

## Pooks Hill (AKA Potter Property) Preliminary Plan No. 120180200

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Staff Report Date: December 10, 2018

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### Description

Request to Subdivide parts of Lots 17, 23, 24 and Parcel 663 into 17 one-family residential lots and four parcels under the Standard Method of Development

**Size:** 5.64 acres

**Location:** 5415 Beech Avenue

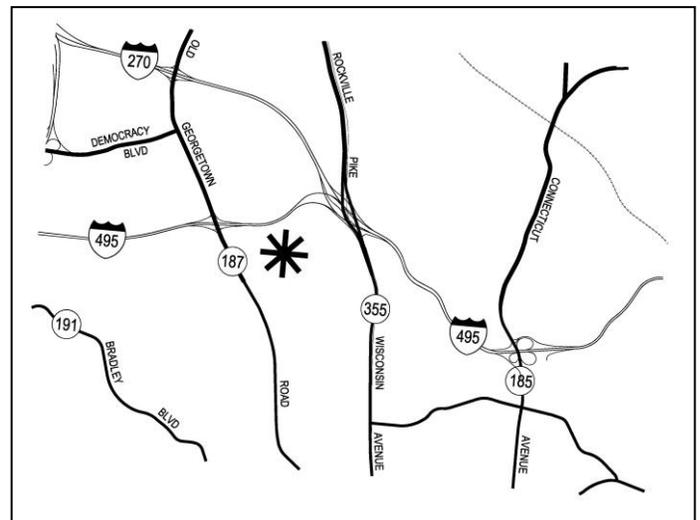
**Zone:** R-60

**Master Plan:** 1990 Bethesda Chevy Chase

**Applicant:** Beech Avenue, LLC

**Acceptance Date:** April 27, 2018

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



### Summary

- Staff recommends **Approval** of Preliminary Plan 120180200 with conditions.
- The Preliminary Plan proposes to subdivide the Property to create 17 one-family residential lots and four parcels to be dedicated to the Homeowners Association.
- In accordance with Chapter 50, Subdivision Regulations, Section 50.4.1.E, the Applicant received two extensions: from the Planning Director to extend review of this Application from August 20, 2018 to September 20, 2018, and from the Planning Board to postpone the hearing from September 20, 2018, to December 20, 2018.
- Staff recommends **Approval** of Forest Conservation Plan and the associated variance request for this Property.

## SECTION 1 – STAFF RECOMMENDATION AND CONDITIONS

Staff recommends approval with conditions of the Preliminary Plan No. 120180020 subject to the following conditions:

1. This Preliminary Plan is limited to 17 one-family residential lots and four (4) parcels.
2. Prior to issuance of the 9th building permit associated with this Preliminary Plan, dedication and construction of Nelson Road between Street A and Page Avenue must be completed.
3. All sidewalks located on private property along Street A and Nelson Road extended must be placed into a Public Improvement Easement (PIE).
4. The Applicant must dedicate and show on the record plat(s) a minimum of 10 feet of right-of-way as measured from the existing right-of-way centerline on Beech Avenue to achieve a 70-foot wide right-of-way along the site frontage.
5. The Applicant must dedicate the rights-of-way and ensure all construction of all necessary road improvements for the following public streets, as shown on the Preliminary Plan, 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.
  - a. Street A: sixty feet of right-of-way, between Beech Avenue and Nelson Road; fifty feet of right-of-way between Nelson Road and the northern terminus; and
  - b. Nelson Road: sixty feet of right-of-way, between Street A and the site’s western property line.
6. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in their letter dated November 9, 2018 and hereby incorporates them as conditions of approval 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 approval.
7. 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 August 16, 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 MCDPS may amend if the amendments do not conflict with other conditions of Preliminary Plan approval.
8. The Planning Board accepts the recommendations of MCDPS – Water Resources Section in its stormwater management concept letter dated October 8, 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. The MCDPS Water Resources Section will review, approve, and inspect all landscaping within the Storm Water Management easements and facilities.

9. The record plat must reflect any areas under Homeowner's Association ownership.
10. Prior to any clearing, grading or demolition necessary to construct the project, the Applicant must obtain approval of a Final Forest Conservation Plan from M-NCPPC staff.
11. The Applicant must comply with the following conditions of the Final Forest Conservation Plan as part of this Preliminary Plan:
  - a. Before demolition, clearing or grading on the Subject Property, the Applicant must record the Category I and Category II Conservation Easements in the Montgomery County Land Records by deed. The deed must be in a form approved by the M-NCPPC Office of the General Counsel and the Book and Page for the easements must be referenced on the record plat. The final boundaries of the Category I and Category II Easements will be determined by Staff prior to certification of the Final Forest Conservation Plan.
  - b. The Applicant must obtain approval from MNCPPC Staff and incorporate into the Certified Final Forest Conservation Plan an invasive species control plan and the plantings of supplemental native species within the Category 1 and 2 Forest Conservation Easements Areas as part of the Final Forest Conservation Plan.
  - c. Mitigation for the loss or potential loss of specimen trees 2, 4, 7, 8, and 48 requires a minimum planting of (15) 3-inch caliper canopy trees to be shown on the Final Forest Conservation Plan and undertaken at the same time as the on-site forest planting.
  - d. The Applicant must provide supplemental planting in both Category II Conservation Easements and undertaken at the same time as the on-site forest planting. Plantings must include a minimum tree caliper of 2-inches in diameter.
    - i. Parcel C (0.06 acres): If specimen tree #8 is removed due to mortality or significant impacts, the planting rate on Parcel C must include a total of 6 trees and shrubs: three (3) canopy trees, and three (3) shrubs. If specimen tree #8 survives, planting rates may be reduced with approval from M-NCPPC tree inspector.
    - ii. Parcel D (0.14 acres): If specimen trees #2 and #4 are removed due to mortality or significant impacts, the planting rate on Parcel D must include a total of 14 trees and shrubs: Eight (8) canopy trees, and six (6) shrubs. If specimen trees #2 and #4 survive, planting rates may be reduced with approval from M-NCPPC tree inspector.
12. Before demolition clearing or grading on the Subject Property, the Applicant must submit a Certificate of Compliance which satisfies the offsite 0.55-acre afforestation credit requirements or as approved in the certified Final Forest Conservation Plan. If a Certificate of Compliance is utilized it must be in a form approved by the M-NCPPC Office of General Counsel and recorded in the Land Records of Montgomery County.
13. Prior to any demolition, clearing, or grading on site, the Applicant must submit a forest conservation maintenance, a management agreement and a financial surety and obtain approval of said agreement from M-NCCPC Staff.
14. The Limits of Disturbance shown on the Final Sediment Control Plan must be consistent with the Limits of Disturbance shown on the Final Forest Conservation Plan.
15. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspector.

16. The Adequate Public Facility (“APF”) review for the Preliminary Plan will remain valid for sixty (60) months from the date of mailing of this Planning Board Resolution.
17. The certified Preliminary Plan must contain the following note:  
*Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of building permit(s). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.*
18. The Applicant must include the stormwater management concept approval letter and Preliminary Plan Resolution on the approval or cover sheet(s) and correct square footage on the Certified Preliminary Plan and Data Table for Lots 1, 2, 3, 4, 5, 6, and Parcels C and D.
19. Prior to certification of the Preliminary Forest Conservation and Final Forest Conservation Plan, the Applicant must coordinate with Staff on minor corrections or clarifications as required.

## SECTION 2 – SITE DESCRIPTION

### Site Vicinity and Analysis

#### *Subject Property*

The subject property is located at 5415 Beech Avenue opposite its intersection with Wild Oak Drive in Bethesda. The Property is identified as parts of Lots 17, 23, 24, and Parcel 663, and consists of 5.64 acres in the R-60 Zone. It has frontage on Beech Avenue, Nelson Road (unimproved) and a tiny panhandled shaped sliver of land on Linden Court along its eastern boundary.



*Figure 1 – Aerial View (Subject Site outlined in blue)*

#### *Site Analysis and Surrounding Uses*

The Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) (#420180510) for this site was approved on January 16, 2018. The Property is undeveloped and completely wooded and contains environmentally sensitive features such as specimen trees. There are no historic features, stream

buffers, wetlands, or 100-year floodplains on the property. The Subject Property is located within the Lower Rock Creek watershed, which is designated as a Use I<sup>1</sup> watershed.

The site contains a total of 3.85 acres of forest. There are 38 specimen trees along the property's borders. There are three forest stands, each of which contain extensive invasive species. Forest Stand 1 is 0.83 acres and has a moderate retention designation, Forest Stand 2 is 2.45 acres and has a high priority for forest retention, Forest Stand 3 is 0.57 acres with a higher priority forest retention designation.

