and west of Sangamore Road from R-60 to R-90. The Subject Property is at the very southern tip of this described area, yet it was recommended to remain in the R-30 zone for the purpose of allowing existing multi-family uses to continue. Although the extent of the Palisades is not specifically mapped, the Board concurred with the Staff's contention that a small, non-forested, portion of the Palisades exists on the southern edge of this Property where it is most steeply sloped. Staff recommended that the slopes here, although non-forested and not necessarily creating a scenic vista, be preserved. The reason to preserve the sloped area is that it is currently dotted with trees and provides for the open space character that the Master Plan describes.

The Staff Report noted that a particular concern with the original version of the Preliminary Plan was a driveway that looped from the northern side of the building to the southern side around the eastern end of the building. This driveway required significant grading to the steeper slopes of the site including those in the area determined to be a part of the Palisades. Grading would also require removal of some of the trees between the building and MacArthur Boulevard. The Applicant addressed this concern by working with the adjacent neighbors to use and modify an existing driveway used by the two residential properties to the west. Access to the southern side of the building will be accommodated with this driveway rather than constructing the more environmentally damaging alternative. The Board finds that the Palisades, as defined in the Master Plan, are adequately protected.

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

#### LATR and PAMR

The proposed lots do not generate 30 or more vehicle trips during the morning or evening peak-hours and actually generate less vehicular trips than the existing 17 unit apartment building currently on the site. Because the project will generate 30 or less peak hour trips, the Application is not subject to Local Area Transportation Review. Likewise, there are no Policy Area Mobility Review (PAMR) requirements because the project

reduces the amount of peak hour trips that are currently generated by the 17 unit apartment building. The Board finds that the Preliminary Plan satisfies LATR and PAMR requirements.

#### Access

Access to the building for residents is to be from MacArthur Boulevard. MacArthur Boulevard is controlled by the Army Corps of Engineers (ACE) who oversees the water conduit under the road and the Dalecarlia Reservoir which provides drinking water to the District of Columbia. The ACE has restricted new access points onto this road, therefore, the Applicant has entered into an "Irrevocable Declaration of Private Easement" with the two adjacent property owners at 6407 and 6409 MacArthur. The Agreement will allow the developer to improve and widen their existing shared driveway so that it can also provide access for the homeowners of each unit. This new private driveway from MacArthur will provide vehicular access to the ground floor level garages located within each of the 10 units. The Board finds that access is adequate for the subdivision.

#### Rights-of-Way

The Applicant is also required to make right-of-way dedications along the property's northern boundary for Brookes Lane and Sangamore Road, as well as certain frontage improvements. The frontage improvements consist of a new entranceway, new curb and gutter, and construction of a new sidewalk along Sangamore Road that will connect to the new internal sidewalks within the project boundaries. The Board placed a condition upon the Applicant that the public sidewalk be extended off-site to connect to the existing sidewalk at the intersection of Sangamore Road and MacArthur Boulevard. This off-site extension will also be done on ACE property and connect to a developer built crosswalk improvement at the intersection of Sangamore Road and MacArthur Boulevard. With the construction of the internal and external sidewalks and the improvements to the road frontage, the Board finds that vehicle and pedestrian access for the subdivision will be safe and adequate.

#### Other Public Facilities and Services

The Preliminary Plan has been reviewed by all public utilities including Washington Gas, PEPCO, Verizon and the WSSC. All agencies recommend approval of the Preliminary Plan having found that their respective utilities are adequate to serve the proposed development. The



Department of Fire and Rescues Services has approved a Fire Access Plan that assures emergency vehicles can access the site. Other public facilities and services, such as police stations, firehouses and health services are currently operating within the standards set by the Growth Policy Resolution currently in effect. The Application is within the Whitman school cluster which is currently operating above 105 percent capacity at the middle school level; however, the proposed development will have fewer dwelling units than the existing apartment building. As such, no School Facility Payment is needed, and the Application satisfies the APF schools test as well as all other requirements for APF. The Board finds that the subdivision will be adequately served by all public facilities and utility providers.

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

The Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections. The Board considered the proposed lot's size, width, shape and orientation given the surrounding neighborhood and the recommendations within the Master Plan. Given the recommendation in the Master Plan for R-30 zoning which does not allow townhomes on individual lots, the Board finds the lot to be appropriate for the location of the subdivision to accommodate a single multi-family, condominium structure.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and the protection of environmentally sensitive features:*

#### Forest Conservation

The site is subject to Chapter 22A of the County Code (forest conservation law). There is no forest on the property, however, according to the forest conservation law, even properties without existing forest are required to obtain approval of a forest conservation plan and meet afforestation requirements either on or off site. The Applicant's forest conservation plan shows a net tract area of 1.26 acres and a 0.19 acre planting requirement. The net tract area for the forest conservation plan is greater than the total tract area for the Preliminary Plan of subdivision because disturbances will occur outside of the subject property. Therefore, the forest conservation law requires the tract area to be increased to include those disturbed areas.

The Preliminary Forest Conservation Plan (PFCP) proposes to meet the 0.19 acre planting requirement by a combination of on-site existing tree canopy credit and using an off-site forest mitigation bank. The submitted PFCP shows 0.04 acres of tree canopy credit, however, the Board does not believe tree canopy credit should be allowed in this instance because the canopy that will remain on-site after demolition and grading consists of undesirable trees species, trees in poor health, or trees that either share the stem with the adjoining property or are not physically on the Property. The Board directed the Applicant to meet all planting requirements off-site either in a forest mitigation bank or via an in-lieu fee payment.

#### Forest Conservation (Tree) Variance

Section 5-1607(c) of the Natural Resources Article, MD Ann. Code identifies certain individual trees as high priority for retention and protection (Protected Trees). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone (CRZ), requires a Tree Variance "Variance" under Section 22A-12(b)(3) of the County Code. Otherwise, such resources must be left in an undisturbed condition.

As more specifically identified in the Staff Report, this project will require one (1) Protected Tree, 30 inches and greater DBH to be removed. Further, the project will impact two (2) Protected Trees that will not be removed; therefore, a Variance is required.

The Board made the following findings necessary to grant the Tree Variance:

- i. Granting the Tree Variance 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 as the removal and/or disturbance of the specimen trees noted above are the minimum necessary in order to develop the Property. Furthermore, the need for the variance is necessary and unavoidable in order to develop the Subject Property according to the Master Plan. The same criteria has been applied to other projects where the impacts and removals are unavoidable.

- ii. The need for the Tree Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.



The requested variance is not based on conditions or circumstances which are the result of actions of the Applicant. The Property is steeply sloped and the need to provide multiple access points and appropriate fire and rescue access has increased the limits of disturbance and the impact to the 31 inch silver maple and the 36 inch red maple. The variance is necessary to provide the required green space and stormwater management facilities associated with the development. Furthermore, the property owner proposes to provide additional tree protection measures to save the 39 inch sycamore.

- iii. The need for the Tree Variance is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.

The requested variance is not the result of a condition, either permitted or non-conforming on a neighboring property. The neighboring properties are developed residential or commercial properties, or public right-of-ways.

- iv. Granting the Tree Variance will not violate State water quality standards or cause measurable degradation in water quality.

