



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

Item #
MCPB 10-21-2010

MEMORANDUM

DATE: ~~October 7, 2010~~ Revised October 13, 2010

TO: Montgomery County Planning Board

VIA: Catherine Conlon, Supervisor, Development Review Division *CC*
Mark Pfefferle, Acting Chief, Environmental Planning *MP*

FROM: Richard A. Weaver, Planner Coordinator, Development Review Division *RAW*
Josh Penn, Senior Planner, Environmental Planning *JP*

REVIEW TYPE: Limited Amendment to the Preliminary Plan, including associated Final Forest Conservation Plan (FCP) in response to a Forest Conservation Violation

APPLYING FOR: Amendment to a Preliminary Plan and Final Forest Conservation Plan (FCP)

PLAN NAME: Alvermar Woods, Lot 17

PLAN NUMBER: 11999034A

PLAN TYPE: Preliminary Plan and Final Forest Conservation Plan

REVIEW BASIS: Forest Conservation Regulations, Section 113.A.(2), Regulation No. 1-01AM (COMCOR) 18-01AM

ZONE: RE-2

LOCATION: Located at 10410 Riverwood Drive 390 feet south of River Road in Potomac.

APPLICANT: Kambiz Kazemi

ATTORNEY: Michele Rosenfeld

HEARING DATE: October 21, 2010

STAFF RECOMMENDATION: Staff recommends denial of the limited amendment to the preliminary plan and associated final forest conservation plan and that the case be scheduled for an enforcement hearing.

BACKGROUND

The Montgomery County Planning Board approved Preliminary Plan 119990340 "Alvermar Woods", on January 28, 1999. The approval created 2 lots (Lots 16 and 17) on 4.17-acres of land in the RE-2 zone located in the southwest corner of the intersection of River Road and Riverwood Drive "Subject Property" or "Property". The application was subject to the Forest Conservation Law (FCL) (Chapter 22A of the County Code) at the time of approval and conservation easements were placed on both of the approved lots. This limited amendment to the Preliminary Plan and associated Final Forest Conservation Plan (FCP) applies only to Lot 17 (90,309 square feet or 2.07 acres), or 10410 Riverwood Drive in Potomac.

The original approved FCP showed 1.61 acres of existing forest on the overall site, with 1.43 acres of forest retained, and 0.18 acres of forest cleared. The original FCP did not generate a planting requirement due to the amount of forest retained on the property. The approved FCP shows 1.1 acres of forest was to be retained within a Category I conservation easement on Lot 17 and 0.33 acres on Lot 16.

The Subject Property is currently in violation of the Category I conservation easement. The property owner/applicant has constructed a shed, a driveway, and a pathway in the Category I conservation easement and removed the entire understory within the 1.1 acre easement area on Lot 17.

The M-NCPPC Inspector issued a Notice of Violation (NOV) on July 14, 2009 (see Attachment A). This NOV required Mr. Kazemi to schedule and meet with M-NCPPC to discuss the violation prior to August 15, 2009. Mr. Kazemi met with the M-NCPPC Inspector, Stephen Peck, in the field on July 29, 2009 to discuss the violation as required by the July 14, 2009 NOV. At the conclusion of this meeting Stephen Peck informed Mr. Kazemi that a notice of hearing for the violation would be issued.

After subsequent discussion between Stephen Peck and the Forest Conservation Program Manager/Acting Chief of Environmental Planning, Mark Pfefferle it was decided that a new NOV should be issued laying out the remedial actions required and the deadline in which to complete them.

The M-NCPPC Inspector issued a second NOV on August 28, 2009 (see Attachment B). The NOV instructed the applicant that the appropriate remedial action was to submit a limited amendment to the preliminary plan to revise the forest conservation plan by December 1, 2009. At a minimum, this plan was to include how areas incompatible with the conservation easement would be mitigated and how other areas of the easement would be restored. The applicant submitted the limited amendment to the preliminary plan on December 11, 2009. A short extension was granted to the applicant to ensure a complete application at time of submission.

On August 10, 2010 Stephen Peck issued a \$500.00 Administrative Citation #EPD000004 to Mr. Kazemi for continued mowing within the Category I conservation easement (see Attachment C). On August 25, 2010 Mr. Kazemi, through his attorney, contested the citation in writing and requested a hearing in front of the Planning Board (see Attachment D).

On September 1, 2010 a meeting was held with the applicant's attorney and M-NCPPC staff to discuss the citation and when the hearing before the Planning Board would occur as requested in the August 25th letter. The applicant was informed at this time that the Limited Amendment to the Preliminary Plan would be heard prior to the hearing on the citation. The applicant was also informed at this time that Staff's recommendation on the Limited Amendment to the Preliminary Plan would be one of denial and a request to have the case scheduled for a violation hearing.