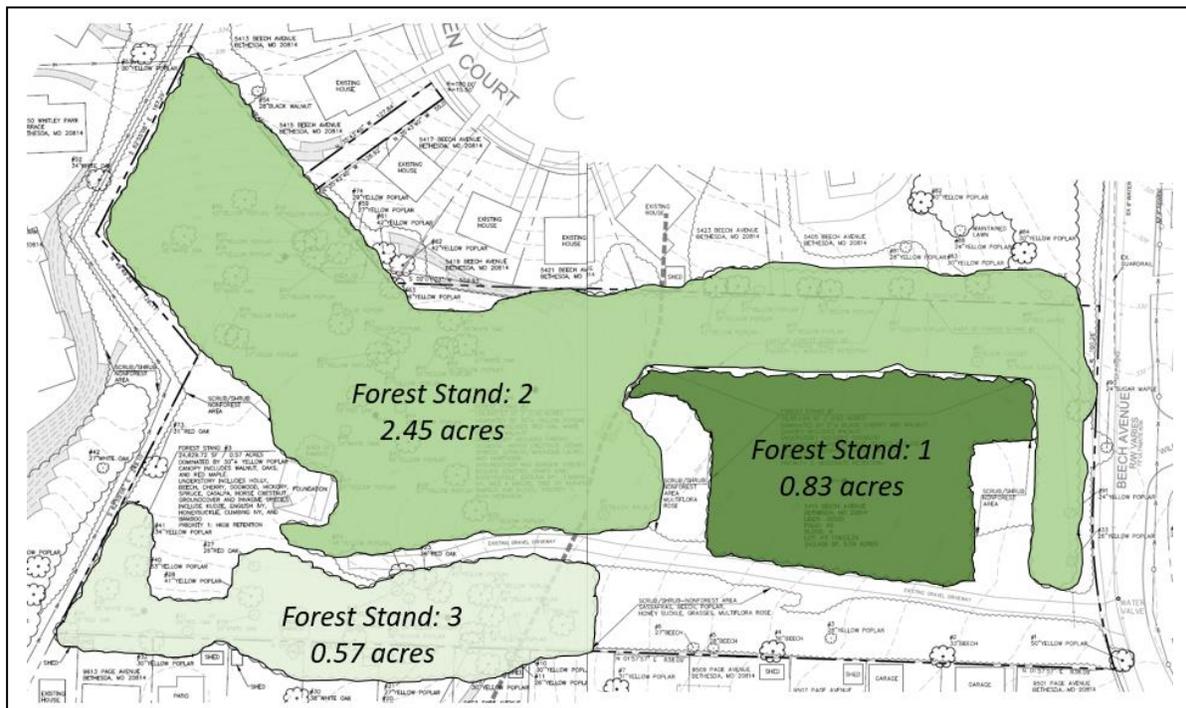


Figure 2: Existing Forest Stands On-Site

The Property is located within an established neighborhood of one-family houses to the east, west and south developed under the R-60 Zone. The properties to the north are developed as multi-family units under the -R-30 Zone.

### SECTION 3 –PROPOSAL

#### Proposal

The Applicant proposes to subdivide the site to create 17 one-family lots on 5.64 acres of land in the R-60 Zone under the Standard Method of Development. A new public right-of-way, Street A, will be constructed from Beech Avenue to provide vehicular access for this development. Street A will terminate in a cul-de-sac at the northern end of the property. Nelson Road, an unimproved public right-of way, will also be extended from the site's western boundary to meet proposed Street A at its

<sup>1</sup> Use I: WATER CONTACT RECREATION, PROTECTION OF AQUATIC LIFE. Waters that are suitable for: water contact sports: play and leisure time activities where the human body may come in direct contact with the surface water; fishing; the growth and propagation of fish (other than trout); other aquatic life, and wildlife; agricultural water supply; and industrial water supply.

midpoint. The Applicant will also dedicate 10 feet along the site's frontage on Beech Avenue to achieve the 70-foot wide -primary residential right-of-way. New five-foot sidewalks will be constructed on the lots fronting on Street A and on the south side of Nelson Road. Seven micro-bioretenention facilities will be located within the modified public right-of-way section for Street A.



Figure 3: Proposed Preliminary Plan

There will be four parcels dedicated to the future Homeowners' Association. Parcel A, consisting of 63,893 square feet, will be placed in a Category I Forest Conservation easement, while Parcels C (2,893 square feet) and D (6,539 square feet) will be put into Category II Forest Conservation Easements. Parcel B, the panhandled shaped sliver of property off Linden Court, will contain 1,930 square feet, and will not be placed into a forest conservation easement. The Applicant also submitted a variance request for impacts to and removal of on-site trees.

#### Forest Conservation Plan

The entire site is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code). A Preliminary/ Final Forest Conservation Plan and Tree Variance request were submitted with this Preliminary Plan application.

The existing forest is 3.85 acres. The Preliminary Forest Conservation Plan (PFCP) identifies the removal of 72 percent (2.77 acres) of the forest and the preservation of 28-percent (1.08 acres). Based on the associated forest conservation worksheet, there is a 0.84-acre forest planting requirement. The Applicant proposes to meet the requirements through the replanting of 0.29 acres onsite, and 0.55 acres in an offsite forest bank. Onsite mitigation will be planted predominantly on the north side of the project connecting Forest Stands 2 and 3. Presently, it is a field of invasive species that has dominated the understory preventing natural forest regeneration. The on-site mitigation will be put into a Category I Conservation Easement.

The prevalence of aggressive invasive species onsite could jeopardize the success of the proposed onsite tree plantings. If uncontrolled, the invasive species could reduce or prohibit the forest's use by new residents of this development. Therefore, a condition of approval is recommended that an invasive plant removal plan is included with the Final Forest Conservation Plan.

#### **SECTION 4 – ANALYSIS AND FINDINGS**

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*

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

The Application has been reviewed for compliance with Section 50.4.3.B of the Montgomery County Code. The proposed subdivision abuts existing residential neighborhoods to the east, south and west that are developed with one-family detached dwelling units. The block design for this development is similar to the block design of nearby neighborhoods and is appropriate for the uses contemplated under this Preliminary Plan.

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

The design including size, width and shape and orientation of these lots is consistent with Section 50.4.3.C of the Montgomery County Code. The Preliminary Plan proposes 17 one-family residential lots. These proposed lots accommodate the anticipated uses and will conform to the standards set forth in Section 59.4.4.9 of the Zoning Ordinance. All lots will front on either Nelson Road or the new public right-of-way Street A and will be appropriately aligned with them.

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

The 1990 *Bethesda-Chevy Chase Master Plan* provides no specific recommendations for this site. However, the 2001 *Legacy Open Space (LOS) Functional Master Plan*, on page 77, designated this property as a LOS Master Planned site. Subsequent to this designation, The Parks Department evaluated the property and determined it not to be appropriate for a public park through fee-simple acquisition due to limited public use potential, management concerns relative to numerous improved adjacent properties, limited public frontage, proximity to other parks and public open space, and cost relative to higher priority projects. Based on this analysis, required opens areas or public sites are not required under this Preliminary Plan.

d. *The Lot(s) and Use comply with the basic requirements of Chapter 59*

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

**Table 1  
Development Standards R-60 Zone  
Standard Method of Development**

<b>R-60</b>	<b>Required/Allowed by Zone</b>	<b>Proposed for Approval</b>
Minimum Lot Area	6,000 square feet t	6,000 square feet
Minimum Lot Width at B.R.L.	60 feet	Must meet minimum <sup>1</sup>
Minimum Lot Width at Front Lot Line	25 feet	Must meet minimum <sup>1</sup>
Maximum Coverage	35%	26%
Front Setbacks (min)	25 feet	Must meet minimum <sup>1</sup>
Side Setbacks abutting Residential (min)	8 feet/18 feet total	Must meet minimum <sup>1</sup>
Rear Setbacks (min)(	20 feet	Must meet minimum <sup>1</sup>
Maximum Building Height	35 feet	35 feet
Site Plan Required	No	No
Maximum residential dwelling units per zoning acre	7.26 du/ac	3.01 du/ac

<sup>1</sup>As determined by MCDPS at the time of building permit.

2. *The Preliminary Plan substantially conforms to the Master Plan or Urban Renewal Plan.*

Land Use

The 1990 *Bethesda-Chevy Chase Master Plan* identifies this property as located in the Mid-Bethesda-Northern B-CC, area and offers the following recommendations:

- *the Mid-Bethesda is a stable mature area, predominately zoned R-60 and R-90 (p. 51)*
- *Single family detached houses are pervasive, except for multi-family housing of varying density and townhouses at Pooks Hill. The area is largely built-out and there is little potential for development although there are several vacant and potentially re-developable parcels greater than three acres in size.... (p.51)*

The *Master Plan* on page 53, Table 5, offers the following recommendation for the subject property.

**Table 5 (Cont'd.)  
MID-BETHESDA LAND USE AND ZONING RECOMMENDATIONS**

Parcel Identification (#, Owner)	Estimated Area (Acres and/ or Sq. Ft.)	Existing Use	Existing Zone	Recommended Use	Recommended Zone	Conditions, Constraints, Comments	Rationale
M 5 P24, P23, P663 Beech and Linden Aves	5 acres	1 house (21 du potential)	R-60	Single-family	R-60	- Preserve trees	- Housing accessible to CBD and NIH - Conforms to nearby housing type

The Preliminary Plan proposes 17 one-family houses for the 5.64-acre site and the FCP preserves many of the on-site trees. The *Master Plan* recommends providing new housing in close proximity to the Bethesda Central Business District (CBD) and National Institutes of Health (NIH) that conforms to the nearby housing types which are one-family detached units. Another recommendation is to preserve on-site trees which has been accomplished through the submitted FCP including tree protection and mitigation measures. This Preliminary Plan substantially conforms to the *Master Plan* recommendations for the provision of one-family housing near the Bethesda CBD and NIH and preserving many of the on-site trees.

#### Environmental

The *Master Plan* recommends preserving trees on the subject site. (page 53). The Applicant has retained portions of forest stands 2 and 3 containing specimen trees and efforts will be taken to protect and retain many trees located along the property boundaries. To save and protect these trees, the limits of disturbance have been tightened, additional plantings will be added and two small, but beneficial Category II Conservation Easements will be placed on Parcel C (0.06 acres) and Parcel D (0.14 acres). Through these measures, this Preliminary Plan will substantially conform to the tree preservation recommendations of the Master Plan.

#### Transportation

There are no specific transportation Master Plan recommendations for the subject property or Beech Avenue, the main access point into the project. However, the Master Plan, (p.99), Table 10, lists *Master Plan Strategies for Improved Transportation in Bethesda-Chevy Chase travel components through, to, from, and within Bethesda-Chevy Chase*. For trips within the Bethesda-Chevy Chase area, “more local streets for circulation” are recommended for automobile travel. Proposed Street A and Nelson Road extended provide new local streets that will further circulation in the proposed development and with abutting residential areas to the west.

