





MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

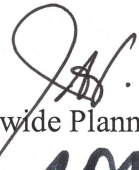
MCPB
Item #12
December 20, 2007


MEMORANDUM


TO: Montgomery County Planning Board

VIA: Gwen Wright, Acting Director 
Planning Department

Mary Dolan, Acting Chief 
Countywide Planning

Jorge A. Valladares, P.E., Chief 
Environmental Planning, Countywide Planning

Steve Federline, Supervisor 
Environmental Planning, Countywide Planning

FROM: Mark Pfefferle, Forest Conservation Program Manager 
Environmental Planning, Countywide Planning

DATE: December 14, 2007

REVIEW TYPE: Briefing on Staff Action for a New Application:
Final Forest Conservation Plan SC2008014

LOCATION: 12000 River Road, Potomac, MD

MASTER PLAN: Potomac

APPLICANT: Aris Mardirossian

APPLICANT'S ATTORNEY: Barbara Sears, Linowes and Blocker

APPLICANT'S ENGINEER: Huron Consulting



PURPOSE

The purpose of this report is to inform the Board about a new forest conservation plan submitted for 12000 River Road in Potomac and to indicate the changes that have occurred to the plan since March 2007. This report is for informational purposes only. The new plan has been approved by staff under Section 22A-11(d) of the Forest Conservation Law, and requires no action by the Board.

BACKGROUND

On June 28, 2007, the Montgomery County Planning Board voted to deny the Applicant's appeal of a staff denial of Forest Conservation Plan SC2007003. The property is located at 12000 River Road in Potomac. A forest conservation plan is necessary for the Applicant to obtain a sediment control permit to construct a house on his already platted lot. Under Section 22A-11(d) of the County Code the Applicant's forest conservation plan must be reviewed by the Planning Director or her designee. That review happened, and Environmental Planning Staff, acting as the Planning Director's designee, denied the Applicant's proposed forest conservation plan on March 30, 2007.

The reasons for the staff's denial included:

1. The plan did not comply with Section 22A-12(h)(2) of the County Code and Section 115 of the Forest Conservation Regulation which requires the conservation area to be subject to a long-term protective measure that limits the area's use consistent with conservation. The applicant was proposing to remove 59 trees, many of which were located in areas where the tree were required to be protected under the Forest Conservation Law, including a stream valley buffer. Some of the trees that Applicant had proposed to remove are located on extremely steep slopes. Removing them would destabilize the slope, cause erosion and negatively impact water quality. The Applicant proposed to "protect" the forest with a National Park Service Scenic Easement which would not have protected the trees as well as either a Category I or Category II conservation easements, and could not be enforced by the Commission.
2. The Applicant proposed to install a six-plus foot tall wrought iron-style, "ornamental" fence around the entire perimeter of the property which would injure trees during installation, and likely require the removal of trees that grow too close to or through the fence. The proposed fence would also significantly limit wildlife passage, be highly visible from the canal towpath, and limit the visual enjoyment of the forest in its natural state and the National Historic Park.

The applicant appealed the March 30, 2007 denial of a forest conservation plan submitted by applicant for 12000 River Road under Section 22A-20(c)(1) of the County Code. This section provides for appeals to the Board where staff denies a proposed forest conservation plan.

On November 30, 2007, the Applicant submitted a new forest conservation plan. Staff has reviewed the new submission and Final Forest Conservation Plan SC2008014 for 12000 River Road that it was approved administratively on December 6, 2007.

Site Description

The subject site, pictured below is a recorded lot near the intersection of River Road and Spur Wheel Lane in Potomac. The property is also known as Potomac Hunt Lot 10 and 12000 River Road. Lot 10 was created with preliminary plan of subdivision 119860490 and includes a long 25-foot wide panhandle to River Road. Preliminary plan 119860490 created 3 lots on 8.35 acres of land. Lot 10 is the farthest lot from River Road, but the closest to the Chesapeake and Ohio Canal National Historic Park. The Planning Board opinion, for this subdivision, was mailed on April 8, 1987.



