I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly licensed landscape architect registered to practice in the State of Maryland.

Signature                                    Date Exp. Date
pkatinas@aol.com

1. ADDITIONAL HAZARD TREE PRUNING OUTSIDE THE LOD CAN BE APPROVED BY THE M-NCPPC FOREST CONSERVATION INSPECTOR AT THE PRE-CONSTRUCTION MEETING PROVIDED THIS TREE PRUNING IS DONE BY THE MARYLAND LICENSE TREE EXPERT.
2. THE LOCATIONS OF THE MITIGATION TREE PLANTINGS MAY BE REVISED BY THE M-NCPPC FOREST CONSERVATION INSPECTOR IN THE FIELD SO THAT THE ROOTS OF EXISTING TREES ARE NOT THREATENED DURING THE PLANTING.

DEVELOPER’S CERTIFICATE

The undersigned agree to execute all the features of the Approved Final Forest Conservation Plan No. 620180900, including financial bonding, tree planting, maintenance, and all other applicable agreements.

Developer’s Name: Paul Katinas
Contact Person or Owner: Paul Katinas
Address: 1089 179th St NW Washington, DC 20009
Phone and Email: 202-487-5882

Signature:

NOTES:
1. The lines of disturbance may be derogated by the M-NCPPC after initial delineation. The areas of disturbance shall be reviewed by the M-NCPPC at the pre-construction meeting.
2. No native trees shall be removed from the site.
3. The locations of the mitigation tree plantings may be revised with approval by M-NCPPC Forest Conservation Inspector in the field so that the roots of existing trees are not threatened during the planting.
4. All tree observed for tree protection signs and tree protection fencing may have been mitigated tree planting to be planted pursuant to the ANSI planting standards.
5. The proposed tree planting locations and species shown on this plan can be revised with approval by the M-NCPPC Forest Conservation Inspector prior to completion of the project.
6. Locations of symbols for tree protection signs and tree protection fencing may have been mitigated tree planting to be planted pursuant to the ANSI planting standards.
7. The State of Maryland License Tree Expert is to be contacted for an inspection of mitigation tree planting prior to completion of the project.

LEGAL CLARIFICATIONS:
1. Mitigation tree planting to be planted pursuant to the ANSI planting standards.
B - 2
FLAGGING
8' MIN. METAL 'T' FENCE
POST DRIVEN 2' INTO
THE GROUND
4' HEIGHT
10' MAX.
BETWEEN POSTS
SECURE FENCING TO
METAL POST

WELDED WIRE FENCE
14/14 GA. GALVANIZED
WIRE 2"X4" OPENING
10" X 12" WEATHERPROOF
SIGNS SECURED TO FENCE
@50' O.C. (MAX.)

STANDARD SYMBOL

DEVELOPER'S CERTIFICATE

The undersigned agree to execute all the features of the Approved Final Forest Conservation Plan No. 2013010101 including, financial bonding, tree planting, maintenance, and all other applicable agreements.

Developer's Name: Paul Katinas
Printed Company Name: Benning & Associates, Inc.
Contact Person or Owner: Paul Katinas
Printed Name: Paul Katinas
Address: 1533 E St. N.W., Washington, DC 20009
Phone and Email: 202.467.5882

Signature: ____________________________
Date: 10/21/20
STATEMENT FOR THE APPLICANT

Paul Katinas, Property Owner

FOR A VARIANCE IN ACCORDANCE WITH SECTION 22A-21

OF THE MONTGOMERY COUNTY CODE

PRELIMINARY PLAN NO. 620190100

LONGWOOD

August 14, 2019 (Revised October 24, 2019)

I. BACKGROUND INFORMATION

The Applicant, Paul Katinas, makes this request for a variance pursuant to the provisions of Section 22A-21 of the Montgomery County Code. The Applicant is owner of the subject property, also designated as Lot 4, Block 2 of the Longwood Subdivision on Tax Map GP41. The Applicant proposes to subdivide the property into two lots for single-family detached homes. The two proposed lots will comply with the development standards applicable to the subject property’s R-200 zoning classification. The property is located at 7025 Longwood Drive in Bethesda. The subject property consists of 0.9917 acres or 43,200 square feet of land area, and is improved with the existing single-family residence (constructed in 1949) that is proposed to be razed.

About 50 percent of the property is under forest cover. A Natural Resources Inventory / Forest Stand Delineation (No. 420190320) has been submitted to and approved by M-NCPPC. There are no streams, stream buffers or environmental priority areas on or adjacent to the subject property. Ten (10) specimen trees (30” DBH and larger) have been survey-located on and adjacent to the subject property that are impacted by the project.

II. APPLICANT’S PROPOSAL

This project is an infill development that seeks to subdivide the existing R-200 zoned property into two (2) single-family residential lots where adequate public facilities already exists. The existing residence (built in 1949) is to be razed and a new home constructed in its place on Lot 1, which is currently proposed to be 20,048 square feet in size, with a second home on Lot 2 that is proposed to be 23,153 square feet in size.

Applicant’s Initial Submission had reflected a more typical house location layout that depicted general building footprints sited centrally on the new lots. The resulting limits of disturbance of the Initial Submission, however, would not have preserved any on-site specimen trees of which
there are eleven. Upon further consideration and in response to constructive comments provided by planning staff, the Applicant’s Resubmission of August 14, 2019 proposed to significantly revise the lot layout and reduce the project’s proposed limits of disturbance ( LOD) in order to achieve a more environmentally sensitive project. The Resubmission plan also proposed to “right-size” the new homes and orient them on the site in a manner that would achieve visibility of both from the street.

Initial Submission  

Resubmission
While planning staff’s response to Applicant’s Resubmission was generally positive, further refinements suggested by staff have been incorporated by the Applicant, resulting in the Final Proposal below.

In working with staff to achieve better tree protection and other planning goals relative to site design, Applicant has agreed to place a 70’ building restriction line (BRL) on Lot 2, measured from the westernmost boundary line. As a result, the project’s proposed limits of disturbance (LOD) has been pulled further away from the northern and western boundaries of the property where the site is significantly treed, resulting in the ability to enhance preservation of the overall forest stand and the specimen trees therein.

The 70’ BRL and LOD adjustments will not only further reduce CRZ impacts to the treed area in the northwestern corner of the site, but will facilitate an orientation of the home on Lot 2 that will allow more visibility of its front façade from the street. The footprint of the proposed house on Lot 1 (forward lot) inclusive of the attached garage on the Final
Proposal (excerpt above) is approximately 3,220 square feet while the house on Lot 2 (back lot) continues to reflect a smaller footprint of approximately 2,508 square feet inclusive of the garage. The proposed structures are oriented in a manner that achieves visibility and street presence for both homes similar to other pipestem lot configurations that exist on adjacent and nearby lots within the neighborhood.

Attached is a copy of the proposed Preliminary Plan of Subdivision (see E-plans) showing the proposed lots, houses and driveway locations. Also attached is the Preliminary / Final Forest Conservation Plan (FCP) (see E-plans) showing the area of existing forest to be cleared. The plan proposes to retain existing trees that are currently within the existing forest area along the northern and western boundaries of the site. The trees to be preserved in these areas include several specimen trees and other smaller trees not identified on plans. Specifically, the Preliminary / Final FCP indicates the location of four (4) impacted specimen trees proposed for preservation with tree protection measures and six (6) specimen trees to be removed based on critical root zone impacts.