Additionally, the Master Plan recommends “expansion of the system of pedestrian paths and bikeways to link residential areas with public facilities, commercial areas and transit services.” (p. 97) New 5-foot wide sidewalks on lots along both sides of Street A and along the south side of Nelson Road extended will be installed. These sidewalks will create new pedestrian connections from the subdivision to existing transit service on nearby Beech Avenue and to the nearby Bethesda Trolley Trail bikeway, west of the subject property. This Preliminary Plan substantially conforms to the Master Plan recommendations.

3. *Public Facilities will be adequate to support and service the area of the subdivision*  
Transportation Access is adequate to serve the proposed development by this Preliminary Plan.

#### Roads and Other Transportation Facilities

The Project will be located on a new secondary residential public street, “Street A,” which is accessed directly from Beech Avenue, opposite Wild Oak Drive. Within the vicinity of the Subject Property, Beech Avenue is improved as a 24-foot wide roadway within a 60-foot wide right-of-way. Along the site’s frontage, Beech Avenue is improved with a curb on the south side of the street and open section on the north side of the street. The Applicant will dedicate 10 feet along the Beech Avenue frontage to achieve the minimum 70-foot wide primary residential right-of-way.

Internal to the Site, the Project will dedicate and construct Street A, which will terminate in a cul-de-sac at the north end of the property and will connect near its midpoint with a new extension of Nelson Road. Between Beech Avenue and Nelson Road, Street A will be a new secondary residential street within a 60-foot wide right-of-way. North of Nelson Road, Street A will be a tertiary street within a 50-foot wide right-of-way. A cul-de-sac is necessary on this property because the existing development pattern to the north of the Site precludes future extension of Street A.

In addition to Street A, approval of the Project is conditioned upon dedication and construction of the extension of Nelson Road, which will connect the proposed subdivision with the adjacent “Page Hill” subdivision to the west (Plat 367, dated 1927). The construction of Nelson Road is required unless waived by the Board in accordance with Section 50.4.3.E.1.b of the Subdivision Regulations, which states:

*“Continuation of roads. The subdivision must provide for continuation of any existing roads (constructed or recorded) in satisfaction of the Road Design and Construction Code, unless otherwise determined by the Board, considering the recommendations of other agencies.”*



Figure 4: Proposed Access Plan

#### Master Plan Roadways and Pedestrian/Bikeway Facilities

There are no specific transportation recommendations for Beech Avenue in either the 1990 Bethesda Chevy Chase Master Plan, 2018 Planning Board Draft Master Plan of Highways & Transitways, or the 2018 Bicycle Master Plan.

#### Transit Connectivity

Transit within approximately one quarter-mile vicinity of the Subject Property includes:

- Montgomery County Ride-On Route 30 (Weekday service between NIH Medical Center and the Bethesda Metrorail station) is located on Beech Avenue, approximately 280 feet west of that street’s intersection with proposed Street A.
- The Bethesda Trolley Trail is located approximately 500 feet to the west of the Site (on the west side of Montgomery Drive). The Applicant’s construction of Nelson Road extended facilitates direct pedestrian and bicycle travel between the Project and the Bethesda Trolley Trail (Figure

5). This roadway extension provides future residents and visitors to this subdivision with an important regional bicycle connection to both Downtown Bethesda and the Grosvenor Metrorail station.

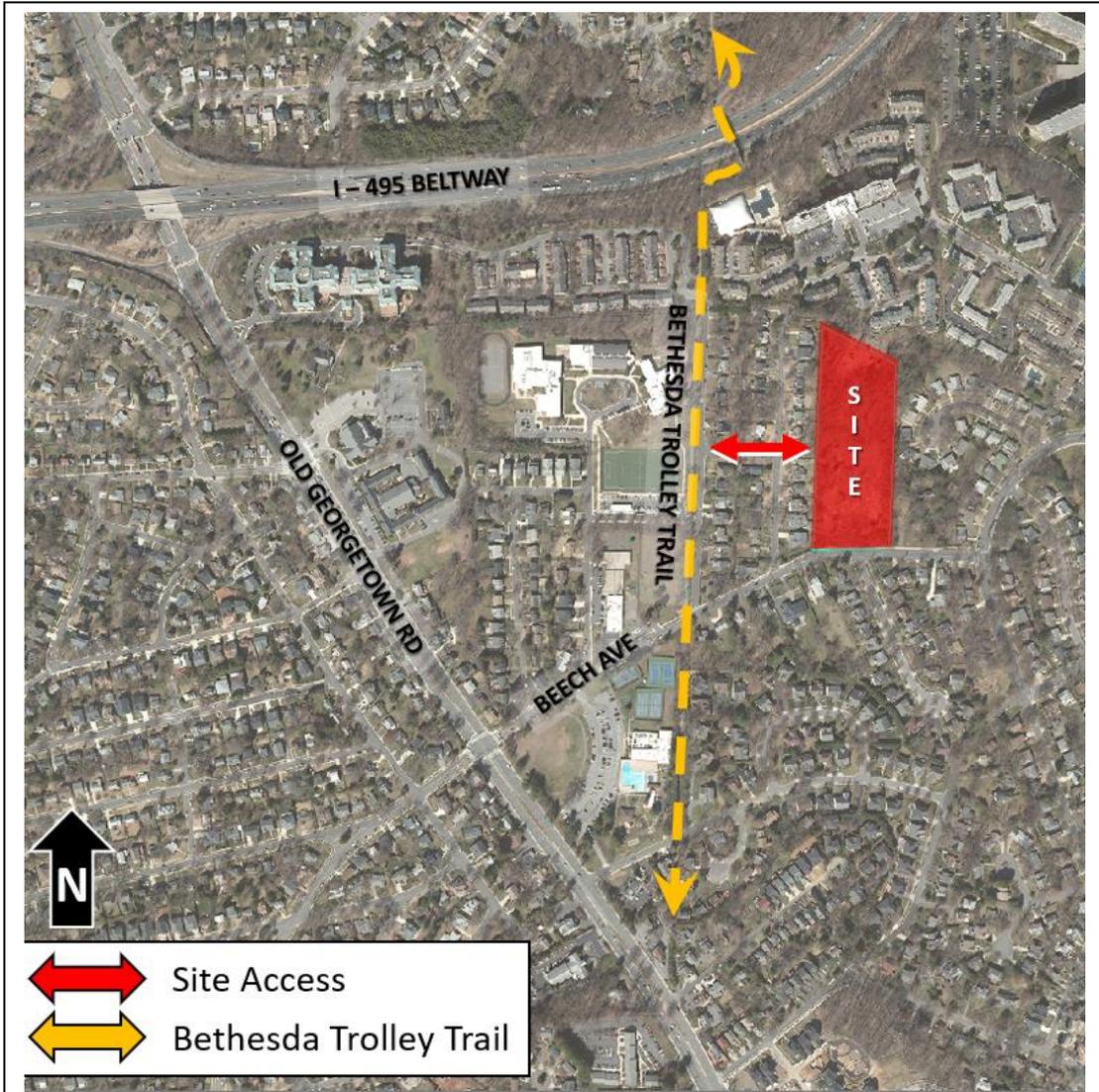


Figure 5 Subject Site Proximity to Bethesda Trolley Trail

#### *Adequate Public Facilities*

Based on the 2016-2020 Subdivision Staging Policy transportation impact criteria, the proposed lots generate fewer than 50 peak-hour person trips, therefore, the Application is not subject to a Local Area Transportation Review analysis as shown in Table 2. As a result of the construction of Street A, and the extension of Nelson Road, proposed site access, and internal circulation, vehicular and pedestrian access for the subdivision will be safe and adequate.

**Table 2  
Project Peak Hour Trip Generation**

	Vehicle Rates		Adjusted Vehicle Rates		Person Trips	
	AM	PM	AM	PM	AM	PM
17 Single Family Detached Dwelling Units	17	19	14	15	22	25

Other Public Facilities and Services

Public facilities, including water and sewer, utilities, police, fire, health, and schools are adequate to serve the Project. The Property will be served by public water and sewer systems. Water and sewer and other utilities will be located in Proposed Street A and in Nelson Road extended. Electrical and telecommunications services are also available to serve the subject property. The Application has been reviewed by MCFRS, and emergency vehicle access has been deemed adequate. Local health clinics, police stations and fire stations are all operating within the acceptable levels as established by the Subdivisions Staging Policy. The Project will be served by Wyngate Elementary School, North Bethesda Middle School and Walter Johnson High School.

**Applicable School Test**

Preliminary Plan No. 120180200 for the Pooks Hill Property is scheduled for Planning Board review in Fiscal Year 2019 (FY 19) therefore the applicable annual school test is the FY19 Annual School Test, approved by the Planning Board on June 21, 2018 and effective July 1, 2018. The Application proposes development of 17 single-family detached dwelling units.

**Calculation of Student Generation**

To calculate the number of students generated by the proposed development, the number of dwelling units is multiplied by the applicable regional 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 subject property is in the southwest region of the County.

	Elementary School	Middle School	High School
<b>SF Detached</b>	0.193	0.111	0.147
<b>SF Attached</b>	0.191	0.094	0.124
<b>MF Low- to Mid-Rise</b>	0.146	0.063	0.083
<b>MF High-Rise</b>	0.055	0.022	0.031

With a net of 17 new single family detached dwelling units, the proposed project is estimated to generate the following number of students:

Type of Unit	Net Number of Units	ES Generation Rates	ES Students Generated	MS Generation Rates	MS Students Generated	HS Generation Rates	HS Students Generated
SF Detached	17	0.193	3.281	0.111	1.887	0.147	2.499
<b>TOTAL</b>	<b>17</b>		<b>3</b>		<b>1</b>		<b>2</b>

This project is estimated to generate 3 new elementary school students, 1 new middle school student, and 2 new high school students.