The M-NCPPC Inspector issued a Notice of Violation (NOV) on August 28, 2009 (see Attachment A). The NOV instructed the applicant to submit a limited amendment to the preliminary plan to revise the forest conservation plan and bring the property into compliance by December 1, 2009. The applicant submitted the limited amendment to the preliminary plan on December 11, 2009. An extension was granted to the applicant to ensure a complete application at time of submission.

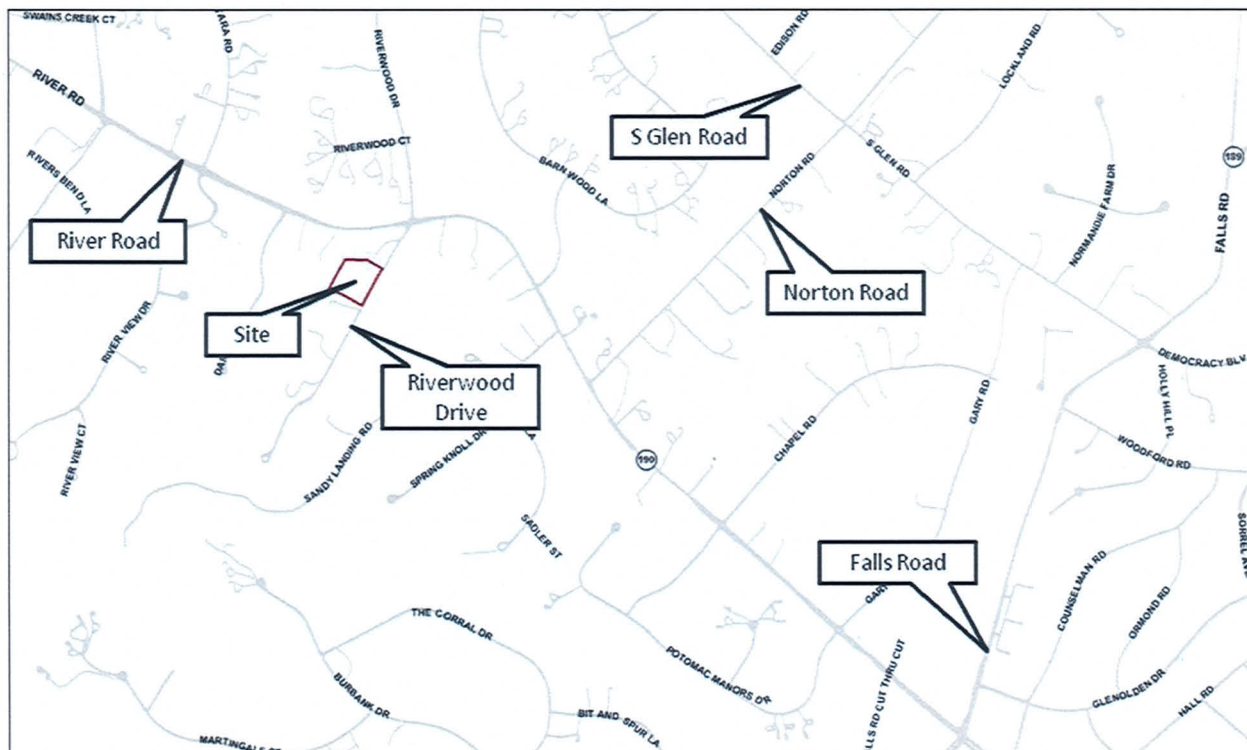


Figure 1: Vicinity Map

SITE DESCRIPTION

The subject property is located at 10410 Riverwood Drive, 390 feet south of River Road in the Potomac Subregion Master Plan area. The subject property is developed with a single family residence. The property is relatively level and has no streams, wetlands, floodplains or buffers on site.



Figure 2: Aerial Photograph of Lot 17 (10410 Riverwood Drive)

PLANNING BOARD REVIEW AUTHORITY

The Forest Conservation Regulations require Planning Board action on certain types of modifications to an approved FCP. COMCOR 22A.00.01.13 A (2), the Forest Conservation Regulations, state:

Major amendments which entail more than a total of 5000 square feet of additional forest clearing must be approved by the Planning Board or the Planning Director (depending on who approved the original plan).

The applicant proposes to modify the entire category I conservation easement on the subject site, which is approximately 1.1 acres (49,000 square feet), therefore; the plan must be reviewed by

the Planning Board. Additionally, the Planning Board has requested to review all plans that remove or significantly change a conservation easement.