<table>
<thead>
<tr>
<th>TREE NUMBER</th>
<th>BOTANICAL NAME</th>
<th>COMMON NAME</th>
<th>SIZE (D.B.H.)</th>
<th>TREE CONDITIONS</th>
<th>% CRZ IMPACTED</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>ST-3</td>
<td>Liriodendron tulipifera</td>
<td>Tulip Poplar</td>
<td>38.0&quot;</td>
<td>Moderate</td>
<td>41%</td>
<td>Remove</td>
</tr>
<tr>
<td>ST-4</td>
<td>Liriodendron tulipifera</td>
<td>Tulip Poplar</td>
<td>40.0&quot;</td>
<td>Moderate</td>
<td>50%</td>
<td>Remove</td>
</tr>
<tr>
<td>ST-6</td>
<td>Liriodendron tulipifera</td>
<td>Tulip Poplar</td>
<td>35.1&quot;</td>
<td>Poor</td>
<td>20%</td>
<td>Retain</td>
</tr>
<tr>
<td>ST-8</td>
<td>Quercus rubra</td>
<td>N. Red Oak</td>
<td>36.6&quot;</td>
<td>Moderate</td>
<td>79%</td>
<td>Remove</td>
</tr>
<tr>
<td>ST-9</td>
<td>Liriodendron tulipifera</td>
<td>Tulip Poplar</td>
<td>36.5&quot;</td>
<td>Moderate-Poor</td>
<td>79%</td>
<td>Remove</td>
</tr>
<tr>
<td>ST-11</td>
<td>Liriodendron tulipifera</td>
<td>Tulip Poplar</td>
<td>36.0&quot;</td>
<td>Poor</td>
<td>8%</td>
<td>Retain</td>
</tr>
<tr>
<td>ST-14</td>
<td>Liriodendron tulipifera</td>
<td>Tulip Poplar</td>
<td>36.0&quot;</td>
<td>Moderate</td>
<td>6%</td>
<td>Retain</td>
</tr>
<tr>
<td>ST-15</td>
<td>Platanus occidentalis</td>
<td>Sycamore</td>
<td>35.7&quot;</td>
<td>Moderate</td>
<td>26%</td>
<td>Retain</td>
</tr>
<tr>
<td>ST-19</td>
<td>Liriodendron tulipifera</td>
<td>Tulip Poplar</td>
<td>38.0&quot;</td>
<td>Moderate</td>
<td>100%</td>
<td>Remove</td>
</tr>
<tr>
<td>ST-20</td>
<td>Liriodendron tulipifera</td>
<td>Tulip Poplar</td>
<td>45.7&quot;</td>
<td>Moderate</td>
<td>37%</td>
<td>Remove</td>
</tr>
</tbody>
</table>
ST-3, a 38" Tulip Poplar in moderate condition is located within the existing forest stand on the property, adjacent to the rear boundary line of the site. The tree will be impacted by construction related to the project, grading within the CRZ of the trees, and installation of drywells within the CRZ. Due to the severity of impacts to the CRZ of the tree, the proximity of the tree to existing and proposed homes, and the tree species general intolerance to construction activities, the tree is proposed to be removed.

ST-4, a 40" Tulip Poplar in moderate condition is located within the existing forest stand on the property, adjacent to the rear boundary line of the site. The tree will be impacted by construction related to the project, grading within the CRZ of the trees, and installation of drywells within the CRZ. Due to the severity of impacts to the CRZ of the tree, the proximity of the tree to existing and proposed homes, and the tree species general intolerance to construction activities, the tree is proposed to be removed.

ST-6, a 35.1" Tulip Poplar in poor condition is located off-site on the adjoining property to the east. This tree was shown to be retained on development plans for the new home under construction at 7023 Longwood Drive. However, super silt fence not shown on plans was installed at the base of the tree on two sides. This super silt fence has likely severed the roots located between the tree and the subject property. The CRZ of the tree will be impacted by construction related to the proposed project. Since impacts to the tree have already occurred (from neighbor's super silt fence installation) and new impacts are not likely to occur in this area from the planned development, and since the tree is located off-site, the tree is proposed to be retained.

ST-8, a 36.6" Northern Red Oak in moderate condition is located within the existing forest stand in the rear of the property. The tree lies within the planned construction area of the project and is proposed to be removed.

ST-9, a 36.5" Tulip Poplar in moderate-poor condition is located within the existing forest stand in the rear of the property. The tree is within the planned construction area of the project, impacted by major grading and installation of drywells. Due to the severity of these impacts, the tree is proposed to be removed.

ST-11, a 36" Tulip Poplar in poor condition is located within the existing forest stand on the property. The tree will be impacted by minor grading and the installation of drywells within the critical-root-zone (CRZ) of the tree. Due to the minor nature of these impacts, the tree is proposed to be retained.

ST-14, a 36" Tulip Poplar in moderate condition is located off-site on an adjoining property to the west. The tree will be impacted by construction related to the project. However, the impact from this encroachment has been minimized to the greatest extent practicable and root pruning and other tree protection practices will be employed. Since the impacts to the CRZ are just 6% and the tree is off-site, the tree is proposed to be retained.

ST-15, a 35.7" Sycamore in moderate condition is located within the existing forest area on the property, along the western boundary of the site. The tree will be impacted by construction related to the project and minor grading within the CRZ. Impacts to the CRZ have been
minimized to the greatest extent practicable and since the species is generally tolerant of construction activities it is proposed to be **retained**.

**ST-19**, a 38" Tulip Poplar in moderate condition is located at the front of the property immediately adjacent to the existing home on the property that will be razed and reconstructed. The tree will be impacted by construction related to the project, grading within the CRZ, installation of stormwater management drywells within the CRZ, removal of the existing driveway, installation of new/replacement driveways and installation of underground utilities. Due to the severity of impacts to the CRZ of the tree, the tree is proposed to be **removed**. New tree planting is proposed to occur on-site as mitigation for removal of this tree.

**ST-20**, a 45.7" Tulip Poplar in moderate condition is located at the front right corner of the property along Longwood Drive. The tree will be impacted by the removal of the existing driveway and construction of a new shared 20’ wide driveway that complies with fire access requirements, installation of underground utilities, new sidewalk and installation of stormwater management measures. The tree is also located within the proposed public utility easement (PUE) to be made available for future utility improvements. Finally, the tree has already been damaged by the installation of super silt fence on an adjoining property (7023 Longwood Drive) as shown on plans. Due to the existing/proposed impacts and the required PUE, the tree is proposed to be **removed**. New tree planting is proposed to occur on-site as mitigation for removal of this tree.

### III. SATISFACTION OF THE CRITERIA LISTED IN SECTION 22A-21(b) OF THE MONTGOMERY COUNTY CODE

A Chapter 22A variance is required in order to secure approval of the disturbance of ten identified trees that are considered priority for retention and protection under the Natural Resources Article of the Maryland Annotated Code and the County Code. This variance request is submitted pursuant to Section 22A-21 of Chapter 22A of the County Code and Section 5-1607(c) and Section 5-1611 of Title 5 of the Natural Resources Article of the Maryland Annotated Code (the “Natural Resources Article”).

Section 22A-12(b)(3) 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 variance under Section 22A-12(b)(3) (“Variance”). Otherwise such resources must be left in an undisturbed condition.

This Application will require the removal or CRZ impact to ten Protected Trees as identified on the resubmitted Final FCP.

In accordance with Section 22A-21(a), the Applicant requests approval of a Variance on the basis that without a Variance, the Applicant will suffer *unwarranted hardship* by being denied reasonable and significant use of the subject property. The need for a Variance in this case is based upon existing site conditions and compliance with necessary lot design and infrastructure elements that are required of any preliminary plan application, such that
if disturbance or removal of Protected Trees pursuant to Chapter 22A is not allowed in this case, the Applicant would suffer unwarranted hardship. Specifically, a Variance is required to facilitate certain required public facilities such as the provision of a public utility easement (PUE) along the site’s frontage for future utility improvements and a new 5’ sidewalk, which conflicts with the location of ST-20 in particular.

(1) Granting the 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 on the Applicant as the disturbance to the Protected Trees, i.e., impacting 4 and the removing 6 trees, is due to the reasonable development of the property and is necessitated by the location of the trees and compliance with lot design as well as provision of public facilities typically associated with the subdivision process.

The tree impacts and removals associated with the site are within the buildable area established by setbacks and by Applicant’s efforts to minimize impacts to the significant treed area located in the northwestern corner of the site.

Granting a Variance to allow land disturbance within the buildable area of the subject property is not unique to this Applicant.