### Cluster Adequacy Test

The project is in the Walter Johnson High School (WJ) Cluster. The student enrollment and capacity projections from the FY19 Annual School Test for the WJ Cluster are noted in the following table:

School Level	Projected Cluster Totals, September 2023			Moratorium Enrollment Threshold	Projected Enrollment + Application Impact
	Enrollment	Program Capacity	% Utilization		
Elementary	4,586	4,541	101.0%	5,450	<b>4,589</b>
Middle	2,333	2,429	96.0%	2,915	<b>2,334</b>
High	2,718 <sup>2</sup>	2,330	116.7%	2,797	<b>2,720</b>

### Applicable School Test

This Project will be served by the Wyngate Elementary School, North Bethesda Middle School and 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, 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.

<sup>2</sup> The projected cluster high school enrollment of 3,118 has been modified to reflect the estimated impact of a future boundary change that will reassign students from Walter Johnson HS to a reopened Charles W. Woodward HS prior to September 2023.

**Individual School Adequacy Test**

The applicable elementary and middle schools for this project are Wyngate Elementary School and North Bethesda Middle School, respectively. Based on the FY19 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

School	Projected School Totals, September 2023				Moratorium Enrollment Thresholds		Projected Enrollment + Application Impact
	Enrollment	Program Capacity	% Utilization	Surplus/ Deficit	120% Utilization	Surplus/ Deficit	
Wyngate ES	705	777	90.7%	+72	933	887	<b>708</b>
N. Bethesda MS	1,188	1,229	96.7%	+41	1,475	1,409	<b>1,189</b>

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* thresholds, then the school service area is placed in a residential development moratorium.

The Moratorium Enrollment Thresholds identified in the table above 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 both applicable moratorium thresholds for Wyngate Elementary School and North Bethesda Middle School. Therefore, there is sufficient anticipated school capacity to accommodate the estimated number of students generated by this project.

Based on the school cluster and individual school capacity analysis performed, using the FY2019 Annual School Test, there is adequate school capacity for the amount and type of development proposed by this Preliminary Plan.

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

Forest Conservation Plan

The property contains 3.85 acres of forest. The PFCP identifies removal of 72 percent (2.77 acres) of the forest and preservation of 28-percent (1.08 acres). There is a 0.84-acre afforestation requirement which the Applicant proposes to meet through replanting of 0.29 acres onsite and 0.55 acres in an offsite forest bank. Onsite mitigation will predominantly be planted in Parcel A and will connect forest stands 2 and 3. Presently, it is a field of invasive species that has dominated the understory preventing natural forest regeneration. Parcel A will be put into a Category I Conservation Easement.

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), or impact to the above ground tree requires a variance. An Applicant who submits 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 in diameter at breast height (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.

In accordance with Montgomery County Code, Section 22A-21, the Planning Department referred a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection.

**Proposed Impacts**

The majority of the onsite forest is considered high priority for retention under Section 22A-12(b) (3) of the County Forest Conservation Law. The Applicant submitted a variance request on April 13, 2018, and a revised variance on October 24, 2018, for impacts and removals to 41 specimen trees on the subject property as shown in Table 3. The Applicant proposes to retain but impact the critical root zones of 25 specimen trees, remove 12 specimen trees, and impact over 31-percent of the critical root zones of an additional 5 specimen trees. Efforts will be made to preserve the 4 specimen trees with sizable impacts, however, they may not survive. Therefore, they are designated on the plan as trees to be “removed with potential to save”. Mitigation for their loss will occur onsite regardless of specimen tree survival.

**Table 3  
On-Site Trees to be Impacted, Removed or Potentially Preserved by Applicant**

Specimen Trees Proposed for Removal, Impact, or Intention to be Preserved										
Specimen trees (over 30" in DBH)										
Tree #	Species	Species	D.B.H	CRZ	Critical Root	Critical Root Zone	Percent of CRZ	Status	Variance	
	Common Name	Scientific Name	(inches)	(inches)	Zone (Sq. Ft.)	Impacts	Impacted (SF)			
1	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	50	75	17671		1713	10%	IMPACTS ONLY	YES
2 *	BEECH	FAGUS GRANDIFOLIA	33	49.5	7698		2486	32.3%	REMOVAL WITH INTENT TO SAVE	YES
4 *	BEECH	FAGUS GRANDIFOLIA	36	54	9161		2970	32.4%	REMOVAL WITH INTENT TO SAVE	YES
7	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	31	46.5	6793		6793	100%	REMOVAL	YES
8 *	RED OAK	QUERCUS RUBRA	37	55.5	9677		4458	46%	REMOVAL WITH INTENT TO SAVE	YES
10	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	30	45	6362		217	3%	IMPACTS ONLY	YES
12	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	30	45	6362		2	0%	IMPACTS ONLY	YES
13	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	34	51	8171		2535	31%	IMPACTS ONLY	YES
14	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	38	57	10207		4666	46%	REMOVAL	YES
15	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	38	57	10207		10207	100%	REMOVAL	YES
16	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	42	63	12469		12469	100%	REMOVAL	YES
19	RED OAK	QUERCUS RUBRA	32	48	7238		2239	31%	IMPACTS ONLY	YES
20	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	32	48	7238		1444	20%	IMPACTS ONLY	YES
22	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	36	54	9161		1954	21%	IMPACTS ONLY	YES
23	RED OAK	QUERCUS RUBRA	36	54	9161		9161	100%	REMOVAL	YES
24	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	46	69	14957		14957	100%	REMOVAL	YES
25	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	47	70.5	15615		15615	100%	REMOVAL	YES
26	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	57	85.5	22966		22966	100%	REMOVAL	YES
28	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	41	61.5	11882		4426	37%	REMOVAL	YES
40	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	53	79.5	19856		1429	7%	IMPACTS ONLY	YES
41	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	34	51	8171		227	3%	IMPACTS ONLY	YES
43	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	48	72	16286		16286	100%	REMOVAL	YES
45	RED OAK	QUERCUS RUBRA	33	49.5	7698		7698	100%	REMOVAL	YES
48 *	RED OAK	QUERCUS RUBRA	37	55.5	9677		2143	22%	REMOVAL WITH INTENT TO SAVE	YES
49	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	42	63	12469		2406	19%	IMPACTS ONLY	YES
64	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	31	46.5	6793		120	2%	IMPACTS ONLY	YES
65	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	32	48	7238		1489	21%	IMPACTS ONLY	YES
66	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	41	61.5	11882		3650	31%	IMPACTS ONLY	YES
67	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	37	55.5	9677		1250	13%	IMPACTS ONLY	YES
69	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	36	54	9161		508	6%	IMPACTS ONLY	YES
70	WHITE OAK	QUERCUS ALBA	37	55.5	9677		1827	19%	IMPACTS ONLY	YES
71	WHITE OAK	QUERCUS ALBA	39	58.5	10751		800	7%	IMPACTS ONLY	YES
73	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	30	45	6362		323	5%	IMPACTS ONLY	YES
75	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	42	63	12469		3318	27%	IMPACTS ONLY	YES
76	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	36	54	9161		1959	21%	IMPACTS ONLY	YES
78	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	40	60	11310		2628	23%	IMPACTS ONLY	YES
79	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	36	54	9161		2043	22%	IMPACTS ONLY	YES
80	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	30	45	6362		823	13%	IMPACTS ONLY	YES
83	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	30	45	6362		437	7%	IMPACTS ONLY	YES
89	BLACK LOCUST	ROBINIA PSEUDOACACIA	31	46.5	6793		6793	100%	REMOVAL	YES
97	RED OAK	QUERCUS RUBRA	31	46.5	6793		729	11%	IMPACTS ONLY	YES

\* TREES ARE PLANNED TO BE SAVED BUT MITIGATED FOR IF FUTURE REMOVAL IS REQUIRED

### Mitigation for Trees Subject to the Variance Provisions

There are 12 specimen trees proposed for removal, with another 4 identified as “potential removal” in association with the application. Variance tree mitigation is required for the loss and/or potential loss of trees that are outside of existing forest. Variance trees within forest to be removed are mitigated through the forest conservation plan. Trees: 2, 4, 7, 8, and 48 are outside the forest stands and replacement should occur at a ratio of approximately one-inch caliper for every four inches DBH of removal, using trees that are a minimum of three inches caliper. The total diameter at breast height for all 5 specimen trees, outside of forest and to be removed, is 178 inches requiring a replacement of fifteen (15) 3-inch caliper trees. The Applicant will meet this requirement onsite thus satisfying the requirement.

**Variance Findings** - Staff has made the following determination based on the required findings for the granting of the requested variance:

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

The *1990 Bethesda-Chevy Chase Master Plan* recommends the preservation of trees while also recommending development of this site. Efforts were made by the Applicant to tighten the Limits of Disturbance (LOD) to save additional trees, however, the LOD was not reduced even with fewer proposed lots. Therefore, due to the location and existing zoning, granting of the variance will not confer a special privilege that would be denied to other applicants.

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

The requested variance is based on proposed development allowed under the existing zoning and recommended by the applicable Master Plan along with the need to provide the associated infrastructure and utility connections and is not based on conditions or circumstances which are the result of the actions by the Applicant.

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 site design and layout on the subject property and the impacts are not related to land or a building use on a neighboring property.

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

The variance will not violate State water quality standards or cause measurable degradation in water quality. On-site mitigation for removal of trees subject to the variance request and the proposed replanting will ultimately replace the functions currently provided by the trees to be removed. Additionally, the Montgomery County Department of Permitting Services (MCDPS) approved the proposed stormwater management plans on October 8, 2018 to include the construction of bioretention systems in the right-of-way and drywells on each individual lot.