The requested variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen trees being removed or disturbed are not within a stream buffer, wetland, or a special protection area. The development will actually improve the water quality generated from the site because the new development will introduce stormwater management onto a location that is currently developed and has no stormwater controls. The stormwater management devices will increase the amount of the water that is recharged into groundwater and reduce the quantity and increase the quality of the stormwater discharged into the Potomac River.

#### Forest Conservation Variance mitigation

The Board will not require any additional mitigation to offset the impact to the critical root zones of the impacted trees.

The Board finds that the Application complies with the requirements of Chapter 22A, the Montgomery County Forest Conservation Law.

- 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 Montgomery County Department of Permitting Services approved a Stormwater Management Concept on February 12, 2010. On-site water quality control is being addressed through the use of green roofs and a flow based "StormFilter". On-site recharge cannot be provided because of the steep slopes located on the downhill side of the building and has been waived. Channel protection volume is not required because the one-year post development flow is less than or equal to 2.0 cubic feet per second. The Board finds that this Application complies with all stormwater management requirements.

BE IT FURTHER RESOLVED that for the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor in interest to the terms of this approval.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 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 Land Records of Montgomery County, Maryland or a request for an extension must be filed; and

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAY 3 2011 (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).

\* \* \* \* \*

**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution adopted by The Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Presley, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Dreyfuss and Presley present and voting in favor of the motion and Commissioner Alfandre absent, at its regular meeting held on Thursday, April 28, 2011, in Silver Spring, Maryland.

  
Françoise M. Carrier, Chair  
Montgomery County Planning Board



OWNER'S CERTIFICATE

WE, 6301 MAC ARTHUR, INC., OWNERS OF THE PROPERTY DESCRIBED HEREON, HEREBY ADOPT THIS PLAN OF SUBDIVISION, DEDICATE THE STREETS TO PUBLIC USE, ESTABLISH THE MINIMUM BUILDING RESTRICTION LINES AND GRANT TO MONTGOMERY COUNTY, MARYLAND SLOPE EASEMENTS 25 FEET WIDE ACROSS ALL LOTS ADJACENT TO MONTGOMERY COUNTY, MARYLAND TO ALL STREET RIGHT OF WAY LINES AS REQUIRED BY THE MONTGOMERY COUNTY CODE. SAID SLOPE EASEMENTS SHALL BE EXCLUDED FROM THE PROPERTY DESCRIBED HEREON AND THE RIGHTS OF WAY DESCRIBED HEREON SHALL BE COMPLETED AND ACCEPTED FOR MAINTENANCE BY MONTGOMERY COUNTY.

FURTHER, WE GRANT TO THE PARTIES NAMED IN A CERTAIN DOCUMENT ENTITLED "DECLARATION OF TERMS AND PROVISIONS FOR PUBLIC UTILITY EASEMENTS" RECORDED IN LIBER 3834 AT FOLIO 457 AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND AND TO EACH OF THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, AN EASEMENT, IN, ON AND OVER THE LAND DESIGNATED HEREON AS "P.U.E.", WITH THE TERMS AND PROVISIONS OF SUCH A GRANT BEING INCORPORATED HEREIN BY THIS REFERENCE PER THOSE SET FORTH IN SAID DOCUMENT, SUBJECT TO ALL CURRENT AND APPLICABLE REGULATIONS OF ALL FEDERAL, STATE AND LOCAL GOVERNING AGENCIES.

FURTHER, WE ESTABLISH THE "COMMON ACCESS EASEMENTS" AS SHOWN HEREON TO PROVIDE PERMANENT AND UNOBSTRUCTED PEDESTRIAN AND VEHICULAR INGRESS AND EGRESS IN, THROUGH, OVER AND ACROSS THE PAVED DRIVES, PARKING AREAS AND SIDEWALKS CONTAINED IN THE EASEMENT AREAS.

FURTHER, WE AS THE OWNERS OF THIS SUBDIVISION, OUR SUCCESSORS AND ASSIGNS, WILL CAUSE ALL PROPERTY CORNER MARKERS AND ANY OTHER REQUIRED MONUMENTATION TO BE SET BY THE SURVEYOR IN ACCORDANCE WITH SECTION 50-24(e) OF THE MONTGOMERY COUNTY CODE.

THERE ARE NO RECORDED SUITS, ACTIONS AT LAW, LIENS, LEASES, MORTGAGES OR TRUSTS AFFECTING THE PROPERTY INCLUDED IN THIS PLAT OF SUBDIVISION.

6301 MAC ARTHUR, INC.

Sandra K. Kelly, President

Witness: 2/12/2013

DATE

PLAT NO. 24588

CURVE DATA				
NO	RADIUS	ARC	DELTA	TANGENT
1	275.00'	150.80'	31°25'07"	77.35'
2	884.69'	129.93'	08°24'52"	65.08'
3	35.94'	66.03'	105°16'42"	47.07'
4	23.33'	18.20'	44°41'52"	9.59'

PLAT TOTALS	
NUMBER OF PARCELS	1
AREA OF PARCELS	1.07184 AC.
AREA OF STREET DEDICATION	0.10554 AC.
TOTAL AREA THIS PLAT	1.17738 AC.

NOTES:

PROPERTY IS ZONED R-30.

THE PROPERTY SHOWN ON THIS PLAT IS LOCATED ON TAX MAP 64-582, GRID 64-62.

THIS PLAT IS IN ACCORDANCE WITH THE APPROVED PRELIMINARY PLAN #120100030

ENTITLED "BROOKE PARK"

FOR PUBLIC WATER AND SEWER SYSTEMS ONLY.

THIS PLAT IS SUBJECT TO A COVENANT FOR MAINTENANCE OF PRIVATE STREETS, STORM DRAIN SYSTEMS AND OPEN SPACES RECORDED NOVEMBER 16, 2013 IN LIBER 43353 AT FOLIO 364 AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND.

PARCEL "A" IS SUBJECT TO A COMMON OPEN SPACE COVENANT WITH THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION RECORDED IN LIBER 28045 AT FOLIO 578 AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND.

PARCEL "A" IS SUBJECT TO A COMMON ACCESS EASEMENT AS DELINEATED HEREON. SAID COMMON ACCESS EASEMENT IS INTENDED TO PROVIDE PERMANENT AND UNOBSTRUCTED PEDESTRIAN AND VEHICULAR INGRESS AND EGRESS IN, THROUGH, OVER AND ACROSS THE PAVED DRIVES, PARKING AREAS AND SIDEWALKS CONTAINED IN THE EASEMENT AREA. THE PUBLIC UTILITY EASEMENT IS INTENDED TO PROVIDE PERMANENT AND UNOBSTRUCTED PEDESTRIAN AND VEHICULAR INGRESS AND EGRESS IN, THROUGH, OVER AND ACROSS THE PAVED DRIVES, PARKING AREAS AND SIDEWALKS CONTAINED IN THE EASEMENT AREA. THE PUBLIC UTILITY EASEMENT IS INTENDED TO PROVIDE PERMANENT AND UNOBSTRUCTED PEDESTRIAN AND VEHICULAR INGRESS AND EGRESS IN, THROUGH, OVER AND ACROSS THE PAVED DRIVES, PARKING AREAS AND SIDEWALKS CONTAINED IN THE EASEMENT AREA. THE PUBLIC UTILITY EASEMENT IS INTENDED TO PROVIDE PERMANENT AND UNOBSTRUCTED PEDESTRIAN AND VEHICULAR INGRESS AND EGRESS IN, THROUGH, OVER AND ACROSS THE PAVED DRIVES, PARKING AREAS AND SIDEWALKS CONTAINED IN THE EASEMENT AREA.