The submitted subdivision plan which proposes to divide the subject property into two lots under the R-200 lot design standards is clearly within the class of reasonable and substantial uses that justify the approval of a Chapter 22A variance. Without this variance, the Applicant would be deprived of the ability to implement a reasonable and substantial use of the property consistent with the property’s existing zoning that has been made available to others. Other owners in Montgomery County have removed specimen trees in order to reconstruct an existing house, further subdivide/develop as allowed by existing zoning and/or improve access to their properties, all of which are implicated in this case.1

Over fifty percent of the subject property is under forest cover and contains eleven (11) specimen trees that are identified for protection under Chapter 22A. These eleven trees are scattered throughout the subject property, along the northern, western and southern areas of the site, and thus impact both proposed lots. The minimum required lot area in the R-200 zone is 20,000 square feet. The subject property is 43,200 square feet in size, thus the proposed lot sizes are 20,047 square

1 The following is a partial list providing just a few examples of other Preliminary Plan approvals involving proposals to subdivide 2 lots from 1 lot/parcel under existing zoning that also required approval of an associated Tree Variance:

1) Rock Creek Forest – Preliminary Plan No. 120070550, MCPB No. 14-18
2) Glen Mill/Parcel 833 – Preliminary Plan No. 120160180, MCPB No. 18-045
3) Shi Property – Preliminary Plan No. 120160280, MCPB No. 17-008
4) 8912 Liberty Lane – Preliminary Plan No. 120170070, MCPB No. 17-050
feet and 23,153 square feet. As a result of the configuration of the subject property and minimum 20,000 square foot lot size of the property’s zone, both proposed lots contain specimen trees. Of the eleven specimen trees identified, ten are impacted by the proposed development (as listed in the chart on page 4 herein) and included in this Variance request.2

One of the four trees proposed for removal (ST-19) is located adjacent to the existing home on the property that will be razed and reconstructed under Applicant’s proposal. A second specimen tree (ST-20) that must be removed is located immediately adjacent to the property’s existing driveway which will need to be reconfigured and widened to meet minimum fire access requirements. It must be noted that ST-20 has already been impacted by on-going construction activity on the adjacent neighbor’s property (7023 Longwood Drive) and those impacts alone are enough to call for removal of the tree. Moreover, ST-20 conflicts with the location of both the public utility easement (PUE) along the property’s frontage on Longwood Drive and the new 5’ sidewalk improvement required in conjunction with the Preliminary Plan.

Due to the locations of specimen trees adjacent to the existing house, driveway, future PUE and sidewalk, it is not possible to achieve reasonable and substantial use of the property that avoids impacting specimen trees on this site, and, thus, without approval of a variance, the Applicant would be deprived of reasonable and substantial use of the subject property.

Careful placement of the project’s limit-of-disturbance, proposed house locations, root pruning, fencing, and signage as shown on the Preliminary / Final FCP will provide for the protection of the specimen trees proposed to be retained.

(2) The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.

The Variance is based on development allowed under the existing zoning and required by existing site conditions and necessary design requirements of this application. The Variance can be granted under this condition so long as the impacts are avoided or minimized, and required mitigation is provided. As detailed herein, the Applicant has incorporated design changes to reduce the impact of tree disturbance and removal, and mitigation is being provided for the disturbed trees.

In a case such as this, the question for the Board is not whether the Applicant would still have a reasonable use of the property if the proposed subdivision were denied. The question is whether the Applicant has proposed a reasonable use, and whether

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2 ST-12, a 38” Tulip Poplar in moderate-poor condition is located within the existing forest stand on the property, adjacent to the western boundary line of the site. With the LOD changes made by the Applicant reflected in the Final Proposal, this tree will not be impacted at all by the proposed development.
denying the Variance would deprive the Applicant of it. Where, as here, the Applicant has proposed a development that 1) complies with zoning, 2) substantially conforms to the master plan, 3) is compatible with the surrounding neighborhood, and 4) takes reasonable steps to avoid unnecessary tree impacts, the requisite standard for approval of the Variance is met.

Any alternative preliminary plan application relative to the subject property would impact at least a similar number of specimen trees and potentially could result in the loss/removal of more of the site’s variance trees if different building placement or lot configurations are proposed. Although not material to the specific variance standards, it is noteworthy that if the resubdivision of this property is not allowed and it remains as one buildable lot, it would be possible for the lot to be cleared in a manner that could evade forest conservation altogether resulting in potentially most if not all of the Protected Trees being cleared. There is 21,780 square feet of forest on the subject property currently per the approved NRI/FSD. A lot owner is allowed to clear up to 20,000 square feet of forest and still qualify for an exemption from the requirement to submit a forest conservation plan so long as mitigation is provided for any 30’ trees removed.

(3) The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.

The need for the Variance is a result of the existing conditions and the proposed site design and layout on the subject property and not a result of land or building use on a neighboring property.

(4) Granting the Variance will not violate State water quality standards or cause measurable degradation in water quality.

The variance does not violate State water quality standards or cause measurable degradation in water quality. The Protected Trees being removed or impacted are not located within a stream buffer, wetland or special protection area.

A total of seven (7) trees will be planted on-site as mitigation for removal of Protected Trees not located within existing forest to be cleared as required. While newly planted mitigation trees are obviously smaller in size than trees being removed, they will grow into larger trees over a lifespan of 30+ years providing water quality protection throughout that time. The Protected Trees that are impacted but not removed will continue to provide the same water quality protection.

In conjunction with its proposed development of the subject property, the Applicant has prepared a Stormwater Management Concept Plan (see E-plans) that has been found to be acceptable by MCDPS as stated in a letter dated October 1, 2019. This proposed concept proposes proper measures to protect stormwater quality and quantity that may impact the subject property and surrounding area. The proposed
concept complies with current Environmental Site Design to the Maximum Extent Possible stormwater management regulations.

The Applicant confirms that the impact on the ten affected variance trees will not cause degradation to water quality associated with development of the proposed subdivision as a result of the granting of the requested variance.

For all the above reasons, the Applicant respectfully requests approval of this request for a variance from provisions of Section 22A-21 of the Montgomery County Code.

Submitted on behalf of the Applicant, Paul Katinas

By

Benning & Associates, Inc.
David W. McKee
November 25, 2019

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

RE: Administrative Plan No.
120190100
Longwood

Dear Ms. Bodgan:

We have completed our review of the administrative plan dated October 25, 2019. A previous plan was reviewed by the Development Review Committee at its meeting on April 30, 2019. 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.

Significant Plan Review Comments

1. The storm drain analysis is incomplete. At the permit stage, the applicant needs to provide the following information to DPS and receive their approval:
   a. For study point A - Pre-development flow is shown to be 5.27 cfs and post-development flow is 5.56 cfs. The flow increases by 0.29 cfs from existing to proposed conditions.
      A. You cannot increase flow to point A, thus making post-development conditions worse than existing conditions.
      B. At minimum the post-development flow should match the existing flow. The additional flow must be managed on site or the existing 18” CMP needs to be upgraded.
   b. The maximum allowable headwater must meet to Montgomery County’s Drainage Design Criteria section 4.4.3.7. Provide details of “Existing 18” CMP Culver Elevation”. DPS needs to see how those elevations were calculated at the time of permit.
2. The applicant’s plan shows a proposed 17 foot wide Public Utility Easement (PUE) and a 7 foot wide Public Improvement Easement that overlap. This is due to the location of the proposed sidewalk. At the time of permit, if DPS waives the sidewalk for a fee in lieu, then the applicant will only be required to provide a 10 foot wide PUE.

Standard Plan Review Comments

3. Record plat to reflect a reciprocal ingress, egress, and public utilities easement to serve the lots accessed by the common driveway.

4. The sight distance study has been accepted. A copy of the accepted Sight Distance Evaluation certification form is enclosed for your information and reference.

5. 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.

6. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.

7. In all underground utility installations, install identification tape or other “toning” device approximately 2’ above the utility.

8. If the proposed development will alter any existing street lights and/or replacement of signing, 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.

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. 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:

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

   a. Street Trees along your Longwood Drive street frontage.

   b. Upgrade the 18” CMP if the storm drain flow cannot be managed onsite.

   c. Permanent monuments and property line markers, as required by Section 50-4.3(G) of the Subdivision Regulations.
Ms. Grace Bodgan  
Administrative Plan No. 120190100  
November 25, 2019  
Page 3

d. Erosion and sediment control measures as required by Montgomery County Code 19-10(02) 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 provide street lights in accordance with the specifications, requirements, and standards prescribed by the MCDOT Division of Traffic Engineering and Operations.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact me for this project at Rebecca.torma@montgomerycountymd.gov or (240) 777-2118.