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 (#283846) on October 8, 2018. This

concept plan meets the stormwater management goals through the use of environmental site design for each residential lot via drywells and/or compensation in micro-bioretenion located in the right of way and for the roads in seven micro-bioretenion facilities located in a modified public right-of-way typical section.

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

Not applicable, no other provisions specific to the property and necessary for approval of this subdivision are required.

## **SECTION 5 – COMMUNITY COMMENTS**

The Applicant has met all proper signage, noticing and pre-submission meeting requirements for the submitted Application. The Applicant conducted a pre-submission meeting on January 16, 2018 with members of the community. Issues raised by the community focused on:

- no extension of Nelson Road;
- tree preservation and stormwater management;
- traffic volumes and cut-thru traffic in the neighborhood; and
- sidewalk connections to surrounding area.

Nelson Road extended completes a missing link in the neighborhood's street grid and complies with Section 50.4.3.E.1.b of the County Code, which requires continuation of existing roads (constructed or recorded). A Forest Conservation Plan was submitted and recommended for approval that will include tree retention and protection measures. A stormwater management plan was approved by MCDPS to control stormwater run-off. Sidewalks will be constructed throughout the subdivision and will connect to the existing sidewalk on Beech Avenue. The subdivision generates less than 50 trips and is not subject to LATR mitigation, impacts from this project will not substantially affect traffic volumes or cut-through traffic. To date, no comments have received by staff on this Application.

## **SECTION 6 – CONCLUSION**

As conditioned, the proposed lots meet all the requirements established in the Subdivision Regulations and the Zoning Ordinance and conform to the recommendations of the 1990 *Bethesda Chevy Chase Master Plan*. Access to the lots is adequate and all public facilities and utilities have been deemed adequate to serve this Application. The Application was reviewed by other applicable County agencies, all of whom have recommended approval of the plans. Therefore, staff recommends approval of the Application, with the conditions as specified.

### **Attachments**

- Attachment A – Applicant's Continuance Requests
- Attachment B - Applicant's Variance Request
- Attachment C – Agency Letters



**Montgomery County Planning Department**  
 Maryland-National Capital Park and Planning Commission

Effective: December 5, 2014

8787 Georgia Avenue  
 Silver Spring, Maryland 20910-3760

www.montgomeryplanning.org

Phone 301.495.4550  
 Fax 301.495.1306

**REGULATORY PLAN EXTENSION REQUEST**

Request #1       Request #2

MNCPPC Staff Use Only			
File Number	_____	MCPB Hearing Date	_____
Date Received	_____		

Plan Name: Pooks Hill      Plan No. 120180200

This is a request for extension of:       Project Plan       Sketch Plan  
 Preliminary Plan       Site Plan

The Plan is tentatively scheduled for a Planning Board public hearing on: August 23, 2018

The Planning Director may postpone the public hearing for up to 30 days without Planning Board approval. Extensions beyond 30 days require approval from the Planning Board.

**Person requesting the extension:**

Owner,  Owner's Representative,  Staff (check applicable)

<u>Beech Avenue LLC</u>	<u>c/o Bradley Bernstein</u>
<small>Name</small>	<small>Affiliation/Organization</small>
<u>204 Monroe Street, Suite 201</u>	
<small>Street Address</small>	
<u>Rockville</u>	<u>MD</u>
<small>City</small>	<small>State</small>
<u>(301) 251-0756</u>	<u>brad@bradbern.com</u>
<small>Telephone Number</small>	<small>E-mail</small>
<small>ext.</small>	<small>Fax Number</small>
	<u>20850</u>
	<small>Zip Code</small>

We are requesting an extension for 1 months until September 20, 2018

Describe the nature of the extension request. Provide a separate sheet if necessary.

The tentative Planning Board hearing date based on applicable regulatory timeframes would fall in August when the Planning Board is in recess and therefore necessitates an extension of time.

**Signature of Person Requesting the Extension**

  
 Signature Bradley Bernstein, Managing Member  
 Beech Avenue, LLC

June 5, 2018  
 Date

**Extension Review**

*Planning Director Review for Extensions 30 days or less*

I, the Planning Director, or Director's designee, have the ability to grant extensions of the Planning Board public hearing date of up to 30 days and approve an extension of the Planning Board public hearing date from 8/23/18 until 9/20/18.

Awen Wright  
Signature

6/13/18  
Date

*Planning Board Review for Extensions greater than 30 days*

The Montgomery County Planning Board reviewed the extension request on \_\_\_\_\_ and approved an extension for more than 30 days of the Planning Board public hearing date from \_\_\_\_\_ until \_\_\_\_\_.



**Extension Request # 2 Preliminary Plan No. 120180200 Pooks Hill (AKA Potter Property)**

 Aileen A. Reilly, AICP, Coordinator, Area 1, [Kathy.Reilly@montgomeryplanning.org](mailto:Kathy.Reilly@montgomeryplanning.org), (301) 495-4614

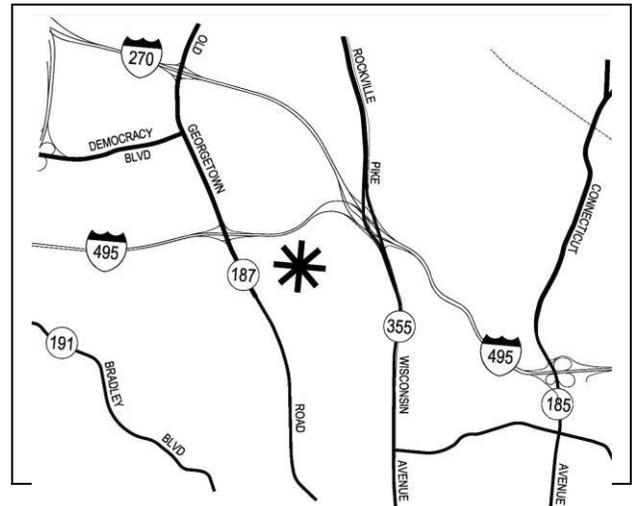
 Elza Hisel-McCoy, Supervisor, Area 1, [Elza.Hisel-McCoy@montgomeryplanning.org](mailto:Elza.Hisel-McCoy@montgomeryplanning.org) (301) 495-2115

 Robert A. Kronenberg, Chief, Area 1, [Robert.Kronenberg@montgomeryplanning.org](mailto:Robert.Kronenberg@montgomeryplanning.org) (301) 495-2187

**Staff Report Date:** August 27, 2018

**Description**

Request to extend the regulatory review period from September 20, 2018 to November 20, 2018  
Location: 5415 Beech Avenue  
Zone: R-60  
Master Plan: 1990 *Bethesda-Chevy Chase*  
Property Size: 5.64 acres  
Applicant: Beech Avenue, LLC  
Date Accepted: April 27, 2018



**Summary**

Chapter 50, Subdivision Regulations, Section 50.4.1.E provides a 120-day limit for preliminary plan hearings. The Planning Board may, however, extend this period. The Applicant requested, in an application dated July 17, 2018, that the review period for the Preliminary Plan be extended from the current date of September 20, 2018 to November 20, 2018. The extension will allow the Applicant additional time to address Development Review Committee comments. The Planning Director previously extended the review period on June 13, 2018 because the original 120-day time limit fell within the Planning Board’s August recess. The Planning Board hearing on the application may take place before the end of the review period and will be publicly noticed in accordance with the Zoning Ordinance.

Staff recommends **APPROVAL** of this extension request.

Attachment A: Applicant’s extension requests



**Montgomery County Planning Department**  
 Maryland-National Capital Park and Planning Commission

Effective: December 5, 2014

8787 Georgia Avenue  
 Silver Spring, Maryland 20910-3760

www.montgomeryplanning.org

Phone 301.495.4550  
 Fax 301.495.1306

**REGULATORY PLAN EXTENSION REQUEST**

Request #1       Request #2

M-NCPPC Staff Use Only			
File Number	_____	MCPB Hearing Date	_____
Date Received	_____		

**Plan Name:** Pooks Hill      **Plan No.** 120180200

This is a request for extension of:       Project Plan       Sketch Plan  
     Preliminary Plan       Site Plan

The Plan is tentatively scheduled for a Planning Board public hearing on: 9/20/18

The Planning Director may postpone the public hearing for up to 30 days without Planning Board approval. Extensions beyond 30 days require approval from the Planning Board.

**Person requesting the extension:**

Owner,  Owner's Representative,  Staff (check applicable.)

Beech Avenue LLC		c/o Bradley Bernstein	
<i>Name</i>		<i>Affiliation/Organization</i>	
204 Monroe Street, Suite 201			
<i>Street Address</i>			
Rockville		MD	20850
<i>City</i>		<i>State</i>	<i>Zip Code</i>
(301) 251-0756		brad@bradbern.com	
<i>Telephone Number</i>	<i>ext.</i>	<i>Fax Number</i>	<i>E-mail</i>

We are requesting an extension for 2 months until November 20, 2018

Describe the nature of the extension request. Provide a separate sheet if necessary.

The Applicant requires additional time to finalize plans for resubmission to M-NCPPC staff that comprehensively addresses comments and concerns relative to SWM management and ROW design/configuration received at DRC.

**Signature of Person Requesting the Extension**

  
 Signature    Bradley Bernstein, Managing Member  
                  Beech Avenue, LLC

7/17/18  
 Date

**Extension Review**

*Planning Director Review for Extensions 30 days or less*

I, the Planning Director, or Director's designee, have the ability to grant extensions of the Planning Board public hearing date of up to 30 days and approve an extension of the Planning Board public hearing date from \_\_\_\_\_ until \_\_\_\_\_.

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

*Planning Board Review for Extensions greater than 30 days*

The Montgomery County Planning Board reviewed the extension request on \_\_\_\_\_ and approved an extension for more than 30 days of the Planning Board public hearing date from \_\_\_\_\_ until \_\_\_\_\_.