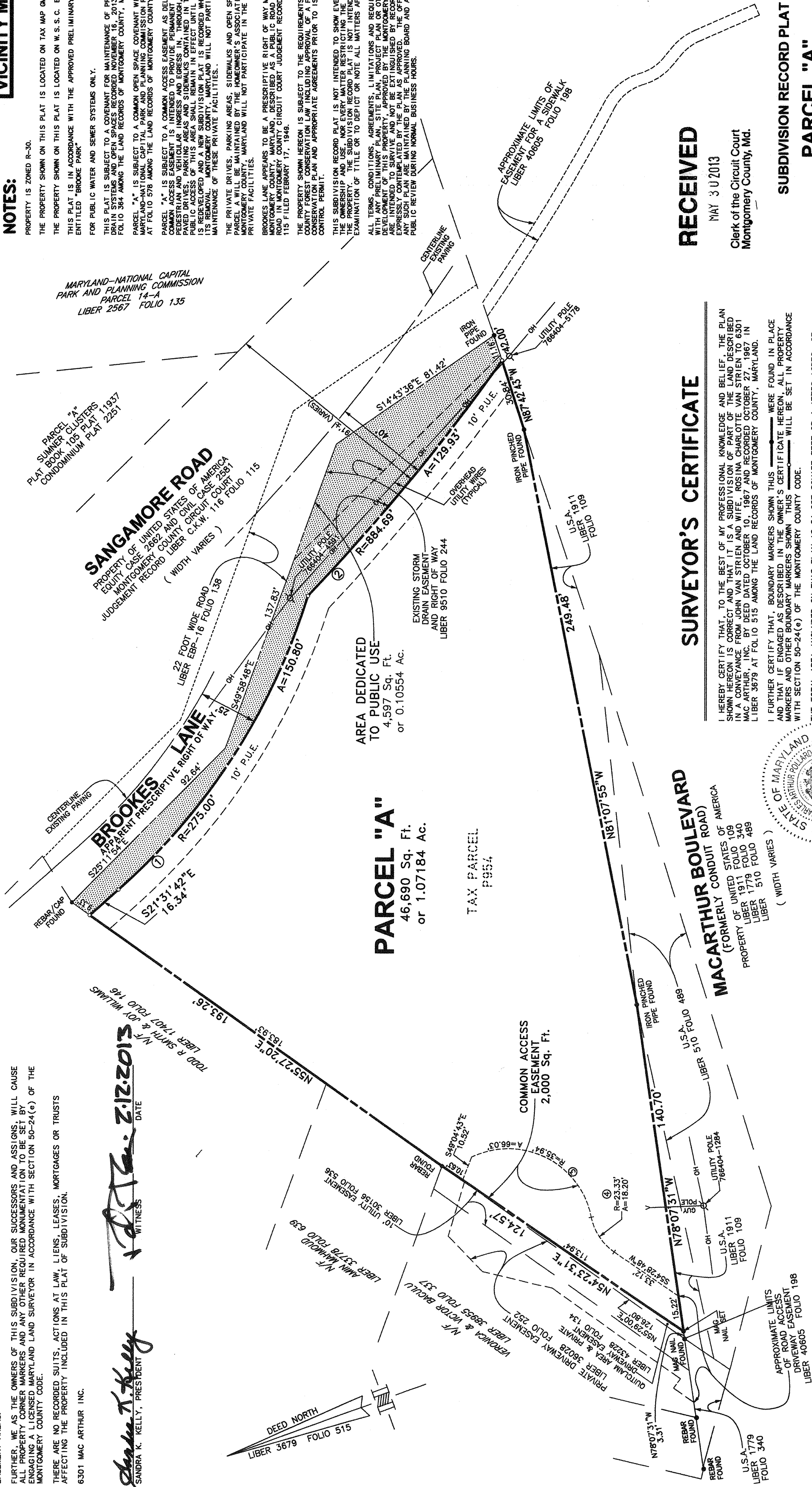
THE PRIVATE DRIVES, PARKING AREAS, SIDEWALKS AND OPEN SPACE AREAS LOCATED ON PARCEL A WILL BE MAINTAINED BY THE HOMEOWNER'S ASSOCIATION (H.O.A.).

BROOKES LANE APPEARS TO BE A PRESCRIPTIVE RIGHT OF WAY MAINTAINED BY MONTGOMERY COUNTY, MARYLAND, DESCRIBED AS A PUBLIC ROAD CALLED FORT SUMNER ROAD, MONTGOMERY COUNTY, MARYLAND, CIRCUIT COURT JUDGMENT RECORD C.N.W. 116 AT FOLIO 115 FILED FEBRUARY 17, 1946.

THE PROPERTY SHOWN HEREON IS SUBJECT TO THE REQUIREMENTS OF THE MONTGOMERY COUNTY FOREST CONSERVATION PLAN AND APPROPRIATE AGREEMENTS PRIOR TO ISSUANCE OF A SEDIMENT CONTROL PERMIT.

THIS SUBDIVISION RECORD PLAT IS NOT INTENDED TO SHOW EVERY MATTER AFFECTING THE OWNERSHIP AND USE, NOR EVERY MATTER RESTRICTING THE OWNERSHIP AND USE, OF THE PROPERTY. THE SUBDIVISION RECORD PLAT IS NOT INTENDED TO REPLACE AN EXAMINATION OF TITLE OR TO DEPICT OR NOTE ALL MATTERS AFFECTING TITLE.

ALL TERMS, CONDITIONS, AGREEMENTS, LIMITATIONS AND REQUIREMENTS ASSOCIATED WITH ANY PRELIMINARY PLAN, SITE PLAN, PROJECT PLAN OR OTHER PLAN, ALLOWING ANY MATTER AFFECTING THE OWNERSHIP AND USE OF THE PROPERTY, INCLUDING ANY MATTER EXPRESSLY CONTEMPLATED BY THE PLAN AS APPROVED, THE OFFICIAL PUBLIC FILES FOR ANY SUCH PLAN ARE MAINTAINED BY THE PLANNING BOARD AND ARE AVAILABLE FOR PUBLIC REVIEW DURING NORMAL BUSINESS HOURS.



SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT, TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF, THE PLAN SHOWN HEREON IS A TRUE AND CORRECT REPRESENTATION OF THE FACTS AS DESCRIBED IN THE FIELD BOOKS, FIELD NOTES, AND FIELD SKETCHES, AND THAT THE SAME HAVE BEEN EXAMINED AND FOUND TO BE TRUE AND CORRECT. I HAVE ALSO EXAMINED THE FIELD BOOKS, FIELD NOTES, AND FIELD SKETCHES, AND HAVE FOUND THEM TO BE TRUE AND CORRECT. I HAVE ALSO EXAMINED THE FIELD BOOKS, FIELD NOTES, AND FIELD SKETCHES, AND HAVE FOUND THEM TO BE TRUE AND CORRECT.