Sincerely,

Rebecca Torma

Rebecca Torma, Manager  
Development Review Team  
Office of Transportation Policy

Enclosure

cc: Letters notebook

cce: David McKee, Benning & Associates  
Atiq Panjshiri, MCDPS RWPR  
Mark Etheridge, MCDPS
Department of Permitting Services
Fire Department Access and Water Supply Comments

DATE:  19-Nov-19
TO:  David McKee
     Benning and Associates
FROM:  Marie LaBaw
RE:  Longwood
     620190100

PLAN APPROVED

1. Review based only upon information contained on the plan submitted 19-Nov-19. 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.
FIRE DEPARTMENT APPARATUS ACCESS & WATER SUPPLY NOTES:

1. The purpose of this plan is to address requirements of Executive Regulation 8-16 (Fire Department Apparatus Access and Water Supply) as appropriate for the proposed subdivision.
2. An existing secondary residential street will serve the proposed subdivision. The street meets MCDOT secondary road standards (MC 211.03) or equivalent.
3. Proposed lots 1 and 2 are to utilize a shared driveway. A modified apron is proposed for this access.
4. For water supply, an existing WBSC fire hydrant is located 100' east of the property along Longwood Drive.
5. Existing speed limit is 25 mph.
MEMORANDUM

TO: Grace Bogdan
FROM: Dave Brown
SUBJECT: Preliminary Plan #620190100, 7025 Longwood Drive
DATE: April 22, 2019

This memo is provided in response to your request that I outline areas of concern that my clients have regarding the proposed subdivision of 7025 Longwood Drive (the “Property”) into two lots (the “Plan”), in advance of our meeting on April 29th. My clients, most of whom will attend the meeting, are Mark & Ursula Wolfman (abutting to the west), 7035 Longwood; Jan Bove & Kathy Tilmans (abutting the abutting property to the east), 7021 Longwood; Hillary Davidson & Jordan Goldstein (abutting the abutting property to the north, 9315 Brooke Drive; and Bruce & Diane Heiman (abutting the Goldstein property), 9512 Brooke Drive.

Background

Looking at the Plan from the perspective of the layout and design of lots in the immediate neighborhood, we consider the relevant neighborhood to be the properties fronting on Longwood Drive, most immediately the 15 homes on lots between Brooke Drive and Greentree Road fronting on Longwood. A map highlighting this area, and showing the square footage of each lot is attached. Looking at the Plan in terms of its environmental impacts from the clear-cutting of at least 90% of the area of the Property, the neighborhood is broader, and includes, inter alia, the lots of my clients who reside in nearby properties on Brooke Drive.

Neighborhood Character

The neighborhood consists of a quiet and fully developed community of upscale R-200 zoned homes inside the Beltway in Bethesda dating from the 1950’s to the 1980’s. The neighborhood experiences stormwater runoff problems on a regular basis, but the problems have thus far not called for installation of a curb and gutter system along Longwood or Brooke. All neighborhood homes are on carefully groomed lots with many mature trees and ornamental shrubbery. These added materially to the look, desirability
and value of the neighborhood. All the Longwood homes are on rectangular lots with homes that front on the street. The lots have varying front yard depths, varying widths, expansive yards and roughly equal depths on both sides. In keeping with this long-standing neighborhood character, my clients would strongly support the redevelopment of the Property with one new single-family home facing the street, in replacement of the existing home in the front half of the Property. There are no pipestem lots in this Longwood neighborhood, and pipestem lots are very few and far between in the larger Bradley Hills area. The few that exist appear to be mostly not recent but rather intrinsic to original subdivision plans.

**Issue 1: Compliance with Subdivision Criteria**

A major concern is the creation of a pipestem lot incompatible with the character of the neighboring Longwood lots. Section 50.4.3.C.1.a.: “Lot size, width, shape and orientation must be appropriate for the location of the subdivision and for the type of development or use contemplated, considering the recommendations of the master plan and the applicable requirements of Chapter 59.”¹ Meeting the lot criteria is also a required finding of plan approval. § 50.4.2.D.1. Substantial conformity to the master plan is also required. § 50.4.2.D.2.

The Plan works only if a pipestem lot with minimal street frontage of 25’ is created for the second house.² A pipestem lot would be out of character for the Neighborhood, both in terms of lot width and shape. The two proposed lots (at 20,048 sf and 23,152 sf) would rank first and third smallest in the then 16-lot Longwood neighborhood, as detailed in the attached map. Only six of the existing lots are under 30,000 sf, and of the nine over 30,000 sf, there are, in addition to the subject property, three additional lots at over 40,000 sf. If the Plan were approved, those three other larger lots would become attractive targets for developers no matter the impact on an existing, mature neighborhood. In fact, as often happens, redevelopment is contemplated in connecting with the passing of a landowner and the creation of an estate that must sell the property on behalf of the heirs. The executor has an ethical obligation to maximize estate value, and that very likely would include seeking to create two new, buildable lots.

Plan approval here means two houses, one behind the other, where every other house along Longwood has an open, wooded or cultivated back yard. This would be a

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¹ The 2016 recodification of Chapter 50, though it eliminated “resubdivisions” as something different from “subdivisions,” did not abandon the lot character criteria in prior § 50-29(b)(2). Instead, the Board opted to remove the separate subdivision analysis from Chapter 50 because the Planning Board concluded that “the general requirements for lot dimensions in Section 50.4.3.C.1.a. provide a sufficient basis to judge the suitability of any subdivision, including a resubdivision.” Staff Worksession Memo on Draft Chapter 50 at 4 (June 11, 2015), for MCPB Agenda Item No. 6 (July 16, 2015).

² The Property is a rectangular lot with a lot width of 160’, so two homes could not both front on Longwood with the lots meeting the 100’ minimum width (at the front building line) requirement for the R-200 zone.
most unwelcome departure from the neighborhood character and an outcome my clients find no support for among their neighbors along Longwood. My clients recall that there have been at least two previous failed attempts to subdivide some of the larger Longwood lots (including 7013 Longwood) into two lots with a pipestem lot, and that those applications were denied by the Board, apparently sometime in the 1990's. I request that you check Planning Department records for this earlier history; my clients (and I) see no good reason for a different result in this instance, notwithstanding the reorganization of the Subdivision Ordinance.

As for Master Plan conformity, the B-CC Master Plan (1990) addresses this area by reconfirming the existing zoning (p.51) and providing that “A major goal of the Master Plan is to protect the high quality of life, the existing residential character, and the natural environment throughout the area.” Id. at 29. Here, the “natural environment” of the subject property is being destroyed in a way that cannot be restored. The applicant has characterized the stand of mature trees on the property, for which a variance authorizing removal is sought, as “an inordinate number of specimen trees in the back portion of the lot in a relatively small area.” Neither the Forest Conservation Act nor the B-CC Master Plan view a stand of mature specimen trees as anything but a community asset, and certainly not as an “inordinate” hindrance to development.

**Issue 2: Increased Stormwater Runoff**

My clients are very concerned about the inevitable long-term effect of converting an historically single lot into two lots, while denuding it of trees and other stormwater-absorbent groundcover, along with the contemplated extensive disturbance of the soil otherwise. They retained the services of a Maryland professional engineer with extensive experience and expertise in stormwater control to evaluate the situation. He concluded that “the large lot homes of this area have extensive forest cover which reduces runoff and erosion problems from the existing homes. The existing drainage problems in the area have been problematic but tolerable due to the large forest cover of these lots. With the proposed development and land clearing proposals for these adjacent properties, the drainage problems will become intolerable.” He also advised my clients that the stormwater management plan proffered for the subdivision did not show the required on-site quantity control necessary to contain runoff adequately. A more graphic presentation of the existing problems, and concern about their worsening if the Plan is approved, will be detailed for you at the meeting, with a view towards your finding that stormwater management as proposed will be insufficient under § 50.4.2.D.5.