The subject site abuts residential lots in all directions except for the Chesapeake and Ohio (C&O) Canal National Historic Park, which is to the southwest of lot 10. Groundwater and stormwater runoff from the property drains directly to the C&O Canal.

Project Description

The Applicant proposes to construct a single-family dwelling on a recorded lot at 12000 River Road. The project includes a separate driveway parallel to the driveway for 11940 River Road. This driveway would extend from River Road right-of-way to a turnaround at the front of the proposed house. The new application also indicates a combination of ornamental and split rail fencing around the property. Split rail fencing will be within the future conservation easement area and an ornamental fence elsewhere.

Natural Resource Inventory/Forest Stand Delineation

The Applicant submitted a Natural Resource Inventory/Forest Stand Delineation for the property on August 11, 2006. Environmental Planning staff approved the NRI/FSD on October 16, 2006. The subject site is entirely wooded and backs to the C&O Canal. There are steep slopes, exposed rocks within the steep slopes, erodible soils, and a stream/environmental buffer on the subject site. The buffer is measured from the bank of the C&O Canal and not the Potomac River and the buffer extends to the top of the steep slopes (slopes 25% and greater). The property slopes from a high point of 286 feet above sea level, which is

nearest to lot 9, to a low point of 176 feet above sea level, which is along the common property line shared with the United States Government near the C&O Canal.

Forest Conservation Plan

The Applicant submitted a new forest conservation plan on November 30, 2007 (SC2008014 Attachment A). Environmental Planning staff, as the Director's designee, approved the plan on December 6, 2007. The plan submitted complies with the forest conservation law and regulations. The forest conservation plan shows the clearing of 1.35 acres of forest and the retention of 1.65 acres. The plan shows all environmentally sensitive areas within a Category I conservation easement. There are no planting requirements generated by the removal of forest on the subject site.

NPS Scenic Easement

Since November 12, 1974 there has been a scenic easement on the property at 12000 River Road. This easement is recorded at Liber 4596 Folio 313. The easement prohibits structures greater than 40 feet in height, no buildings or structures on slopes greater than 20 percent, no change in the character of the topography or disturbance of natural features except for building footings, septic areas, and prohibits the removal of any timber 6 inches dbh except for diseased, dead, injured or hazardous trees. The Secretary of the Interior or his designee may on authorize exceptions to these controls in writing. The majority, if not all, retained forest is within the scenic easement.

DISCUSSION

Legal Basis for the Review

Before obtaining the sediment control permit necessary to construct a residence at 12000 River Road, the Applicant must first obtain approval of a forest conservation plan (22A-11(d)(3) of the County Code). Under Section 22A-4(b) of the County Code (Forest Conservation Law) "a person required by law to obtain ... a sediment control permit on a tract of land 40,000 square feet or larger, and who is not otherwise required to obtain" a preliminary plan of subdivision, development plan, etc., is subject to the Forest Conservation Law. Section 22A-5(a) of the Forest Conservation Law allows exemptions from submitting a forest conservation plan if the activity is for the construction of a dwelling house, or accessory structures, on an existing single lot, if less than 40,000 square feet of forest is removed. The Applicant proposes to remove more than 40,000 square feet of forest on an existing recorded lot and therefore, the Applicant is required to submit and have approved a forest conservation plan for 12000 River Road.

Forest conservation plans associated with sediment control permits are reviewed, approved, or denied by the Planning Director (Section 22A-11(d) of the Montgomery County code). Section 22A-3 of the Montgomery County Code defines the Planning Director as the Director of the Montgomery County Park and Planning Department, or the Director's designee.

On December 6, 2007, M-NCPPC Environmental Planning staff, as the Planning Director's designee, approved forest conservation plan SC2008014 for 12000 River Road. (Attachment B).