I FURTHER CERTIFY THAT, BOUNDARY MARKERS SHOWN ON THIS PLAN WERE FOUND IN PLACE AND THAT IF ENGAGED AS DESCRIBED IN THE OWNER'S CERTIFICATE HEREON, ALL PROPERTY MARKERS AND OTHER BOUNDARY MARKERS SHOWN ON THIS PLAN WILL BE SET IN ACCORDANCE WITH SECTION 50-24(e) OF THE MONTGOMERY COUNTY CODE.

THE TOTAL AREA INCLUDED ON THIS PLAN IS 51,287 SQUARE FEET OR 1.17738 ACRES, OF WHICH 4,597 SQUARE FEET OR 0.10554 OF AN ACRE IS DEDICATED TO PUBLIC USE.



02-08-2013

DATE

Charles A. Pollard, Jr.

PROFESSIONAL LAND SURVEYOR  
MARYLAND REGISTRATION NO. 21648  
LICENSE EXPIRES DECEMBER 28, 2013

RECORDED

PLAT NO.

Approved May 8, 2013

DATE

Director

Approved March 14, 2013

DATE

Chairman

M-N.C.P. & P.C. Record File No.: 634-99

SUBDIVISION RECORD PLAT

PARCEL "A"

BROOKE PARK

BETHESDA ELECTION DISTRICT No. 7  
MONTGOMERY COUNTY, MARYLAND

SITE SOLUTIONS, INC.

20410 Observation Drive Suite 205  
Germantown, Maryland 20876-4009  
(301) 540-2001 Fax (301) 540-7991

Planning Engineering Landscape Architecture Surveying

FEBRUARY 2013

199080 MSA SW 1219 30184634-99



Reilly, Kathy

---

**From:** Brian Donnelly <bdonnelly@mhgpa.com>  
**Sent:** Thursday, April 12, 2018 2:29 PM  
**To:** Reilly, Kathy  
**Cc:** Jody Kline; mark.beall; Gio Kaviladze (Gio.Kaviladze@hocmc.org); 'Larry Frank'  
**Subject:** RE: HOC/Brooke Park MNCPPC #120100030

Kathy-

As a follow up to our discussion, attached is a confirmation email form mark Beall regarding the interpretation of the setbacks. I will include this email in our next upload submission. Please let me know if you need anything else as you complete your review.

**Brian Donnelly, RLA, LEED AP**  
**Macris, Hendricks and Glascock, P.A.**  
 Engineers • Planners • Landscape Architects • Surveyors  
 9220 Wightman Road, Suite 120  
 Montgomery Village, MD 20886-1279  
 Phone: 301-670-0840 Ext.1020  
 Fax: 301-948-0693  
 WEB: [www.mhgpa.com](http://www.mhgpa.com)




---

**From:** Beall, Mark [mailto:Mark.Beall@montgomerycountymd.gov]  
**Sent:** Thursday, April 12, 2018 11:44 AM  
**To:** Brian Donnelly <bdonnelly@mhgpa.com>; Niblock, David <David.Niblock@montgomerycountymd.gov>  
**Cc:** Jody Kline <JSKline@mmcanby.com>  
**Subject:** RE: HOC/Brooke Park MNCPPC #120100030

Good Morning Everyone,

Sorry for the delay in getting back to you on this, as I thought I had replied already and just realized I didn't. Yes, this is what we agreed to when we met last year on this project for the required setbacks. Please let me know if you need anything else from me and again I apologize for the delay.

*Thank you,*  
**Mark Beall**  
**Zoning Manager**  
**Division of Zoning & Site Plan Enforcement**  
**Department of Permitting Services**  
**(240)777-6298**  
[mark.beall@montgomerycountymd.gov](mailto:mark.beall@montgomerycountymd.gov)  
<http://permittingservices.montgomerycountymd.gov/DPS/general/Home.aspx>



**Find your zone!** [www.mcatlas.org/zoning](http://www.mcatlas.org/zoning)

Have you tried DPS eServices? <http://permittingservices.montgomerycountymd.gov/DPS/eServices/AboutServices.aspx>

All information in this communication and its attachments are confidential and are intended solely for addressee(s) included above and may be legally privileged. Please take notice that any use, reproduction or dissemination of this transmission by parties other than the intended recipient(s) is strictly prohibited. If you are not the intended recipient, please immediately notify the sender by reply e-mail or phone and delete this message and its attachments.

---

**From:** Brian Donnelly [<mailto:bdonnelly@mhgpa.com>]  
**Sent:** Thursday, March 29, 2018 8:39 AM  
**To:** Beall, Mark <[Mark.Beall@montgomerycountymd.gov](mailto:Mark.Beall@montgomerycountymd.gov)>; Niblock, David <[David.Niblock@montgomerycountymd.gov](mailto:David.Niblock@montgomerycountymd.gov)>  
**Cc:** Jody Kline <[JSKline@mmcanby.com](mailto:JSKline@mmcanby.com)>  
**Subject:** RE: HOC/Brooke Park MNCPPC #120100030

Mark/Dave-

I wanted to follow up on a meeting we had back in August 2017. Attached is an email below summarizing the meeting to determine the setback requirements and define the various property frontages. We are now in for review with MNCPPC to amend the Preliminary plan, and MNCPPC staff would like to receive written documentation of the determination. An email response is sufficient.

Please call with any questions or if the summary information is inaccurate in anyway.

**Brian Donnelly, RLA, LEED AP**  
**Macris, Hendricks and Glascock, P.A.**  
Engineers • Planners • Landscape Architects • Surveyors  
9220 Wightman Road, Suite 120  
Montgomery Village, MD 20886-1279  
Phone: 301-670-0840 Ext.1020  
Fax: 301-948-0693

WEB: [www.mhgpa.com](http://www.mhgpa.com)



---

**From:** Brian Donnelly  
**Sent:** Thursday, August 24, 2017 12:53 PM  
**To:** [elza.hisel-mccoy@montgomeryplanning.org](mailto:elza.hisel-mccoy@montgomeryplanning.org); Braunstein, Neil ([Neil.Braunstein@mncppc-mc.org](mailto:Neil.Braunstein@mncppc-mc.org)) <[Neil.Braunstein@mncppc-mc.org](mailto:Neil.Braunstein@mncppc-mc.org)>; [Robert.Kronenberg@montgomeryplanning.org](mailto:Robert.Kronenberg@montgomeryplanning.org); Beall, Mark <[Mark.Beall@montgomerycountymd.gov](mailto:Mark.Beall@montgomerycountymd.gov)>  
**Cc:** Jody Kline <[JSKline@mmcanby.com](mailto:JSKline@mmcanby.com)>; Gio Kaviladze ([Gio.Kaviladze@hocmc.org](mailto:Gio.Kaviladze@hocmc.org)) <[Gio.Kaviladze@hocmc.org](mailto:Gio.Kaviladze@hocmc.org)>; Zachary Marks ([Zachary.marks@hocmc.org](mailto:Zachary.marks@hocmc.org)) <[Zachary.marks@hocmc.org](mailto:Zachary.marks@hocmc.org)>; [Sheryl.Hammond@hocmc.org](mailto:Sheryl.Hammond@hocmc.org); Larry Frank ([larry@bfmarch.com](mailto:larry@bfmarch.com)) <[larry@bfmarch.com](mailto:larry@bfmarch.com)>  
**Subject:** RE: HOC/Brooke Park MNCPPC #120100030

Elza/Neil-

The project team met with you and MNCP&PC staff in early April to discuss the redevelopment of Parcel 954 at the southwest intersection of McArthur and Sangamore/Brookes.