**Issue 3: Variance for Specimen Tree Removal**

The Plan envisions two homes on two lots were one home now stands on one lot. To that end, the applicant seeks a variance to remove “an inordinate number of specimen trees in the back portion of the lot in a relatively small area.” His claim is that “impacts to many of the specimen trees are unavoidable if the property is to be developed for 2 new
homes.” We agree; it is also true, however, that impacts to many, if not all, specimen trees are avoidable if the property is to be developed, as before, for one new house. The applicant discusses compliance with certain statutory criteria that must be met for the granting of a variance, but does not discuss the overriding requirement to explain how denial of the variance would result in an “unwarranted hardship” to him. § 22A-21(a). The Board has decided in other cases that denial of a variance rises to the level of “unwarranted hardship” only when it would result in “denial of reasonable and significant use of the property.” The Property, however, now has, and has had for decades, a reasonable and significant use: single-family dwelling. In fact, that dwelling is assessed on the SDAT records today at $290,000. Next door, at 7023 Longwood, a considerably smaller lot, a new, replacement house is being built, likely to have a market value in excess of $1,000,000, not counting the land value at all. The same could be done at 7025 Longwood, upon variance denial, all without the destruction of the “inordinate number of specimen trees in the back portion of the lot.” Variance denial would not be tantamount to “denial of reasonable and significant use of the property.” It would only mean denial of the opportunity to develop the property at twice its historic density. The applicant has no legally protectable property right to that largely discretionary outcome.
Worksession to Discuss the Draft Subdivision Regulations

Cathy Conlon, Supervisor, DARC catherine.conlon@montgomeryplanning.org, 301.495.4542
Patrick Butler, Planner Coordinator, Area 2 patrick.butler@montgomeryplanning.org, 301.495.4561
Neil Braunstein, Planner Coordinator, Area 1 neil.braunstein@montgomeryplanning.org, 301-495-4532
Richard Weaver, Supervisor, Area 3 richard.weaver@montgomeryplanning.org, 301-495-4544
Christina Sorrento, Associate General Counsel christina.sorrento@montgomeryplanning.org, 301-495-4646
Stephen Smith, Senior Planner, DARC stephen.smith@montgomeryplanning.org, 301-495-4522

Completed: 6/11/15

Description
This report provides an overview of the information to be presented at the worksession on the Draft Rewritten Subdivision Regulations, Montgomery County Code Chapter 50. This worksession is designed to give the Board and general public an overview of major changes and provide an opportunity for discussion.

Summary
A comprehensive revision of Chapter 50, the Subdivision Regulations has been contemplated since the start of the Planning Department’s efforts to revise the zoning ordinance. We knew at that time changes would be needed based on how the zoning ordinance changed. We also recognized that, even in the absence of a zoning ordinance revision, it was time to review and update provisions of the subdivision ordinance that hadn’t been comprehensively looked at for more than 50 years.

The general objectives in rewriting the Subdivision Regulations were:

- Modernize and clarify existing language
- Improve organization and ease of reference
- Codify current interpretations
- Ensure consistency with new provisions of the zoning ordinance
- Improve the efficiency of review

To meet these objectives, the organization and layout of the revised regulations has significantly changed and the language of most provisions has been updated. For the most part, the updated language clarifies the existing requirements but, some changes have been made. The discussion below contains a combined summary of the changes that were presented as a part of the Planning Board’s public hearing, and the new changes that have been made since the hearing in response to comments received. Copies of the comments that were received in writing are included in Attachment A.
Discussion of Changes

Article I. In General
This Article contains general provisions and requirements.

Division 50.1. Purpose

• Combined previous purpose list (Sec. 50-2) into a consolidated purpose statement that retains the important elements.

Division 50.2. Defined Terms

• Added new section of rules for interpretation of the Chapter.
• Modified the list of defined terms (Sec. 50-1) by clarifying existing language, removing terms that duplicate the zoning ordinance definitions or that are not specifically used in the Chapter, and adding new terms as needed.

Division 50.3. General Requirements

• Retained previous requirements for applicability (Sec. 50-3), approving authority (Sec. 50-4), and impacts to other ordinances (Sec. 50-5) with only minor language updates.
• Placed emphasis on the fact that subdivisions of land must be recorded by plat prior to land transfer (Sec. 50-8) and issuance of building permits (Sec. 50-20) by moving existing provisions to a new section.
• Modified the language of the existing exceptions to platting requirements (Sec. 50-9) provisions for clarification. The section is now broken into subsections covering the types of land transfers that can be done without a record plat, and uses that can receive building permits without being located on a record lot.
• Moved existing provisions for submission of subdivision plans (Sec. 50-23) to a new section under this Division and modified the existing language for clarification.
• Building permit language moved to Ch. 8 (50-20 and 50-32).

Significant changes made in this Division include:

➢ Prohibiting the issuance of a building permit for a dwelling unit on unplatted parcels of agricultural land that are less than 25 acres in size.

The current exception applies to "land that is and will remain part of a farm, as defined in this chapter, but that is used concurrently for a related use that requires a building permit." A farm is defined as "a tract of land, with or without associated buildings, that is devoted to agriculture", as it is defined in the chapter. In the agricultural zone (AR), a problem is created by the existing language because it can be interpreted to permit construction of a dwelling on a tract of land less than 25 acres in size which violates the density requirement of the zone.

➢ Permitting construction of one detached dwelling unit on a part of a previously platted lot that has not change in size or shape since June 1, 1958, as anticipated by the new zoning ordinance.

➢ Permitting the reconstruction of any existing detached dwelling under the new zoning ordinance.

Additional changes made in response to comments from the public hearing:

➢ Added rule clarifying "in writing" to include electronic communication.
> Added, removed, and added clarifying language to defined terms.
> Added exemption to platting for advanced dedication or donation of master planned rights-of-way.

**Article II. Subdivision Plans**

Article II now contains provisions for the different types of subdivision plans, instead of the record plat provisions. This change was made because it reflects the actual order of the process. The types of plans covered in the article are preliminary plans, pre-preliminary submissions, simplified subdivision plans, and minor subdivisions. Simplified subdivision plans are a new plan type.

**Division 50.4. Preliminary Plan**

- More clearly separated the plan drawing requirements from the requirements for supporting information (Sec. 50-34)
- Modified and updated the provisions for review and approval of preliminary plans, including provisions for plan validity (Sec. 50-35), to clarify and provide better organization.
- Modified the general standard for review of lot dimensions to include consideration of the applicable requirements of Chapter 59 in addition to the recommendations of the applicable master plan.
- Retained the requirement that all lots abut a road, but the road can now be either public or private.
- Continue to permit a maximum of two lots without public or private road frontage on a shared driveway, but added the requirement that the two lots include any existing lots to codify our current interpretation of the existing section.
- Language of the current requirements for providing public sites and open space areas (Secs. 50-30 and 50-31) has been modified for clarity, but not significantly changed except that the language covering objection to required dedication was deleted because it's not needed; the applicant can make their case as part of review, and after decision, can file an appeal.
- Eliminated road design standards that are out of date such as: planning secondary streets to discourage use by nonlocal traffic; local bypasses around shopping centers; parallel streets with lots backing to major thoroughfares; and short culs-de-sac having terminal lots backing to major thoroughfares.
- Added provision that a subdivision with only one non-through road providing access must be limited to a maximum of 75 lots.
- Added minimum standard intersection spacing requirements for all road types, but retained the provision that the Planning Board may specify different spacing than the standard.
- The septic tier language was moved into the Water supply and sewage disposal facilities sections (50-24, 50-27)
- The requirement that public utilities be placed underground (50-40) was modified to apply to all subdivisions rather than basing it on the number of buildings, but language was added that allows the Planning Board to grant an exemption if it finds that underground placement is infeasible.
- Modified requirements for environmental review (Sec. 50-32) to clarify that a Forest Conservation Plan approval is required as part of approval of a preliminary plan.
• Modified the provisions for residential cluster subdivision (50-39) to eliminate language that is out of date and no longer necessary.

Significant changes made in this Division include:

➤ Added application processing and hearing schedule that conform with the new zoning ordinance requirements for site plan; including the requirement that a hearing date be established within 120 days of the acceptance of the application, with provisions for requesting extensions.
➤ Added new requirements for the timing of agency plan review so that the 120 day hearing schedule can be met.
➤ Added new provisions to explicitly state which public agency approvals are needed before the Planning Board may take action on a preliminary plan, and moved the review for conformance with the State’s Sustainable Growth and Agricultural Preservation Act of 2012 (Sec. 50-35(e)) to the new technical review section.
➤ Added a list of specific findings that the Planning Board must make in order to approve a preliminary plan. The findings generally codify the findings made currently in Board resolutions, with additional language added to include a finding about the adequacy of roads.
➤ Removed sediment control provisions that are now covered by Chapter 19 (Sec. 50-35(j)). These included requirements that a preliminary plan approval be conditioned upon execution of an erosion and sediment control plan approved by the Board after consideration of recommendations from the Montgomery Soil Conservation District, that the permit for clearing and grading issued by the Department of Permitting Services (DPS) be in conformance with this plan, and that the Board could revoke a preliminary plan approval if a developer proceeded to clear and grade a site without a DPS permit.