Forest Conservation Plan

The new forest conservation plan submitted on November 30, 2007 indicates 1.27-acres of existing forest will be protected in a Category I conservation easement. This corresponds to the area entirely within the environmentally sensitive areas. In addition, 0.38-acres of existing and retained forest, outside the category I conservation easement will be protected by the National Park Service Scenic Easement. In total, the Applicant is proposing to remove 1.35 acres of existing forest and save 1.65 acres. There are no forest conservation planting requirements associated with the removal of forest on the subject site.

The previously submitted Forest Conservation Plan (SC2007003) showed an ornamental fence five feet from the property line and within the proposed forest conservation easement. The plan also showed an ornamental fence within 20 feet from the common property line with the United States Government. Since the staff's denial of forest conservation SC2007003, the County Council enacted Zoning Text Amendment 07-04 which prohibits anything but rustic fences within 200 feet of a National Park. Forest Conservation Plan SC2008014 complies with this requirement. The Applicant will construct a three rail split fence along the perimeter of the property for all areas within 200 feet of the National Park Service property. The Applicant's plan shows an ornamental fence bisecting the property and no closer than 200 feet to the national park, and not within any portion of the property subject to the Category I conservation easement. At the property lines the split rail fence will transition into an ornamental fence and continue to comply with zoning text amendment.

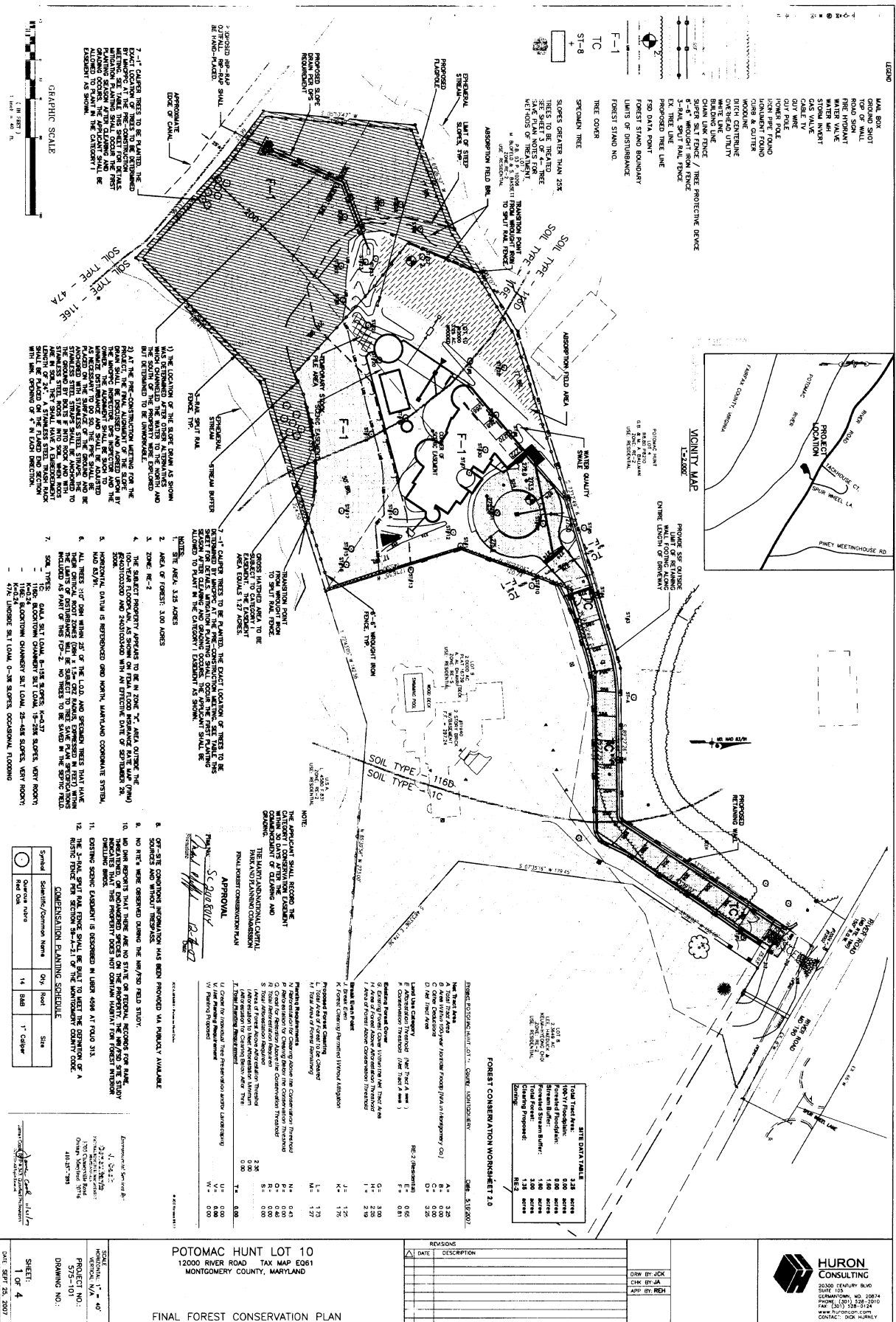
The Application locates the ornamental fence along the border of the Category I easement area. In order to protect his children from exposure to certain nut trees to which they are allergic, the Applicant proposes to remove four nut trees from areas that are outside of the limits of disturbance, and that are located either inside or near the ornamental fence, which will keep the Applicant's children from being exposed to nut trees. Three of these trees are outside the conservation easement. The largest of the three trees is 5 inches in diameter. The fourth tree, a 5-inch dbh hickory tree located at the edge of the conservation easement, where the tree canopy might grow over the ornamental fence, is located within the conservation area. The Applicant will compensate for the loss of all four of the removed trees with planting 14 one-inch caliper native trees within the conservation easement area. The trees will be planted in the area immediately adjacent to the 5-inch hickory tree and near the common property line with the United States Government.