**Preliminary Plan No. 120180200 Pooks Hill (AKA Potter Property) Extension Request # 3**

 Kathleen A. Reilly, AICP, Coordinator, Area 1, [Kathy.Reilly@montgomeryplanning.org](mailto:Kathy.Reilly@montgomeryplanning.org), (301) 495-4614

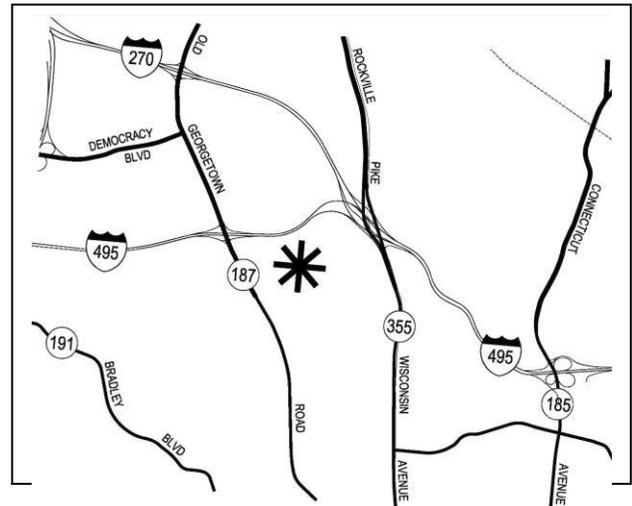
 Elza Hisel-McCoy, Regulatory Supervisor, Area 1, [Elza.Hisel-McCoy@montgomeryplanning.org](mailto:Elza.Hisel-McCoy@montgomeryplanning.org) (301) 495-2115

 Mark Pfefferle, Interim Chief, Area 1, [Mark.Pfefferle@montgomeryplanning.org](mailto:Mark.Pfefferle@montgomeryplanning.org) (301) 495-4730

**Staff Report Date:** October 15, 2018

**Description**

Request to extend the regulatory review period from November 20, 2018 to December 20, 2018  
Location: 5415 Beech Avenue  
Zone: R-60  
Master Plan: 1990 *Bethesda-Chevy Chase*  
Property Size: 5.64 acres  
Applicant: Beech Avenue, LLC  
Date Accepted: April 27, 2018



**Summary**

Chapter 50, Subdivision Regulations, Section 50.4.1.E provides a 120-day limit for preliminary plan hearings. The Planning Board may, however, extend this period. The Applicant is requesting, in an application dated, September 26, 2018, that the review period of the Preliminary Plan be extended from the current date of November 20, 2018 to December 20, 2018. This third extension request will allow the Applicant additional time to address and resolve all agency comments. The Planning Director previously extended the review period on June 13, 2018 to September 20, 2018 because the original 120-day time limit fell within the Planning Board’s August recess. The Planning Board granted a second continuance on September 6, 2018 to November 20, 2018. The Planning Board hearing on the application may take place before the end of the review period and will be publicly noticed in accordance with the Zoning Ordinance.

Staff recommends **APPROVAL** of this extension request.

Attachment A: Extension request



**Extension Review**

*Planning Director Review for Extensions 30 days or less*

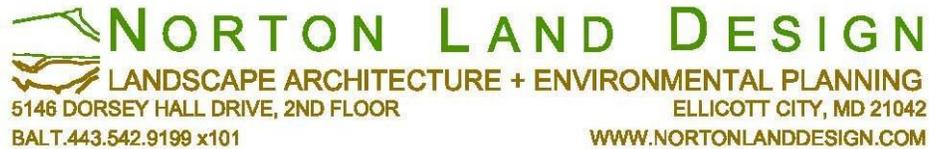
I, the Planning Director, or Director's designee, have the ability to grant extensions of the Planning Board public hearing date of up to 30 days and approve an extension of the Planning Board public hearing date from \_\_\_\_\_ until \_\_\_\_\_.

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

*Planning Board Review for Extensions greater than 30 days*

The Montgomery County Planning Board reviewed the extension request on \_\_\_\_\_ and approved an extension for more than 30 days of the Planning Board public hearing date from \_\_\_\_\_ until \_\_\_\_\_.



October 24, 2018

Maryland National Capital Park and Planning Commission (M-NCPPC)  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Pooks Hill  
Request for Specimen Tree Variance  
Approved NRI/FSD # 420180510  
Preliminary Plan #120180200

On behalf of Beech Avenue, LLC and pursuant to Section 22A-21 *Variance provisions* of the Montgomery County Forest Conservation Ordinance and revisions to the State Forest Conservation Law enacted by S.B. 666, we are writing to request a variance(s) to allow impacts to, or the removal of, the following trees identified on the approved Natural Resource Inventory/Forest Stand Delineation for the above-named residential construction project.

#### **Project Description:**

##### **The Subject Properties**

The Subject Properties are classified in the R60 Zone pursuant to the Zoning Ordinance and it are identified as Part of Lots 17, 23 & 24, and Parcel 663, as recorded in Liber 55216 at Folio 179. The Subject Properties are all vacant now. An old foundation exists on Part of Lot 24 where a home once stood which was demolished several years ago.

The Subject Property is generally moderately sloped, with forest on part of the property. All of the lots and parcels have access from Beech Avenue. The proposed subdivision is bounded by single family homes to the south, east and west, with townhouse condominiums to the north.

##### **The Surrounding Neighborhood**

For analysis purposes, the surrounding neighborhood shall be only defined by recorded lots directly to south and east in the Alta Vista Subdivision and to the west in the Page Hill Subdivision. These subdivisions were zoned and developed in the R60 zone. The property to the north is recorded as Whitley Park Condominium which are condominium townhouses zoned and developed in the R30 zone.

##### **The Proposed Subdivision**

This Preliminary Plan application proposes to subdivide parts of three recorded lots and one unrecorded parcel into seventeen proposed lots. The Standard Method, Development Standard is proposed to fit seventeen lots and create open space, saving much of the existing forest and protect several of the significant and specimen trees.

The subdivision shall propose a road access to Beech Avenue (Street "A"), a cross connection to a roadway extending to just short of the boundary line (Nelson Road) and a full sized paved cul de sac.

##### **Forest Conservation**

Natural Resources Inventory/Forest Stand Delineation No. 420180510 was submitted for approval for the Subject Property. A Preliminary Forest Conservation Plan is filed with this application. There is 3.85 acres of forest on the

Subject Property. We propose to clear 2.77 acres of forest and retain 1.08 acres. The reforestation requirement for the property is 0.84 acres. There shall be 0.29 acres of reforestation/afforestation proposed onsite and the remaining 0.55 acres of forest required shall be planted offsite or forest bank as further defined on the final forest conservation plan.

The following specimen trees require a variance:

SpecimenTree Summary 30" +											
Tree #	Species	Species	D.B.H	CRZ	Critical Root	Critical Root Zone	Percent of CRZ	Tree	Comments	Status	Variance
	Common Name	Scientific Name	(inches)	(inches)	Zone (Sq. Ft.)	Impacts	Impacted (SF)	Condition			
1	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	50	75	17671		1713	10%GOOD		IMPACTS ONLY	YES
2*	BEECH	FAGUS GRANDIFOLIA	33	49.5	7698		2486	32.3%GOOD	HEAVY VINES	REMOVAL WITH INTENT TO SAVE	YES
4*	BEECH	FAGUS GRANDIFOLIA	36	54	9161		2970	32.4%GOOD	HEAVY VINES	REMOVAL WITH INTENT TO SAVE	YES
7	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	31	46.5	6793		6793	100%GOOD		REMOVAL	YES
8*	RED OAK	QUERCUS RUBRA	37	55.5	9677		4458	46%GOOD	VINES	REMOVAL WITH INTENT TO SAVE	YES
10	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	30	45	6362		217	3%GOOD		IMPACTS ONLY	YES
12	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	30	45	6362		2	0%GOOD		IMPACTS ONLY	YES
13	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	34	51	8171		2535	31%GOOD	TREE ROOTS WRAPPED AROUND A QUARTZ OUTCROP	IMPACTS ONLY	YES
14	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	38	57	10207		4666	46%GOOD	VINES	REMOVAL	YES
15	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	38	57	10207		10207	100%GOOD	VINES	REMOVAL	YES
16	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	42	63	12469		12469	100%GOOD	VINES	REMOVAL	YES
19	RED OAK	QUERCUS RUBRA	32	48	7238		2239	31%GOOD		IMPACTS ONLY	YES
20	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	32	48	7238		1444	20%GOOD		IMPACTS ONLY	YES
22	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	36	54	9161		1954	21%GOOD		IMPACTS ONLY	YES
23	RED OAK	QUERCUS RUBRA	36	54	9161		9161	100%GOOD	VINES	REMOVAL	YES
24	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	46	69	14957		14957	100%FAIR	HEAVY VINES	REMOVAL	YES
25	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	47	70.5	15615		15615	100%GOOD	VINES, SOME DEADWOOD, CAVITY	REMOVAL	YES
26	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	57	85.5	22966		22966	100%GOOD	VINES	REMOVAL	YES
28	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	41	61.5	11882		4426	37%FAIR	HEAVY VINES	REMOVAL	YES
40	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	53	79.5	19856		1429	7%GOOD	VINES	IMPACTS ONLY	YES
41	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	34	51	8171		227	3%GOOD	VINES	IMPACTS ONLY	YES
43	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	48	72	16286		16286	100%GOOD	VINES	REMOVAL	YES
45	RED OAK	QUERCUS RUBRA	33	49.5	7698		7698	100%FAIR	HEAVY VINES	REMOVAL	YES
48*	RED OAK	QUERCUS RUBRA	37	55.5	9677		2143	22%GOOD	VINES	REMOVAL WITH INTENT TO SAVE	YES
49	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	42	63	12469		2406	19%GOOD	HEAVY VINES	IMPACTS ONLY	YES
64	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	31	46.5	6793		120	2%GOOD		IMPACTS ONLY	YES
65	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	32	48	7238		1489	21%GOOD		IMPACTS ONLY	YES
66	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	41	61.5	11882		3650	31%GOOD		IMPACTS ONLY	YES
67	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	37	55.5	9677		1250	13%GOOD		IMPACTS ONLY	YES
69	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	36	54	9161		508	6%GOOD		IMPACTS ONLY	YES
70	WHITE OAK	QUERCUS ALBA	37	55.5	9677		1827	19%GOOD	VINES	IMPACTS ONLY	YES
71	WHITE OAK	QUERCUS ALBA	39	58.5	10751		800	7%GOOD		IMPACTS ONLY	YES
73	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	30	45	6362		323	5%GOOD		IMPACTS ONLY	YES
75	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	42	63	12469		3318	27%GOOD		IMPACTS ONLY	YES
76	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	36	54	9161		1959	21%GOOD		IMPACTS ONLY	YES
78	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	40	60	11310		2628	23%GOOD		IMPACTS ONLY	YES
79	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	36	54	9161		2043	22%GOOD		IMPACTS ONLY	YES
80	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	30	45	6362		823	13%GOOD		IMPACTS ONLY	YES
83	YELLOW POPLAR	LIRIODENDRON TULIPIFERA	30	45	6362		437	7%GOOD		IMPACTS ONLY	YES
89	BLACK LOCUST	ROBINIA PSEUDOACACIA	31	46.5	6793		6793	100%GOOD		REMOVAL	YES
97	RED OAK	QUERCUS RUBRA	31	46.5	6793		729	11%GOOD		IMPACTS ONLY	YES