The current preliminary plan indicate ten multi-family condominiums, the applicant intends to submit an amendment the approved Preliminary plan to renovate the existing 18 unit apartment building and reconfigure the existing parking. There was a lengthy discussion about establishing the various setbacks for the existing building to remain parking. Staff requested the design team contact Montgomery County Department of Permitting Service to obtain an interpretation on

the required setbacks for both parking and building. The email below outlines the justification our office provided to support the attached exhibit (also provided to MC-DPS). As a result, the team met with Mark Beall to discuss and confirm the following setbacks.

[Setback Exhibit.pdf](#)

Sangamore Road      Brookes

Lane      MacArthur      Western PL

New Code R-30 /Apartments (Front and Side Street) 6See attached Exhibit      10øSide Street      10øSide

Street      30øFront      10øSide yard

We hope to schedule a pre-application meeting with the citizens in early October and file an amended Preliminary plan in mid October.

Please let me know if you have any questions.

**Brian Donnelly, RLA, LEED AP**

**Macris, Hendricks and Glascock, P.A.**

Engineers • Planners • Landscape Architects • Surveyors

9220 Wightman Road, Suite 120

Montgomery Village, MD 20886-1279

Phone: 301-670-0840 Ext.1020

Fax: 301-948-0693

WEB: [www.mhgpa.com](http://www.mhgpa.com)



---

**From:** Brian Donnelly

**Sent:** Tuesday, August 08, 2017 4:58 PM

**To:** 'Beall, Mark' <[Mark.Beall@montgomerycountymd.gov](mailto:Mark.Beall@montgomerycountymd.gov)>

**Cc:** Niblock, David <[David.Niblock@montgomerycountymd.gov](mailto:David.Niblock@montgomerycountymd.gov)>; Larry Frank <[larry@bfmarch.com](mailto:larry@bfmarch.com)>; Jody Kline <[JSKline@mmcanby.com](mailto:JSKline@mmcanby.com)>; Gio Kaviladze <[Gio.Kaviladze@hocmc.org](mailto:Gio.Kaviladze@hocmc.org)>

**Subject:** RE: Brooke Park Parcel A (P954)

Mark-

We understand DPS had previously made a determination of the yard and setback requirements as part of a Preliminary Subdivision Plan approval (Plan No. 12010030). This determination was made based on the 2004 Zoning Code and as the Applicant intends to amend the Preliminary Subdivision Plan under the current 2014 Zoning Code, we believe that the determination of the yard and setback requirements should now be based on the current code. We believe that the current zoning code provides clarification relative to the definition and application of the setbacks applied to front and side streets.

The following definitions are found in the current code:

*Lot, Corner: A lot abutting 2 or more streets at their intersection where the interior angle of the intersection does not exceed 135 degrees.*

*Lot Line, Front: A lot line abutting a right-of-way or common open space. On a corner lot, the owner must elect which lot line is the front lot line.*

*Lot Line, Rear: The lot line generally opposite or parallel to the front lot line, except in a through lot. If the rear lot line is less than 10 feet long or the lot comes to a point at the rear, such rear lot line is assumed to be a line not less than 10 feet long lying wholly within the lot, parallel to the front lot line, or in the case of a curved front lot line, parallel to the chord of the arc of such front lot line.*

*Lot Line, Side: A lot line adjoining or generally perpendicular to the front lot line and abutting another lot line or common open space.*

*Lot Line, Side Street: A lot line abutting a right-of-way that is not the front lot line.*

The subject property is clearly a “corner lot” as defined under Section 1.4.2. Specific Terms and Phrases Defined, of the current code and as indicated in the definition of the Front Lot Line, the owner must elect which of the lot lines is to be considered the front lot line. As indicated in the attached mark-up of the Subdivision Record Plat, the owner is electing to establish the Macarthur Boulevard frontage as the Front Lot Line, therefore the Sangamore Road and Brookes Lane frontage would become a Side Street Line.

			CL of Sangamore Road	CL of Brookes
Lane	PL of MacArthur	Western PL		
Interpretation per DPS memo dated 11-16-2009 (Previous Code)			65øFront	65ø
Front	25øRear	10øSide yard		
New Code R-30 /Apartments (Front and Side Street) óSee attached Exhibit			10øSide Street	10øSide
Street	30øFront	10øSide yard		

Based on the New Code, we would like your office to reconsider the interpretation issued in 2009 prior to the Zoning update. The design team can make ourselves available for a meeting to discuss this issue further. Thanks in advance for reconsideration.  
Please feel free to call with any questions.

**Brian Donnelly, RLA, LEED AP**  
**Macris, Hendricks and Glascock, P.A.**  
Engineers • Planners • Landscape Architects • Surveyors  
9220 Wightman Road, Suite 120  
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Engineers • Planners • Surveyors • Landscape Architects

9220 Wightman Road, Suite 120  
Montgomery Village, Maryland  
20886-1279



Phone 301.670.0840  
Fax 301.948.0693

May 3, 2018

Maryland National Capital Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, MD 20910

Re: Brooke Park  
FFCP Amendment  
MNCPPC No. 12010003A  
MHG Project No. 13.186.11

To Whom It May Concern:

On behalf of The Housing Opportunities Commission of Montgomery County Maryland, the applicant of the above referenced Forest Conservation Plan, we hereby request a variance for the impact of one specimen tree and removal of two specimen trees, as required by the Maryland Natural Resources Article, Title 5, Subtitle 16, Forest Conservation, Section 5-1611, and in accordance with Chapter 22A-21(b) of the Montgomery County Code. In accordance with Chapter 22A-21(b) of the Montgomery County Code, the proposed impact/removal of three trees over thirty inches in diameter would satisfy the variance requirements.

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

The subject property is 1.18 acres. The property is developed with a multi-family residential building. There is an approved forest conservation plan for the site which proposed to remove the existing building and replace it with a new building to be built on the same foundation. The approved variance included the removal of tree number one and the impact of tree number two. During the time after the plan was approved, tree number one was removed by the previous owners of the property. Tree numbers 6 and 11 were not listed as specimen trees on the approved plan. Despite being in poor condition tree number 6 was impacted but saved while a line of Magnolia's along the building was proposed to be removed instead. Because of the condition of tree number 6 and because it is slated to be removed by others, this amendment has adjusted to save the Magnolia's and remove tree number 6 since it is coming out anyway. The approved plan had proposed garage parking under the building while this amendment cannot do that and therefore has a larger surface parking requirement. This amendment to the forest conservation plan proposes to maintain and renovate the existing building and proposes parking and stormwater management improvements. The existing site layout does not provide adequate drainage around the building resulting in water flowing into the building. Drainage flows from the existing parking lot, down the slope on the north side of the building and also down a swale along the western property line. This drainage descends into the northwest corner of the building. In order to get this water away from

the building and to minimize erosive conditions, the north side of the site is proposed to be regraded and a storm drain inlet is provided near the northwest corner of the building. This water is then conveyed through a storm drain around the eastern side of the building. There is not enough space between the building and the western property for the storm drain to go to the west of the building. The proposed storm drain crosses the southern side of the building to connect to an existing storm drain within MacArthur Boulevard. Parking lot improvements are also required to meet County Code. The current topography of the lot does not meet ADA due to the slope of the parking lot, lack of ADA spots, as well as an ADA entrance. The parking lot also lacks a clear ingress-egress entrance, the required number of parking spots, and does not have the proper landscape buffer requirements. The improvements to the parking lot will also be designed to properly meet fire and rescue access requirements. The proposed improvements will remedy the parking lot issues and bring the site into code.