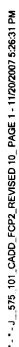
Finally, forest conservation plan SC2008014 shows the required stormwater management pipe and outfall on the western side of the property. This discharge is necessary to safely convey stormwater down the steep slope. Forest conservation plan SC2007003 did not include this pipe and outfall. The alignment of the slope drain will be field adjusted to minimize disturbance. The pipe will be placed on the ground and be anchored to the ground with stainless steel bolts or rods to minimize land disturbance.

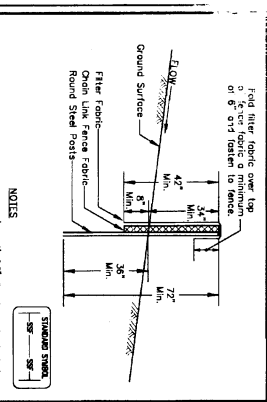
ATTACHMENTS

Attachment A. November 30, 2007 Forest Conservation Plan


Attachment B. M-NCPPC December 6, 2007 letter approving forest conservation plan SC2008014







TREE PROTECTION DEVICE

		MONITORING COUNTY GOVERNMENT COMMUNITY DEVELOPMENT WATER RESOURCES		MODIFIED COUNTY GOVERNMENT WATER RESOURCES BUREAU OFFICE	
		DATE: 6/03		BOM: NONE	

- [illegible]

CERTIFICATION SPECIFICATIONS

OBJECTIVES
Minimize ground loss or damage, and/or indirect soil damage via soil compaction. Promote time stability and long-term health, (presuppose) through development of a vigorous root system.

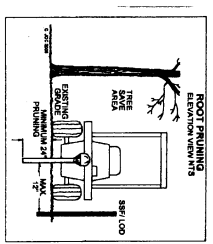
TYPE and RATE
Except as specified below, ANSI Standard A200 (Part 2) "Fertilization" will apply.