\*TREES ARE PLANNED TO BE SAVED BUT MITIGATED FOR IF FUTURE REMOVAL IS REQUIRED

### Requirements for Justification of Variance:

Section 22A-21(b) *Application requirements* states that the applicant must:

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
- (3) Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance; and
- (4) Provide any other information appropriate to support the request.

### Justification of Variance

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

**Response:** This work will require disturbance of the root zones of a total of forty-one (41) specimen trees. Twelve (12) of the impacted trees will be required to be removed. There are four (4) trees marked with an (\*) for removal due to root zone impact but are intended to be preserved. Each of the existing variance trees lies within or very near the footprints of a detached house, stormwater management facility, grading due to topographic conditions, the private access driveway or proposed public road. The trees that require removal to develop the proposed lots are the only obstacle to a development proposal that furthers the county's housing goal of avoiding sprawl by locating greater density in developed, urban communities.

**Unwarranted hardship is demonstrated, for the purpose of obtaining a Specimen Tree Variance when an applicant presents evidence that denial of the Variance would deprive the Applicant of the reasonable and substantial use of the property. The re-subdivision of existing lots into conforming and compatible R-60 lots in a fully developed urban transition community, of residential lots is clearly within the class of reasonable and substantial uses that justify the approval of a Specimen Tree Variance for the Subject Property. If the requested Variance were denied the Applicant would be precluded from developing the Subject Property for a reasonable and significant use commonly enjoyed by virtually all other property owners in the community.**

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

**Response: If the requested Variance were denied, the Applicant would suffer unwarranted hardship and would be deprived of rights commonly enjoyed by other property owners in the R-60 Zone and adjoining areas similar to the location of the Property. If the requested variance were denied, the Applicant would be denied the right enjoyed by other similarly situated property owners to develop their R-60 zoned property in a manner permitted by the zoning ordinance that is consistent with the development history of the neighborhood, block and subdivision.**

**If the variance were not granted for the trees identified on the attached chart would have to remain and the Applicant would be unable to develop the property with any houses in the disparate treatment of the Applicant in comparison the exercise of rights commonly enjoyed by others in the same area and in similar R-60 zoned areas.**

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

**Response: Tree removals have been minimized by careful design of the layout ensuring the preservation of as many specimen trees as possible. In addition, this property will be developed in accordance with the latest Maryland Department of the Environment criteria for stormwater management. This includes Environmental Site Design to provide for protecting the natural resources to the Maximum Extent Practicable. This includes removing excess impervious areas and providing on-site stormwater management systems. A Stormwater Management Concept is currently under review by the Montgomery County Department of Permitting Services to ensure that this criterion is enforced. Therefore, the proposed activity will not degrade the water quality of the downstream areas and will not result in *measurable degradation in waterquality*.**

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

**Response: The Approved and Adopted Trees Technical Manual lists several factors for consideration when reviewing applications for clearing that now require the approval of a Specimen Tree Variance. Generally, the Technical Manual recognizes that clearing is appropriate for street and driveway construction to provide access to new development and to create a building envelope for development. Among the development factors that the Technical manual considers appropriate for consideration when a Variance request is before the Planning Board is whether an urban form of development is desired at a particular location. The area in which the subject Property is located, with its high density residential zoning is far more appropriate for an urban form of development than for a large lot suburban pattern.**

**The Technical Manual also acknowledges that well planned clearing balances the public policies of preserving forest and funneling development into appropriate locations. The Technical Manual provides that one factor to be considered.**

**“The extent to which the actual or intended use of the property, as developed or as proposed to be developed in accordance with the regulations of the Zoning Ordinance and/or area master plans, require clearing of trees.”**

**The proposed re-subdivision of the subject Property into detached houses, locational desirable urban style R-60 lots fully complies with the specific regulations of the Zoning Ordinance and the land use recommendations and intentions of the Master Plan.**

As further basis for its variance request, the applicant can demonstrate that it meets the Section 22A-21(d) *Minimum criteria*, which states that a variance must not be granted if granting the request:

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

**Response: The construction of the residence onsite is in conformance with the subdivision regulations and zoning code. As such, this is not a *special privilege* to be conferred on the applicant.**

**(2)** Is based on conditions or circumstances which are the result of the actions by the applicant;

**Response: The Applicant has taken no *actions leading to the conditions or circumstances that are the subject of this variance request*.**

**(3)** Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or

**Response: The surrounding land uses (residences) do not have any inherent characteristics or conditions that have created or contributed to this particular need for a variance.**

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

**Response: Granting this variance request will not violate State water quality standards or cause measurable degradation in water quality.**

**Conclusion:**

For the above reasons, the applicant respectfully requests that the MNCPPC Staff APPROVE its request for a variance from the provisions of Section 22A of the Montgomery County Forest Conservation Ordinance, and thereby, GRANTS permission to impact/remove the specimen trees in order to allow the construction of this project.

The recommendations in this report are based on tree conditions noted at the time the NRI/FSD field work was conducted. Tree condition can be influenced by many environmental factors, such as wind, ice and heavy snow, drought conditions, heavy rainfall, rapid or prolonged freezing temperatures, and insect/disease infestation. Therefore, tree conditions are subject to change without notice.

The site plans and plotting of tree locations were furnished for the purpose of creating a detailed Tree Protection Plan. All information is true and accurate to the best of my knowledge and experience. All conclusions are based on professional opinion and were not influenced by any other party.

Sincerely,



Michael Norton



## DEPARTMENT OF TRANSPORTATION

Isiah Leggett  
County Executive

Al R. Roshdiah  
Director

November 9, 2018

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 No. 120180200  
Potter Property

Dear Ms. Reilly:

We have completed our review of the preliminary plan dated October 10, 2018. A previous plan was reviewed by the Development Review Committee at its meeting on May 22, 2018. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Department of Permitting Services in the package for record plats, storm drain, grading or paving plans, or application for access permit. This letter and all other correspondence from this department should be included in the package.

Design Exceptions

1. Modify MCDOT Standard No. MC-2002.02 – Secondary Residential Street, parking on one side. Between the Nelson Street extension and Beech Avenue - The applicant is proposing to provide one 8-foot parking lane, one 10-foot travel lane, one 11.5 foot travel, one 15-foot tree lawn/stormwater management facility and one 15.5-foot tree lawn/stormwater management facility. In addition, they propose a 5-foot sidewalk and two foot maintenance strip, which are located outside the right-of-way in a Public Improvement Easement (PIE). This modification to the cross section is required to provide stormwater management facilities for the street "A". These facilities along with the conservation easements behind the houses, require the sidewalk to be located outside the right-of-way in a seven-foot PIE to allow for a conservation easement. Additionally, the Public Utility Easement (PUE) will increase from 10 to 17 feet.

MCDOT Response: MCDOT **approves** these modifications. The applicant must accommodate stormwater management in the right-of-way. Increasing the right-of-way to add the sidewalk and maintenance strip will reduce the size of the conservation easement.

**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

2. Modify MCDOT Standard MC-2002.01 – Secondary Residential Street, no designated parking. Between Nelson Street extension and cul-de-sac. The applicant proposes a 44-foot wide right-of-way with two, 10-foot wide travel lanes, two 12-foot wide tree lawn/stormwater management facilities. The 5-foot sidewalk is located outside the right-of-way in a seven foot wide Public Improvement Easement (PIE). The applicant shows the PUE as 10-feet in this section; however, it should be expanded to include the 7-foot PUE.

MCDOT Response: MCDOT **approves** these modifications. In order to accommodate stormwater management for the road in the right-of-way, the applicant needs to place the sidewalk and maintenance strip in a PIE. This will allow for a conservation easement behind the homes.

3. Modify MCDOT Standard MC-222.01 - Cul-de-sac – Curb and Gutter - The applicant is reducing the right-of-way for the standard cul-de-sac. The right-of-way usually includes the paving, curb and gutter, tree lawn and sidewalk. The applicant proposes to reduce the right-of-way to allow for a larger conservation easements. This will require the sidewalk and tree lawn to be located in a 10-foot PIE. There is a 10-foot PUE proposed to be adjacent to the PIE; however, the PUE should be increased to include the PIE. The reduced right-of-way for the cul-de-sac increases the area in the conservation easement.