In order to provide the proper stormwater management and parking design requirements the above improvements are necessary and unavoidable. These improvements result in the impact of one specimen tree and the need to remove two specimen trees. Tree #11 and tree #2 are impacted by proposed grading to the north of the building. This grading is needed in order to make improvements to the parking area and to direct drainage to the proposed storm drain and stabilize an eroded swale that runs from the parking lot and down the western property line (see attached picture number one). The impacts to tree #11 are negligible and can be mitigated via root pruning and protection fencing. Tree #2 which sits on the property line at the top of the slope of the swale must be removed. Due to the proximity of the tree to the eroded swale and the building, impacts cannot be reduced while providing the necessary drainage improvements. The approved impacts to tree #2 were significant and its survival questionable. The tree has grown larger which makes the impacts even larger. Impacts are required to be made that are within the region of the main supporting roots of tree #2 (approximately 18 feet) which are visible against the building (see attached picture number two). In addition, regardless of any impacts to the root zone of the tree, the condition of the tree is such that it would present a future hazard to the building. The tree is in Fair to Poor condition. There are multiple cavities on the trunk (see attached pictures numbers three, four, and five) and, likely due to erosion in the drainage swale, the root system is being undermined. Tree #6 is in the right of way of MacArthur Boulevard and has a blue paint mark on it suggesting the County is proposing to remove. As noted in the arborist report the tree is in poor condition. Due to the fact that the tree is likely to be removed by the county/others and given its condition and the proposed impacts by the storm drain, the storm drain was shifted closer to the tree in order to save smaller on-site trees and remove tree #6. As mentioned the storm drain cannot go around the west side of the building and therefore the only way to connect to the existing storm drain is by going through the root zone of tree #6. Impacts to trees to remain have been minimized and will be mitigated with all stress reduction requirements necessary including root pruning, fertilization, aeration, mulching and sanitation pruning as needed.

Given the needs for proper stormwater conveyance, not allowing the impacts would be a hardship that is not warranted in light of the special conditions particular to the property.

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

Tree impacts consist of reasonable improvements for the maintenance and betterment of the property. Improvements to the parking lot and stormwater management are both necessary for proper upkeep of the building and meet current design standards. The inability to impact/remove the subject trees would limit the development of the property. This creates a significant disadvantage for the applicant and deprives the applicant of the rights enjoyed by the neighboring and/or similar properties not subject to this approval process.

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

A Stormwater Management Concept has been approved on April 18, 2018 for the improvements. The approval of the Stormwater Management Concept confirms that the goals and objectives of the current state water quality standards are being met. The sites SWM requirement is met with one micro-bioretenion facility. A majority of the project's disturbance is for the proposed parking area. Runoff from this area is conveyed to the micro-bioretenion through a closed system. Runoff from a portion of the roof is also directed to the facility with roof leaders. The facility only accepts a small amount of direct surface flow.

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

Pursuant to Section 22A 21(d) Minimum Criteria for Approval.

(1) The Applicant will receive no special privileges or benefits by the granting of the requested variance that would not be available by any other applicants.

The variance will not confer a special privilege because the impacts are due to the development of the site and are the minimum necessary in order to provide needed improvements to the property. The site constraints are explained above. The constraints constrict the development area of the property and do not leave a reasonable alternative to meet the needs of the property per design requirements and county code.

(2) The variance request is not based on conditions or circumstances which result from the actions of the applicant.

The variance is based upon site conditions and development constraints that developed and existed before the enactment of the specimen tree legislation and are not based on conditions or circumstances which are a result of actions of the Applicant. The variance is based on the existing topography and other existing conditions of the site layout, and the design is utilizing the only areas that are available for the proposed improvements that meet the design needs of the property.

(3) The variance is not based on a condition relating to the land or building use, either permitted or nonconforming on a neighboring property.

The location of the trees, existing building, and current topography are dictating the need for the variance. The requested variance is a result of the existing on-site conditions and necessary proposed improvements for the property as detailed above and not a result of land or building on a neighboring property.

(4) Will not violate State water standards or cause measurable degradation in water quality. Full ESD stormwater management will be provided as part of the proposed development.

The Montgomery County Department of Permitting Services approval of the Concept demonstrates that the variance will not violate State water quality standards or cause measurable degradation in water quality and will actually improve water quality by the introduction of stormwater management treatment to the property as summarized, where it currently does not exist. The specimen trees being impacted are not within a special protection area.

A copy of the Forest Conservation Plan and variance tree tables as well as pictures of and the area around tree number two has been provided as part of this variance request. Please let us know if any other information is necessary to support this request.

Please contact me via email, at [fjohnson@mhgpa.com](mailto:fjohnson@mhgpa.com), or by phone, at (301) 670-0840 should you have any additional comments or concerns.

Thank you,

*Frank Johnson*

Frank Johnson

**Tree Variance Removal Table**

<b><u>Tree ID #</u></b>	<b><u>Species</u></b>	<b><u>DBH</u></b>	<b><u>Impact / Remove</u></b>	<b><u>% Impacted</u></b>	<b><u>Condition</u></b>	<b><u>Mitigation</u></b>
2	Sycamore	42	Remove	100%	Fair/Poor	42"
6	Silver Maple	32	Remove	42%	Poor	32"

Total: 74"

74"/4 = 18.5" to be replanted with 3" trees = 7 trees

**Tree Variance Impact Table**

<b><u>Tree ID #</u></b>	<b><u>Species</u></b>	<b><u>DBH</u></b>	<b><u>Impact / Remove</u></b>	<b><u>% Impacted</u></b>	<b><u>Condition</u></b>	<b><u>Mitigation</u></b>
11	Silver Maple	30	Impact Only	4%	Good	stress reduction measures



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

Diane R. Schwartz Jones  
Director

April 18, 2018

Mr. Michael Morris  
Macris, Hendricks, Glasscock  
9220 Wightman Road, Suite 120  
Montgomery Village, MD 20886

Re: **COMBINED STORMWATER  
MANAGEMENT CONCEPT/SITE  
DEVELOPMENT STORMWATER  
MANAGEMENT PLAN** for  
6301 MACARTHUR BLVD  
Preliminary Plan #: 1201003A  
SM File #: 283379  
Tract Size/Zone: 1.07  
Total Concept Area: 0.71  
Lots/Block: NA  
Parcel(s): N954  
Watershed: Potomac Direct

Dear Mr. Morris:

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 proposes to meet required stormwater management goals via 1 Microbioretention practice.