TREE SAVE PLAN NOTES

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APPROVAL

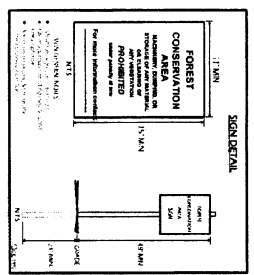
Plan No. SC 2008014
Signature [Signature] Date 12-6-07



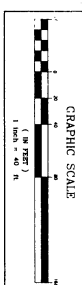
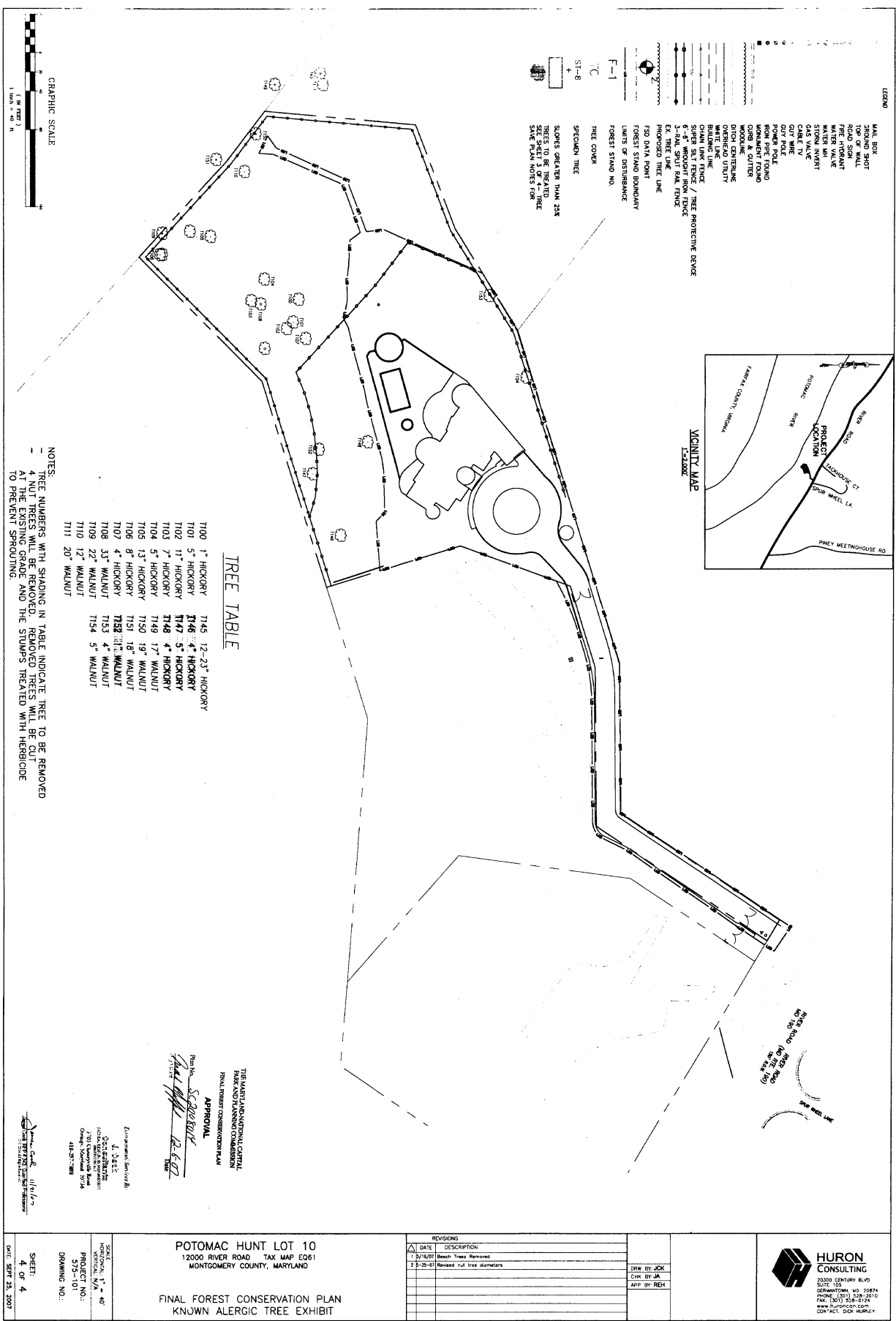
TREE ROOT PRUNING GENERAL NOTES