MCDOT Response: Montgomery County Code chapter 50, Article II, Division 50.4.3.E.2.a.ii allows the Planning Board to approve a narrower right-of-way for a road, if the Board finds that it is environmentally preferable. In this case, the applicant is reducing the right-of-way to provide for a larger conservation easement. MCDOT recommends the Planning Board **approve** the reduced right-of-way. The applicant needs to increase the PUE to be a total of 20-feet, including the tree lawn and sidewalk.

4. Modify MCDOT Standard No. MC-2002.02 – Secondary Residential Street, parking on one side. Nelson Road extension - The applicant will construct Nelson Road between Street "A" and Page Avenue. They propose to modify the cross section by only constructing sidewalk on one side of the street.

MCDOT Response: MCDOT **approves** the request to construct sidewalk on one side of the street. No other modifications to this road are shown on the plans.

#### Significant Plan Review Comments

5. Construct the extension of Nelson Road, as shown on the plans between Street "A" and Page Avenue, prior to the issuance of the 9<sup>th</sup> building permit.
6. On the certified site plan:
  - a. Provide cross sections for both roads. Two cross sections should be provided for Street "A".
  - b. Increase the PUE along the cul-de-sac and street "A" to include the PIE. The PUE must be directly adjacent to the right-of-way.
  - c. Drainage wells located on the lots must be located outside of the Public Utility Easement.

Standard Plan Review Comments

7. Dedication of Nelson Street extension in accordance with the master plan.
8. Full width dedication and construction of all interior public streets.
9. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
10. Grade establishments for all new public streets and/or pedestrian paths must be approved prior to submission of the record plat. MCDOT staff reviewed the concept grading plans and continue to have concerns regarding the slope of the road.
11. Provide a ten (10) foot wide Public Utility Easement (PUE) along all existing street frontages. Where a Public Improvement Easements (PIE) are being proposed, the PUE will need to be increased by the width of the PIE.
12. Public Improvements Easements will be required along the main roadway to accommodate the sidewalk. The Declaration of Public Improvements Easement document is to be recorded in the Land Records of Montgomery County. The deed reference is to be provided on the record plat.
13. Size storm drain easement(s) prior to record plat. No fences will be allowed within the storm drain easement(s) without a revocable permit from the Department of Permitting Services and a recorded Maintenance and Liability Agreement.
14. The storm drain analysis was reviewed and is acceptable to MCDOT. No improvements are needed to the downstream public storm drain system for this plan.
15. Revise the tentative profile for Street "A" to provide a maximum grade of 5%.
16. Prior to approval of the record plat by the Department of Permitting Services, submit a completed, executed and sealed MCDOT Sight Distances Evaluation certification form, for the proposed roads for DPS review and approval.
17. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
18. Provide on-site handicap access facilities, parking spaces, ramps, etc. in accordance with the Americans with Disabilities Act.
19. In any private development project, the use of CMP or CMP Arches for any road that will be transferred to Montgomery County for maintenance is prohibited.
20. In all underground utility installations, install identification tape or other "toning" device approximately 2' above the utility.

21. If the proposed development will alter any existing street lights, replacement of signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operations Section at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
22. If the proposed development will alter or impact any existing County maintained transportation system management component (i.e., traffic signals, signal poles, handboxes, surveillance cameras, etc.) or communication component (i.e., traffic signal interconnect, fiber optic lines, etc.), please contact Mr. Kamal Hamud of our Transportation Systems Engineering Team at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
23. 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.
24. 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. Street grading, paving, curbs and gutters, sidewalks and handicap ramps, stormwater management facilities, storm drainage and appurtenances, and street trees along Nelson Road extension and the Street "A".

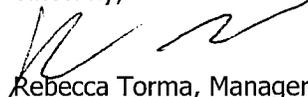
**NOTE: the Public Utilities Easement is to be graded on a side slope not to exceed 4:1.**

- b. Construct a cul-de-sac at the end of Street "A".
- c. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.
- d. 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.
- e. Developer shall ensure final and proper completion and installation of all utility lines underground, for all new road construction.
- f. Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the MCDOT Division of Traffic Engineering and Operations.

Kathy Reilly  
Preliminary Plan No. 120180200  
November 9, 2018  
Page 5

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please myself for this project at (240) 777-2118 or at [rebecca.torma@montgomerycountymd.gov](mailto:rebecca.torma@montgomerycountymd.gov).

Sincerely,



Rebecca Torma, Manager  
Development Review Team  
Office of Transportation Policy

Sharepoint/transportation/director's office/development review/Rebecca/developments/120180200 Potter Property DOT.docx

cc: Bradley Bernstein, Beech Avenue, LLC  
Dean Packard, Packard and Associates, LLC  
Soo Lee Cho, Miller, Miller & Canby  
Matthew Folden, M-NCPPC Area 1  
Letters notebook

cc-e: Sam Farhadi, MCDPS RWPR  
Dan Sanayi, MCDOT DTEO  
Kamal Hamud, MCDOT DTEO



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

Diane R. Schwartz Jones  
Director

October 8, 2018

Mr. Dean Packard P.E.  
Packard and Associates, LLC  
16220 Frederick Road, Suite 300  
Gaithersburg, MD 20877

Re: **COMBINED STORMWATER MANAGEMENT  
CONCEPT/SITE DEVELOPMENT  
STORMWATER MANAGEMENT PLAN**  
Request for Pooks Hill  
5415 Beech Avenue  
Preliminary Plan #: 120180200  
SM File #: 283846  
Tract Size/Zone: 5.641 ac/245,723 sq.ft./R-90  
Total Concept Area: 5.641 ac  
Lots/Block: Parts of Lots 24, 28 and 17  
Parcel(s): 663  
To be subdivided into 17 lots, four parcels and  
public streets  
Watershed: Upper Rock Creek, Class 1

Dear Mr. Packard:

Based on a review by the Department of Permitting Services (DPS) Review Staff, the combined stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept proposes to meet full on-site stormwater management goals via Environmental Site Design to the Maximum Extent Practicable (ESD to the MEP), for each individual residential lot via drywells and/or compensation in micro-bioretenention located in the ROW and for the roads in seven micro-bioretenention facilities located in a modified public right-of-way typical section.

The following items need to be addressed during the Engineered Sediment Control/Stormwater Management (SWM) plan stage:

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

- 1) A detailed review of the SWM computations will occur at the time of detailed plan review.
- 2) An Engineered Sediment Control plan must be submitted for this development.
- 3) All filtration media for manufactured best management practices must consist of MDE approved material.
- 4) All measures must be designed in accordance with the latest DPS guidance documents including dimensions of No. 7 stone in micro-bioretenion facilities.
- 5) Full stormwater management via ESD measures must be met on each lot individually. Any exception to this requirement will be determined at final design.
- 6) Unless otherwise approved the maximum drop in a micro-bioretenion facility in the right-of-way will be 18" preferred and 24" maximum.
- 7) A detailed review of the items below will occur at final engineering and must be coordinated between the Right-of-Way and Water Resources Sections for micro-bioretenion facilities located within the modified typical section:
  - (a) Location of street trees and street lights,
  - (b) Minimum distance and slope from face of curb to exterior face of wall of any Micro-bioretenion facility adjacent to a travel lane,
  - (c) Minimum distance and slope from face of curb to exterior face of wall of any Micro-bioretenion facility adjacent to parking,
  - (d) Minimum distance and slope from a driveway to the exterior face of any Micro-bioretenion facility,
  - (e) Minimum distance and slope from edge of sidewalk to exterior face of wall of any Microbio-retention facility,
  - (f) Location, height and material of any barriers, such as fences and guardrails, associated with safe placement of MB facilities,
  - (g) Acceptable material and construction technique for walls.
- 8) Landscaping shown on the approved Landscape Plan as part of the approved concept plan are for illustrative purpose only and may be changed at the time of detailed plan review of the Engineered Sediment Control/Storm Water Management plans by DPS, Water Resources Section.
- 9) This approval is dependent on adequate capacity in the downstream public storm drain systems. If at the time of final engineering adequacy cannot be demonstrated, the applicant may be required to revise the concept to demonstrate on-site 10-year control.

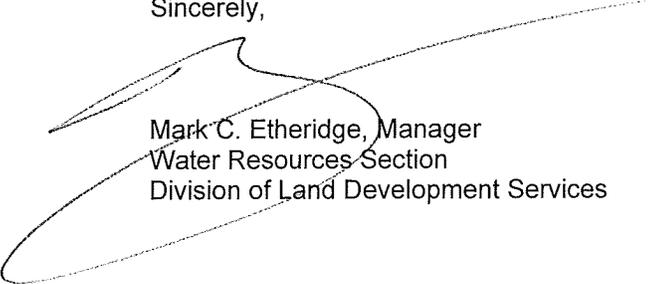
This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically 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.

Mr. Dean Packard P.E.  
October 8, 2018  
Page 3 of 3

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

If you have any questions regarding these actions, please feel free to contact Mary Fertig at 240-777-6202 or at [mary.fertig@montgomerycountymd.gov](mailto:mary.fertig@montgomerycountymd.gov).

Sincerely,



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

MCE: mmf

cc: N. Braunstein  
SM File # 283846

ESD Lots: Required/Provided: Met on each lot with  
drywells except Lots 5, 7 and 8  
ESD Roads: Required/Provided  
PE for Property: Target 1.6"/Achieved 1.6"  
STRUCTURAL n/a  
WAIVED: n/a



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

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**DATE:** 16-Aug-18  
**TO:** Dean Packard - pgai@verizon.net  
P.G. Associates, Inc  
**FROM:** Marie LaBaw  
**RE:** Pooks Hill  
120180020

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**PLAN APPROVED**

1. Review based only upon information contained on the plan submitted **16-Aug-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.

1757