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

1. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
2. An engineered sediment control plan must be submitted for this development.

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

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.



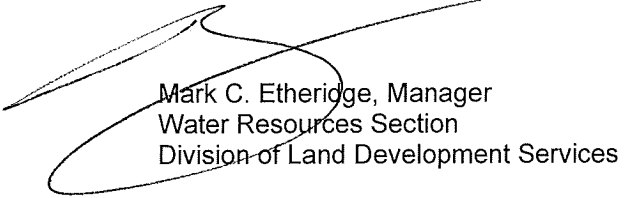
255 Rockville Pike, 2<sup>nd</sup> Floor, Rockville, Maryland 20850 | 240-777-0311  
[www.montgomerycountymd.gov/permittingservices](http://www.montgomerycountymd.gov/permittingservices)



Mr. Michael Morris  
April 18, 2018  
Page 2 of 2

If you have any questions regarding these actions, please feel free to contact Bill Musico at 240-777-6340.

Sincerely,



Mark C. Etheridge, Manager  
Water Resources Section  
Division of Land Development Services

MCE: WJM

cc: N. Braunstein  
SM File # 283379

ESD: Required/Provided 1520 cf / 1889 cf  
PE: Target/Achieved: 1.8"/2.24"  
STRUCTURAL: 0.0 cf  
WAIVED: 0.0 ac.



PICTURE #1: DRAINAGE SWALE NEAR TREE NUMBER TWO





PICTURE #2: TREE NUMBER TWO SUPPORTING ROOTS





PICTURE #3: TREE NUMBER TWO CAVITIES





PICTURE #4: TREE NUMBER TWO CAVITIES





PICTURE #5: TREE NUMBER TWO CAVITIES





DEPARTMENT OF TRANSPORTATION

Isiah Leggett  
*County Executive*

ATTACHMENT D  
**RECEIVED**

MAY 15 2018

MONTGOMERY PLANNING/Area 1

Al R. Roshdieh  
*Director*

May 4, 2018

Ms. Kathy Reilly, Planner Coordinator  
Area 1 Planning Division  
The Maryland-National Capital  
Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan Letter  
Preliminary Plan No. 12010003A  
Brooke Park – Parcel A

Dear Ms. Reilly:

We have completed our review of the Preliminary Plan dated March 16, 2018. A previous plan was reviewed by the Development Review Committee at its meeting on August 8, 2017. We recommend approval for the plan based 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 the Department of Permitting Services 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. The proposed driveway entrance on Brooke Lane located on the north end of the property shall be restricted to right-in /left-in movements only.
2. The proposed driveway entrance on Brooke Lane located on the south end of the property shall be a full movement driveway access.
3. We recommend reducing the curb return radius to 5-feet on the south side of the proposed driveway entrance located on the north end of the property (Right-In/Left-In).

**Office of the Director**

101 Monroe Street 10<sup>th</sup> Floor · Rockville Maryland 20850 · 240-777-7170 · 240-777-7178 FAX

[www.montgomerycountymd.gov](http://www.montgomerycountymd.gov)

*Located one block west of the Rockville Metro Station*

**RECEIVED**

**MAY 15 2018**

**MONTGOMERY PLANNING/Area 1**

4. Storm Drain Analysis: The storm drain study has been accepted and the applicant is not responsible for any downstream improvements.
5. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
6. The sight distance studies have been accepted based on the following:
  - a. Proposed Driveway Entrance #1 (Northwest): The sight distance is only 184-feet looking left towards Brooke Lane, which does not meet the minimum sight distance requirement of 200-feet. The proposed access point would function only as a right-in / left-in entrance. Therefore, we recommend approval of the sight distance study as submitted.
  - b. Proposed Driveway Entrance #2 (Southeast): The sight distance is 188-feet looking right towards Sangamore Road, which does not meet the 200-foot minimum sight distance requirement. The proposed driveway entrance is located at the end of Brooke Lane. The sight distance is shown from the proposed driveway along Brooke Lane looking towards Sangamore Road. The conflict movements are left turns onto Brooke Lane from the proposed driveway and left turns from Sangamore Road onto Brooke Lane. DOT believes that the left turning vehicles from Sangamore Road onto Brooke Lane will slow down or come to a stop before turning left. The sight distance at Brooke Lane and Sangamore Road intersection meets the Secondary Residential standards and moreover is STOP controlled. Therefore, we recommend approval of the sight distance study as submitted.

A copy of the accepted Sight Distance Evaluation certification forms is enclosed for your information and reference.

7. The owner will be required to submit a recorded covenant for the operation and maintenance of any private storm drain systems, and/or open space areas prior to MCDPS approval of the record plat. The deed reference for this document is to be provided on the record plat.

**RECEIVED**

**MAY 15 2018**

**MONTGOMERY PLANNING/Area 1**

8. At or before the permit stage, please coordinate with Ms. Stacy Coletta of our Division of Transit Services to coordinate improvements/relocation to the RideOn bus facilities in the vicinity of this project. Ms. Coletta may be contacted at 240-777-5800.
9. Trees in the County rights of way – spacing and species to be in accordance with the applicable MCDOT standards. Tree planning within the public right of way must be coordinated with DPS Right-of-Way Plan Review Section.
10. At the right-of-way permit stage, submit a Pavement and Marking Plan for review and approval by the Division of Traffic Engineering and Operations.
11. Permit and bond will be required as a prerequisite to DPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
  - a. Curbs and gutter, five (5) foot concrete sidewalk, and handicap ramps, enclosed storm drainage and appurtenances, and street trees along Sangamore Road.
  - b. Curbs and gutter, five (5) foot concrete sidewalk, and handicap ramps, enclosed storm drainage and appurtenances, and street trees along Brooke Lane.
  - c. Enclosed storm drainage and/or engineered channel (in accordance with the MCDOT Storm Drain Design Criteria) within the County rights-of-way and all drainage easements.
  - d. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.
  - e. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.

Ms. Kathleen Reilly  
Preliminary Plan No. 12010003A  
May 04, 2018  
Page 4

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**MAY 15 2018**

MONTGOMERY PLANNING/Area 1

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Deepak Somarajan, our Development Review Team Engineer for this project at [deepak.somarajan@montgomerycountymd.gov](mailto:deepak.somarajan@montgomerycountymd.gov) or (240) 777-7170.