Issue: The draft retains the existing provision that the Planning Board may find “that events have occurred to render the relevant master plan, sector plan, or urban renewal plan recommendation no longer appropriate.” The County Council discussed, but rejected a similar provision for the master plan finding that is now required for site plans by the new zoning ordinance. Thus, the Planning Board will not be able to find that a master plan recommendation is no longer appropriate for projects that require both preliminary and site plan approval. Nonetheless, staff recommends retaining the provision in the subdivision regulations for the projects that only need preliminary plan review. In staff’s opinion, the provision is needed because the development standards that apply to a preliminary plan that doesn’t go to site plan will not be as flexible as those for a site plan.

➤ Removed requirements for a separate resubdivision analysis from the Chapter.

After discussion prior to the public hearing, the Planning Board concluded that the general requirements for lot dimensions in Section 50.4.3.C.1.a provide a sufficient basis to judge the suitability of any subdivision, including a resubdivision, and opted to remove requirements for a separate resubdivision analysis from the Chapter.

➤ Added new provisions for creating private roads to address what has become a common desire for their use. The provisions include:
  • Private roads created by subdivision must be platted in right of way parcels that are separate from adjoining lots to maintain the Board’s ability to ensure adequate space for road related uses within subdivisions.
  • Private road right of way parcels, like a dedicated public right of way, must be platted to the full width of the right of way recommended for the applicable road classification in
HILLARY DAVIDSON  
JORDAN GOLDSTEIN  
9513 BROOKE DRIVE  
BETHESDA, MARYLAND 20817  

April 9, 2019  

Mark C. Etheridge, Manager  
Montgomery County Department of Permitting Services  
Water Resources Division  
255 Rockville Pike, 2nd Fl.  
Rockville, MD 20850-4166  

Re: Stormwater Management Concept Plan for Longwood (7025 Longwood Drive); MCDPS Stormwater Management No. 284565  

Dear Mr. Etheridge:  

We are writing in response to your March 21, 2019 letter. Our property, located at 9513 Brooke Drive, is located downhill from the proposed subdivision of 7025 Longwood. As downstream property owners, we strongly oppose the proposed stormwater management concept plan for, and the proposed subdivision of, 7025 Longwood Drive, which would substantially worsen the flooding that already occurs on both sides of our property.  

Currently, we regularly need to re-grade the right side of our house, which is directly downhill from the proposed subdivision, in order to keep our basement from flooding. Even with the re-grading, water pools outside of our basement and sediment settles on the pavement area outside of our basement after any moderate rainfall. We had an initial consultation with Vince Berg, who pointed out to us evidence of rust on our outdoor air conditioner unit, located on the right side of our house. Mr. Berg recommended a drainage system to carry the water all the way to the culvert in the back of our property. An estimate that we received to put in such a drainage system was $12,000-15,000 – but that cost only covered one side of the house (the right side), and just accounted for drainage to carry the water to the backyard and not across the backyard to the culvert. We have attached a picture of the flooding on the right side of our house that regularly occurs with any rain.  

On the other side of our house, our driveway, the grass to the left of our driveway, and the grass between our property and that of our neighbors, at 9512 Brooke Drive, also regularly floods with any moderate amount of rain. We have attached three pictures showing the flooding that occurs with rainfall, and particularly with heavy rainfall.
We understand that the proposal for the lot at 7025 Longwood is to subdivide the property into two lots where there had previously been only one home, thereby doubling the density. We also understand that pursuant to the proposal, the back area of the existing lot, which contains, according to the applicant, an "inordinate" number of specimen trees, will be cleared of those specimen trees. It is unclear to us how the clearing of specimen trees, which are provided with special environmental protection, conforms in any way to the B-CC Master Plan to protect environmentally sensitive areas.

More to the point for purposes of this letter, both clearing these trees and adding another house to the property, which is located uphill from us, will contribute to a much greater degree of water and sediment runoff to our property, thereby severely aggravating the flooding issues on our property. We are extremely concerned about the runoff and erosion problems that will worsen from the proposed plans, the potential damage to our property, and the cost to us of any mitigation we will be forced to undertake.

We appreciate the opportunity to provide this information to the Department of Permitting Services, and we implore you to take this information into account when determining stormwater runoff compliance requirements for 7025 Longwood.

Sincerely,

Hillary Davidson and Jordan Goldstein
December 2, 2019

Mr. Casey Anderson
Chairman, Montgomery County Planning Board, M-NCPPC
8787 Georgia Ave.
Silver Spring, MD 20910

Re: Preliminary Plan #620190100, 7025 Longwood Drive

Dear Mr. Anderson:

We are writing to express our strong opposition to Preliminary Plan #620190100, the subdivision of 7025 Longwood Drive.

We have lived at 9513 Brooke Drive since July 2009. We moved to this neighborhood (from the area near Suburban Hospital) because we were attracted to this quiet, fully developed community and heavily-wooded neighborhood, which made it a highly valued location notwithstanding the proximity of the Beltway. In sharp contrast to the area we moved from, where smaller and older homes were being rapidly torn down in favor of large new builds that took up every available square foot of the lot, with the result that the neighborhood felt and looked cramped and overbuilt with less greenery, we were instantly drawn to the character and the feel of this neighborhood. All of the homes on Longwood have expansive groomed lots with mature trees. Twelve of the homes are on lots over 30,000 square feet (with only half of that number – six lots – at less than 30,000 square feet). Each lot has a single home, facing the street, with a large backyard. The subdivision of 7025 Longwood Drive, where one house would be placed behind the other on a lot that had long had a single home, would deviate substantially from the look and character of the existing neighborhood.

Indeed, one of the reasons that we decided to stay in Maryland rather than move to Virginia, with its lower taxes, is the focus in this area of maintaining the desirable character of its neighborhoods, as spelled out so clearly in the 1990 B-CC Master Plan: “A major goal of the Master Plan is to protect the high quality of life, the existing residential character, and the natural environment throughout the area.” The subdivision of 7025 Longwood Drive clearly violates the B-CC Master Plan because it would degrade, not protect, the existing residential character and natural environment. Not only would the pipestem lot be inconsistent with the existing residential character of the neighborhood, as noted above, but it would also result in
the loss of five specimen trees. It is unclear to us how the clearing of specimen trees, which are provided with special environmental protection, conforms in any way to the B-CC Master Plan to protect the natural environment. If, instead, a single home is built on the lot – as it was intended when the neighborhood was created – only one specimen tree would be cut down.

We understand from our neighbors that the Planning Board has previously denied two other attempts to create pipestem lots, and we urge you to do the same here. We know that, if this subdivision is allowed, not only would it change the character of our neighborhood, but it would undoubtedly lead to attempts to subdivide several other properties on Longwood. The neighborhood is already dealing with the likely loss of trees and green space from the project to widen the Beltway. Allowing pipestem lots into the neighborhood will forever degrade the character of the neighborhood, destroy its desirability, and substantially reduce the property values of every homeowner.

Moreover, the proposed subdivision will exacerbate stormwater runoff issues in the neighborhood. Currently, we regularly need to re-grade the right side of our house, which is directly downhill from the proposed subdivision, in order to keep our basement from flooding. Even with the re-grading, water pools outside of our basement. We had an initial consultation with Vince Berg, who pointed out to us evidence of rust on our outdoor air conditioner unit, located on the right side of our house. On the other side of our house, our driveway, the grass to the left of our driveway, and the grass between our property and that of our neighbors, at 9512 Brooke Drive, also regularly floods with any rain. In a previous letter to the Department of Permitting Services, we included pictures showing the flooding that occurs with rainfall, and particularly with heavy rainfall.

The proposed subdivision of the lot at 7025 Longwood would undoubtedly worsen the stormwater runoff that we already face. The proposal to clear the trees from the back of the lot and add another house to the property will contribute to a much greater degree of water flow to our property, thereby severely aggravating the flooding issues on our property. While we are currently able to manage the runoff to keep it away from our home, this proposed subdivision will likely make the situation intolerable. And to reiterate, because the stormwater runoff comes from the back of property, a curbside drain and gutter system would not remedy the issue.

We appreciate the opportunity to provide this information to the Montgomery County Planning Board. We urge you to follow the B-CC Master Plan, as well as the foresight of your predecessors, who previously denied pipestem lots in our neighborhood, and deny the proposed subdivision and pipestem lot.

Sincerely,
Hillary Davidson and Jordan Goldstein
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

Action: Approved Staff Recommendation, (Motion of Comr. Keeney, seconded by Comm. Hewitt, with a vote of 4-0; Commissioners Keeney, Hewitt, Christeller and Floreen voting in favor, with Comm. Henry being absent).