1. Select a topic of interest and prepare a list of 10-15 keywords.
2. Search for articles in the following databases:
 - a. MEDLINE
 - b. CINAHL
 - c. EMBASE
 - d. PsycINFO
 - e. ERIC
 - f. Social Scisearch
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SITE DATA TABLE	
Total Tract Area:	3.35 acres
100-Yr Floodplain:	0.00 acres
Perennial Floodplain:	0.00 acres
Stream Buffer:	1.00 acres
Perennial Stream Buffer:	1.00 acres
Total Forest:	3.00 acres
Clearing Proposed:	1.73 acres
Logging:	RE-2



NOTES:
 - TREE NUMBERS WITH SHADING IN TABLE INDICATE TREE TO BE REMOVED
 - 4 NUT TREES WILL BE REMOVED. REMOVED TREES WILL BE CUT AT THE EXISTING GRADE AND THE STUMPS TREATED WITH HERBICIDE TO PREVENT SPROUTING.

TREE TABLE

T100	1" HICKORY	T145	12-23" HICKORY
T101	5" HICKORY	T146	4" HICKORY
T102	17" HICKORY	T147	5" HICKORY
T103	7" HICKORY	T148	4" HICKORY
T104	5" HICKORY	T149	17" WALNUT
T105	13" HICKORY	T150	19" WALNUT
T106	8" HICKORY	T151	16" WALNUT
T107	4" HICKORY	T152	11" WALNUT
T108	33" WALNUT	T153	4" WALNUT
T109	22" WALNUT	T154	5" WALNUT
T110	12" WALNUT		
T111	20" WALNUT		

THE MARYLAND NATIONAL CAPITAL
 PARK AND PLANNING COMMISSION
 FINAL FOREST CONSERVATION PLAN
 APPROVAL
 DATE: 8/20/07
 BY: [Signature]
 FOR: [Signature]

POTOMAC HUNT LOT 10 12000 RIVER ROAD TAX MAP E061 MONTGOMERY COUNTY, MARYLAND		REVISIONS 1 5/16/07 Beech Trees Removed 2 5-25-07 Revised nut tree diameters	
SHEET: 4 OF 4		DATE: SEPT 25, 2007	
PROJECT NO.: DRAWING NO.:		HURON CONSULTING 20320 CENTURY BLVD SUITE 105 GERMANTOWN, MD 20874 PHONE: (301) 528-2010 FAX: (301) 528-0124 www.huroncon.com CONTACT: DICK HURLEY	

Attachment B



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

December 14, 2007

Guru Nanak Foundation
12917 Old Columbia Pike
Silver Spring, MD 20906

Dear Applicant:

This letter is to inform you that Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) 420071300, Guru Nanak Foundation, is approved. A forest conservation plan can now be submitted to the Development Review Division in conjunction with any application to which it a necessary component, or directly to Environmental Planning staff if not associated with an application before the Planning Board.

Since the property is subject to the Montgomery County Forest Conservation law there shall be no clearing of forest, understory, or tree removal on the subject site prior to the approval of a final forest conservation plan. If there are any subsequent modifications to the approved plan, not including changes initiated by a government agency, a separate amendment must be submitted to M-NCPPC for review and approval prior to the submission of a forest conservation plan.

If you have any questions regarding these actions, please feel free to contact Amy Lindsey at (301)495-2189.

Sincerely,

Amy Lindsey, Environmental Planner

Cc: 420071300
Surinder Singh, (301)279-7121
Donald Zimar, (703)331-1359