Sincerely,



Rebecca Torma, Acting Manager  
Development Review  
Office of Transportation Policy

SharePoint\teams\DOT\Director's Office\Development Review\Deepak\Preliminary Plan\ Brooke Park- Parcel A\Letter\12010003A  
Brooke Park-Parcel A-4-25-2018

Enclosures (2)

cc:     Gio Kaviladze             Housing Opportunities Comm.  
          Brian Donnelly         Macris, Hendricks & Glascock  
          Jody Kline             Miller, Miller & Canby  
          Preliminary Plan folder  
          Preliminary Plan letters notebook

cc-e:   Atiq Panjshiri           MCDPS RWPR  
          Sam Farhadi           MCDPS RWPR  
          Marie LaBaw          MCDPS Fire Dept. Access  
          Stacy Coletta         MCDOT DTS  
          Vince Subramaniam     MCDOT DTEO  
          Mark Terry            MCDOT DTEO  
          Deepak Somarajan     MCDOT OTP

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MAY 15 2018



**MONTGOMERY COUNTY, MARYLAND**  
DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION  
DEPARTMENT OF PERMITTING SERVICES

**SIGHT DISTANCE EVALUATION**

Facility/Subdivision Name: Brooke Park Preliminary Plan Number: 120100030A

Street Name: Brookes Lane & Sangamore Road Master Plan Road Classification: Secondary

Posted Speed Limit: 30 MPH mph

Street/Driveway #1 ( Northwest ) Street/Driveway #2 ( Southeast )

Sight Distance (feet) OK?  
Right 250' Sangamore OK  
Left 184' Brookes OK \*

Sight Distance (feet) OK?  
Right 188' Sangamore OK\*  
Left 264' Brookes OK  
250' Sangamore OK

Comments: \*150' to the left of entrance is an existing speed hump & 130' to the right of entrance is the intersection of Brookes Lane and Sangamore Road (existing stop sign on Brookes Lane)

Comments: \*230' to the left of entrance is an existing speed hump & 60' to the right of entrance is the intersection of Brookes Lane and Sangamore Road (existing stop sign on Brookes Lane)

**GUIDELINES**

Classification or Posted Speed (use higher value)	Required Sight Distance in Each Direction*
Tertiary - 25 mph	150'
<u>Secondary - 30</u>	<u>200'</u>
Business - 30	200'
Primary - 35	250'
Arterial - 40	325'
(45)	400'
Major - 50	475'
(55)	550'

\*Source: AASHTO

Sight distance is measured from an eye height of 3.5' at a point on the centerline of the driveway (or side street) 6' back from the face of curb or edge of traveled way of the intersecting roadway where a point 2.75' above the road surface is visible. (See attached drawing)

**Note: Please refer to the Preliminary Plan Letter dated 5/4/2018 for approval criteria.**

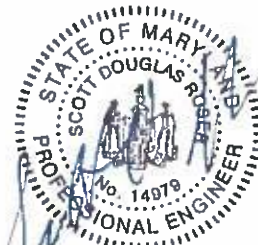
I hereby certify that this information is accurate and was collected in accordance with these guidelines and that these documents were prepared or approved by me, and that I am a licensed Professional Engineer under the laws of the State of Maryland, License No. 14979, Expiration Date: 07-02-2018



Signature

**14979**

PLS/P.E. MD Reg. No.



**Montgomery County Review:**

☒ Approved

☐ Disapproved:

By: 

Date: 5/4/18

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RECEIVED



**MONTGOMERY COUNTY, MARYLAND** MAY 15 2018  
DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION  
DEPARTMENT OF PERMITTING SERVICES MONTGOMERY PLANNING/Area 1

**SIGHT DISTANCE EVALUATION**

Facility/Subdivision Name: Brooke Park Preliminary Plan Number: 120100030A

Street Name: Brookes Lane & Sangamore Road Master Plan Road Classification: Secondary

Posted Speed Limit: 30 MPH mph

Street/Driveway #1 (Existing/proposed Intersection) Street/Driveway #2 ( )  
(Brookes & Sangamore)

Sight Distance (feet) OK?  
Right 250' OK  
Left 260' OK

Sight Distance (feet) OK?  
Right \_\_\_\_\_  
Left \_\_\_\_\_

Comments: \_\_\_\_\_

Comments: \_\_\_\_\_

**GUIDELINES**

Classification or Posted Speed (use higher value)	Required Sight Distance in Each Direction*
Tertiary - 25 mph	150'
<u>Secondary - 30</u>	<u>200'</u>
Business - 30	200'
Primary - 35	250'
Arterial - 40	325'
(45)	400'
Major - 50	475'
(55)	550'

\*Source: AASHTO

Sight distance is measured from an eye height of 3.5' at a point on the centerline of the driveway (or side street) 6' back from the face of curb or edge of traveled way of the intersecting roadway where a point 2.75' above the road surface is visible. (See attached drawing)

**ENGINEER/ SURVEYOR CERTIFICATE**

I hereby certify that this information is accurate and was collected in accordance with these guidelines and that these documents were prepared or approved by me, and that I am a licensed Professional Engineer under the laws of the State of Maryland, License No. 14979, Expiration Date: 07-02-2018

Scott C. Prosen

Signature

14979

PLS/P.E. MD Reg. No.



**Montgomery County Review:**

☒ Approved

☐ Disapproved:

By: [Signature]

Date: 5/4/18



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**Department of Permitting Services**  
**Fire Department Access and Water Supply Comments**

---

**DATE:** 30-Apr-18  
**TO:** Stephen Crum - [scrum@mhgpa.com](mailto:scrum@mhgpa.com)  
Macris, Hendricks & Glascock  
**FROM:** Marie LaBaw  
**RE:** Brooke Parke - Parcel A  
12010003A

---

**PLAN APPROVED**

1. Review based only upon information contained on the plan submitted **30-Apr-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.



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

Diane R. Schwartz Jones  
Director

April 18, 2018

Mr. Michael Morris  
Macris, Hendricks, Glasscock  
9220 Wightman Road, Suite 120  
Montgomery Village, MD 20886

Re: **COMBINED STORMWATER  
MANAGEMENT CONCEPT/SITE  
DEVELOPMENT STORMWATER  
MANAGEMENT PLAN** for  
6301 MACARTHUR BLVD  
Preliminary Plan #: 1201003A  
SM File #: 283379  
Tract Size/Zone: 1.07  
Total Concept Area: 0.71  
Lots/Block: NA  
Parcel(s): N954  
Watershed: Potomac Direct

Dear Mr. Morris:

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 proposes to meet required stormwater management goals via 1 Microbioretention practice.

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

1. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
2. An engineered sediment control plan must be submitted for this development.

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

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.

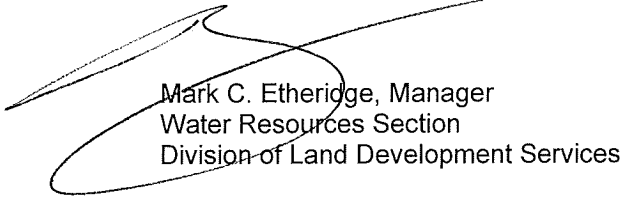


255 Rockville Pike, 2<sup>nd</sup> Floor, Rockville, Maryland 20850 | 240-777-0311  
[www.montgomerycountymd.gov/permittingservices](http://www.montgomerycountymd.gov/permittingservices)

Mr. Michael Morris  
April 18, 2018  
Page 2 of 2

If you have any questions regarding these actions, please feel free to contact Bill Musico at 240-777-6340.

Sincerely,



Mark C. Etheridge, Manager  
Water Resources Section  
Division of Land Development Services

MCE: WJM

cc: N. Braunstein  
SM File # 283379

ESD: Required/Provided 1520 cf / 1889 cf  
PE: Target/Achieved: 1.8"/2.24"  
STRUCTURAL: 0.0 cf  
WAIVED: 0.0 ac.