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-88114
NAME OF PLAN: LONGWOOD

On 03-21-88, MARIO & E.M. DEJORQUERA, submitted an application for the approval of a preliminary plan of subdivision of property in the R200 zone. The application proposed to create 2 lots on 45176.00 SQ FEET of land. The application was designated Preliminary Plan 1-88114. On 09-29-88, Preliminary Plan 1-88114 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-88114 to be in accordance with Section 50-29(b)(2) of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and DISAPPROVES Preliminary Plan 1-88114.

The Board concurs with the staff recommendation that, for the purposes of applying Section 50-29(b)(2), the neighborhood to be considered includes the lots along both sides of Longwood Drive between Brooke Drive and Greentree Road.

Date of Mailing: October 7, 1988
7025 Longwood Drive – request for subdivision

Property 7025 Longwood
7035 Longwood Drive – adjacent to the requested subdivision
7013 Longwood – previously denied subdivision
Dear Ms. Bogdan:

We have received a notice from Benning & Associates, Inc. (copy attached) of an application for the above-referenced subdivision plan at 7025 Longwood Drive and understand that you are the Planning Department’s lead reviewer on the project and the one to whom written comments may be provided. We have previously received notice of an earlier application for a Stormwater Management Concept Plan at the same site. We are forwarding below our comments to Mark Etheridge on that pending application for inclusion with this response in connection with the Planning Board’s consideration of the Longwood subdivision plan. In sum, as long time homeowners of property directly across Longwood Drive from the targeted subdivision site, we oppose the application’s approval in its present form because it will have a lasting adverse impact on the neighborhood and write to record our reasons for this opposition.

In addition to the substantial water and sediment runoff concerns described below, we are distressed by the overall nature and magnitude of the subdivision plan and the transformative environmental effect it will have on our community. The plan calls for the destruction and clearing of practically all of the existing trees on the site. As indicated in our comments to Mr. Etheridge, this will not only exacerbate the existing runoff issues affecting adjacent properties but will also materially diminish the distinctive wooded quality of our neighborhood and result in the elimination of sizable and irreplaceable trees. This has already occurred during ongoing construction at 7023 Longwood Drive, a site adjacent to the proposed subdivision, and is more likely to occur to an even greater degree as a direct consequence of converting through subdivision what was originally a single-home site into two back-to-back lots for development purposes. The complete destruction of mature trees on the site with no obvious replacement or mitigation alternative is inconsistent with the Planning Department’s traditional mission to preserve the inherent environmental quality of Montgomery County’s residential areas. This impact is made more severe by the pipe-stem nature of the new home proposed for the subdivided rear lot and its proximity to the proposed structure on the subdivided front lot. The removal of the trees as mentioned together with the construction of two new large back-to-back homes is incompatible with the surrounding residential area and will negatively impact neighboring properties by materially destabilizing the neighborhood’s environmental balance and devaluing its current residential character, as I am sure the Planning Board has heard from many of our neighbors.

Accordingly, we oppose the application in its present form and urge the Planning Board to carefully and fully take our concerns and those of our neighbors into consideration in evaluating the above-referenced subdivision proposal as submitted. Thank you for considering our concerns and do not hesitate to request further information as you may need from us. Please also keep us advised on the status of the Board’s review of the pending application and provide opportunity for further input as the review process develops.

Sincerely yours, Francine and Richard Favretto

Richard J. Favretto
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rfavretto@mayerbrown.com
From: Favretto, Richard J.
Sent: Tuesday, April 09, 2019 3:42 PM
To: 'Mark.etheridge@montgomerycountymd.gov' <Mark.etheridge@montgomerycountymd.gov>
Cc: Fran Favretto <ffavrett@umd.edu>
Subject: MCDPS Stormwater Management No. 284565 (7025 Longwood Drive)

Dear Mr. Etheridge:

This email responds to the March 21, 2019 notification from Benning & Associates, Inc. (copy attached) respecting a pending application to the Montgomery County Department of Permitting Services (“DPS”) for approval of a Proposed Stormwater Management Concept Plan relating to prospective construction and site development at 7025 Longwood Drive. My wife and I are owners of a home located on property immediately across Longwood Drive from the designated site and will be directly affected by stormwater and other runoff both during and after the planned construction. Our home and property are downgrade from the site in question and runoff from the site naturally pools and flows across Longwood Drive and down our driveway (and the driveways of our neighbors) toward the foundation of our home, raising the prospect of wet basement issues. We are concerned that this flow will be substantially increased during construction and after the completion of two large new homes on the subdivided lot where there was only one family home previously. Removal of trees and other foliage during the pre-construction phase of development will likely intensify the amount and force of resulting runoff. In the past, we have taken steps to divert much of this stormwater runoff away and further downgrade from our home’s foundation but we fear increased runoff volume and flow will present new challenges with potential landscaping and structural damage.

Accordingly, while we understand the stormwater management steps incorporated into the Proposed Concept Plan, we are concerned about their sufficiency in the existing circumstances for both the short and longer term. In particular, we question the adequacy of the Plan’s drywells and micro-infiltration trenches to control water and sediment runoff resulting from new construction and we urge DPS to require the applicant to formulate a drainage plan reflecting satisfactory measures to ensure control and safe conveyance of any runoff caused by new construction of the magnitude contemplated. Also, we question whether the micro-infiltration trenches reflected on the Proposed Concept Plan are sufficient to capture impermeable and other runoff from the two upgrade driveways contemplated for the referenced subdivided lots before they naturally flow into, across and down Longwood Drive onto adjacent properties, with resulting risks of downgrade flooding and foundation infiltration of neighboring homes. These concerns are based upon past patterns of runoff water flow from the 7025 Longwood Drive property, which will only become more serious given the scope and size of the planned site development.

Thank you for taking the time to consider and act upon the concerns expressed herein. If you have any need for elaboration or further information about the issues raised or any others – or believe an interview or property inspection would be helpful to your review -- before acting on the pending Stormwater Management Permit, please do not hesitate to let us know.

Sincerely yours, Francine and Richard Favretto

Richard J. Favretto
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Mr. Casey Anderson  
Chairman, Montgomery County Planning Board  
Maryland-National Capital Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring MD 20910

Dear Mr. Anderson:

I write today on behalf of myself and my husband, homeowners for nearly 36 years at 9508 Brooke Drive, Bethesda MD 20817, in opposition to the Preliminary Plan # 620190100 for 7025 Longwood Drive, Bethesda.

Briefly, this proposed plan would call for the subdivision of the above-referenced property— currently the site of an existing single-family detached home— into two separate properties and the construction thereon of two houses in tandem with access to the far house via a pipesystem driveway. My husband and I oppose this Preliminary Plan for several important reasons.

The Longwood Drive-Brooke Drive neighborhood is a long-standing community of single-family homes dating from the 1950s-1980s. We are understandably proud of our wooded lots and carefully-tended yards on generous parcels of land with many mature and specimen trees and ornamental shrubbery. Our substantial property tax rate attests to the high value placed on this neighborhood and shared by the Montgomery County government authorities.

The subdivision of this single-family property to squeeze in two houses and make way for an inferior pipesystem development would Balkanize the nature of our well-integrated and historically preserved community of single-family homes and destroy the values that residents and others have come to appreciate and hold dear. No pipesystems have been approved in recent memory; no existing lots have been subdivided; and, proposed clear-cutting of trees and failure to protect specimen trees for the sake of development are likely to increase stormwater runoff problems and to diminish the environmental and aesthetic values which our neighborhood has rightfully enjoyed.

With respect to uncontrolled and excessive stormwater runoff, in particular, the damage to our property from recent clear-cutting and lack of stormwater controls has led directly to the flooding of our basement and severe soil erosion on our property. As a result, we have been forced to hire a company to excavate the affected area around our home to provide appropriate barriers against water incursion and to prevent the continuing loss of soil. This has come at a significant cost to us in out-of-pocket expenses and will be reflected in the impact on the future value of our property.

No less than the Bethesda-Chevy Chase Master Plan, approved in 1990 and still in force, speaks to the issues we raise. It reconfirms the existing zoning of our area and states that, “A major goal of the
Master Plan is to protect the high quality of life, the existing residential character, and the natural environment throughout the area."

We perceive this Preliminary Plan for 7025 Longwood Drive as having an unacceptable impact on the character of our neighborhood, on the beneficial values of clean air, clean water, smart land-use, and the protection of natural wildlife habitat which have been neighborhood touchstones since the beginning. Further, approval of this Preliminary Plan sets the county on a dangerous path of making other comparable or larger lots in our neighborhood attractive targets for future detrimental development.

I appreciate the opportunity to provide our views and hope the Board will take them fully into account.

Very truly yours,

Barbara P. Rosing

Douglas R. Rosing, M.D.

Barbara P. Rosing

Douglas R. Rosing, M.D.
Mr. Casey Anderson  
Chairman of Montgomery County Planning Board  
M-NCPPC  
8787 Georgia Avenue  
Silver Spring, MD 20910  
Email: MCP-Chair@mncppc.org  

Re: Preliminary Plan #6202902100, 7025 Longwood Drive

Dear Mr. Anderson:

We are writing in strong opposition to the proposal for subdivision of the property at 7025 Longwood Drive, Bethesda. We have been the homeowners at the immediately adjacent property at 7035 Longwood since October 1982, and have been part of this fully developed R-200 zoned neighborhood for the last 37 years. The neighborhood consists of single homes, all on roughly rectangular lots, fronting the street, lining both sides of Longwood Drive, extending from the intersections of Longwood and Greentree to Longwood and Brooke Drive. Each of the neighborhood homes have large, groomed yards with many mature trees and similar widths on each side of the houses; these features contribute significantly to the appearance and value of the houses in the neighborhood.

The character of our neighborhood would be irreparably changed by the approval of pipestemmed houses in our long-established area. As the size, width and shape and orientation must be appropriate for the (Longwood) subdivision, the width and shape of the proposed pipestem would result in one house behind the other, in contrast to all the other Longwood neighborhood houses having open and/or forested back yards. The two proposed lots would be the first and third smallest among the 16-lot Longwood neighborhood. Approval of the subdivision request would, in our view, violate the Master Plan’s goal of preservation of the existing residential character and natural environment. In effect, this subdivision plan, with extensive de-forestation and destruction of numerous specimen trees would irreparably harm the Longwood neighborhood. Such degradation, in addition to the potential future subdivision and re-development of three existing neighborhood lots over 40,000 square feet with additional pipestems would further degrade the character, increase the potential for significant environmental and property damage from ongoing and worsening flooding, and could affect property values of the other lots/houses such as ours.

To preserve the long-standing character of the neighborhood, we strongly support the replacement of the existing house by redevelopment of the 7025 property with one new single-family home in the front half of the property, facing the street, rather than the proposed...
pipestem development plan. There are no pipestem lots in our Longwood neighborhood; those that exist in the larger surrounding area appear to be from original subdivision plans and not from more recently approved subdivisions. In addition, the submitted plan calls for removal of 5 specimen trees, only one of which would be sacrificed if one, rather than two, houses were built upon the subject property.

The neighborhood has frequently had stormwater runoff problems. Specifically, we have had persistent issues with basement flooding, necessitating the installation of a pumping system at considerable expense. Over the past several years we have noted a substantial increase in pooling of water, even from moderate rainfall, in between our property and 7025 with substantial runoff and soil erosion through the front portion of the lawn. In addition, in heavier rains there is already a massive flow of water and silt down Longwood, completely inundating and overflowing the drainage channel that runs the length of our property into the storm drain at the corner of Longwood and Brooke Drive. The proposed development plan for 7025 Longwood, with cutting of the trees on at least 90% of the property, with the loss of the absorptive capacity of these trees, raises down-stream stormwater runoff with direct implications for our property. In addition, we have recently learned of proposed redevelopment plans with two houses for lots including 9505 Brooke Drive, which also borders our property, with yet additional destruction of mature trees, compounding the water runoff/flooding issues for us, as well as for our neighbors at 9513, 9512, and 9508 Brooke Drive.

As we have had significant concerns about the impact of the proposed subdivision, we sought professional input from a water management engineer who concluded that “the large lot homes of this area have extensive forest cover which reduces runoff and erosion problems from existing homes. The existing drainage problems in the area have been problematic but tolerable due to the large forest cover of these lots. With the proposed development and land clearing proposals for these adjacent properties, the drainage problems will become intolerable”.

We recall that some years ago that an application for a pipestem development at 7212 Longwood was rejected by the Planning Board on some of the same grounds that we believe would result from the current application for subdivision of 7025: namely, unacceptable deforestation and unacceptable stormwater runoff.

Finally, we would strongly argue that denial of the variance for specimen tree removal would not result in “unwarranted hardship”, or denial of “reasonable use of the property”. But it would result in the continued use of the property as the location for one house on a lot with characteristics consistent with the rest of this mature neighborhood.

Thank you for your consideration.

Mark Wolfman, M.D.

Ursula Wolfman, Ph.D.
Mr. Casey Anderson  
Chairman, Montgomery County Planning Board, M-NCPPC  
8787 Georgia Avenue, Silver Spring, MD 20910  

RE: Preliminary plan #620190100  

Mr. Chairman:  

We are writing to request the Planning Board to deny the above-referenced preliminary plan for a subdivision at 7025 Longwood Drive in Bethesda.  

We have been living two houses over, at Longwood Drive 7021, since February 1983. We bought the house not only because of the schools nearby, but our house specifically, because it was situated in a beautiful and heavily wooded neighborhood. And we planted several more trees in our yard over the years.  

Preliminary plan #620190100 for the subdivision of the property at Longwood Drive 7025, involves the creation of a pipestem lot with two small houses sitting one behind the other on, what would then become, tree-less lots. This would be in direct conflict with the Bethesda-Chevy Chase Master Plan which states that “a major goal of the Master Plan is to protect the high quality of life, the existing residential character, and the natural environment throughout the area”. Indeed, the proposed subdivision and development at 7025 Longwood drive would change the character of our neighborhood radically, while, given the price points the two new houses would come on the market for, it would not at all serve Montgomery County’s goal of providing more low-income housing. It would merely lead to a lowering of the values of the adjacent properties, including ours. The only one gaining from the proposed subdivision is a non-resident developer who would reap a windfall at the expense of all of us. The lot was originally meant to have one single family home. Replacing the existing home, even with one that would be significantly larger (as seems to be an unavoidable trend in our neighborhood, given the land values, the size of the lots and the evolution in tastes) will surely not create a hardship for anyone—neither neighbors, nor a profit-oriented developer.  

We also want the proposed subdivision denied in the context of Governor Hogan’s proposal to widen the Beltway. Since our neighborhood is close to the intersection of the I-270 and the Beltway, where car and truck traffic is particularly intense, the adverse effect on air and noise pollution on our neighborhood resulting from the removal of the buffer zone protecting our  

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neighborhood would be greatly exacerbated by the proposed wholesale removal of shrubs and trees (of which 4 or 5 are large specimens) in the backyard of the 7025 property.

In the mid-90’s we successfully fought a preliminary plan to subdivide the next door property (at 7013 Longwood Drive) on the basis that it involved the creation of a pipestem lot, and that it would have resulted in breaking the front-alignment of the houses on our side of Longwood Drive between Greentree Road and Brooke Drive. These are the same reasons why we, now again, oppose the proposed subdivision of the 7025 property. In the case before us now, the disruption to our neighborhood would be even more severe because the trees in front of the house closest to the street would be sacrificed, in addition to all the specimen trees in the back yard.

Last but not least, several very large trees were removed from the property at 7004 Greentree Road some months ago; this, we suspect, in preparation of a possible subdivision of the McClure property at 9505 Brooke Drive to whom part of the Greentree property could be ceded in order to create the acreage necessary to divide McClure’s land. Moreover, as part of a McClure subdivision, we fear that several large trees would also be removed there. While removing trees would worsen the problem of the shrinking Beltway pollution buffer, it would, according to a study prepared by a professional engineer, not only create severe water runoff problems for the adjacent properties on Brooke Drive, but intolerable drainage problems beyond. The resulting cost to upgrade the sewage system would be borne by the taxpayer, i.e. us, instead of the developer.

In a nutshell: we are facing an environmental disaster which may seem small from a distance, but is, up close, catastrophic for our little neighborhood. We request that the Planning Board deny the proposed pipestem subdivision at 7025 Longwood Drive.

Sincerely,

Kathy Tilmans and Jan Bové

7021 Longwood Drive, Bethesda, MD 20817
Tel: 301-767-5939
Email: bovejan@yahoo.com