PROPOSAL

Applicant's Position

The applicant is requesting the Planning Board to approve the removal of a portion of the existing conservation easement where a shed and driveway have been constructed, and replacement of the remaining Category I conservation easement with a Category II conservation easement. The proposed amendment will remove approximately 0.08 acres (3,500 square feet) of Category I conservation easement and replace 1.05 acres (45,738 square feet) of Category I conservation easement with Category II easement with no mitigation.

REVIEW

Staff Analysis/Position

The Alvermar Woods subdivision property originally had 1.61 acres of forest. The approved forest conservation plan shows that 0.18 acres of forest was to be removed and that 1.43 acres of forest would be retained. All preserved forest requires long-term protection measures according to COMCOR 22a-12(h)(2). A Category I conservation easement was placed on the property as the required long-term protection measure to protect the existing forest and ensure that it remained a naturally regenerating forest. The Category I easements are shown on the record plat for the Subject Property.

The record plat for Lot 17, of the Alvermar Woods subdivision contains 49,262 square feet (1.13-acres) of Category I conservation easement (Attachment **BE**). The record plat references the Category I Conservation Easement and shows it as recorded in the land records as the standard Category I conservation easement language at Liber 13178 folio 412. The record plat's owner certificate is signed by Kambiz and Azar Kazemi and dated April 29, 1999. The approved FCP shows that the Category I conservation easements on the plat were forested when the plat was recorded. At this time, no areas left on-site meet the definition of forest as defined in Section 22A-3 of the Montgomery County Code. This section defines a forest as,

“Forest means a biological community dominated by trees and other woody plants (including plant communities, the understory, and forest floor) covering a land area which is 10,000 square feet or greater and at least 50 feet wide. However, minor portions of a forest stand which otherwise meet this definition may be less than 50 feet wide if they exhibit the same character and composition as the overall stand. Forest includes:*

- (1) areas that have at least 100 live trees per acre with at least 50 percent of those trees having a 2 inch or greater diameter at 4.5 feet above the ground; and*
- (2) forest areas that have been cut but not cleared.”*

(*Note: The definition of forest was changed in 2001, the minimum width was increased from 35 feet to 50 feet.)

At a meeting with the Applicant on February 26, 2010, staff proposed options to address the violation that the staff would support. Those options were: 1) restore the Category I easements to a state which meets the definition of forest and has no activities or objects in conflict with the

recorded Category I Conservation easement; or 2) revise the limited amendment to the preliminary plan to remove the Category I Conservation easement and provide off-site mitigation acceptable to staff and the Planning Board. The applicant chose an alternative route and is proposing to replace the Category I conservation easement with Category II conservation easement without any mitigation. This proposal not only changes the classification of the easement but also reduces it in size by removing the area with the driveway and shed completely from the easement.

Replacing a Category I conservation easement with a Category II conservation easement is in conflict with long term protection methods for conservation areas. Page 51 of the "Trees: Approved Technical Manual (September 1992)" defines the long-term protection measures for conservation areas as required by 22A-12(h)(2) of the Montgomery County Forest Conservation Law. The trees technical manual states "Category I conservation easements will be applied to "forest" retention areas, reforestation areas, and afforestation areas that involve establishing forest cover." Additionally, it is stated that "Category II conservation easements will be applied to "trees" saved outside forest areas which are determined to be significant." Long term protection measures for areas to meet retention, reforestation, and afforestation requirements must be consistent with conservation and management practices for forest. Category II conservation easements allow for activities, such as mowing, which prevent a forest from naturally regenerating. In general, Category I conservation easements protect naturally regenerating forest and all forest layers including understory which helps ensure natural forest succession. Category II easements are only for the protection of trees 6 inches in diameter and greater, and do not ensure long term canopy or natural forest growth. Category II conservation easements allow for the removal of understory, ground maintenance (such as mowing), removal of small trees, and are generally used to protect larger trees and the existing canopy of an area.

Furthermore, COMCOR 22A.00.01.03.B(19) defines forest clearing as the cutting or destruction of any trees or understory which are part of an existing forest. At the time of the approved final forest conservation plan there were 1.13 acres of existing forest saved in a Category I conservation easement on Lot 17. There are no areas left on the lot that meet the definition of forest due to removal of understory, erection of a shed, and the placement of a driveway through the easement. The Category I conservation easement area is now comprised of canopy trees and landscaping but does not meet the legal definition of forest. Thus, 1.13 acres of forest that existed upon approval of the preliminary plan of subdivision in 1999 has been lost.

The Applicant's amendment proposes the permanent loss of a protected forest in exchange for a tree save area of lesser size. The permanent loss of forest on the subject lot results in the FCP not being in compliance with the Forest Conservation Law because, under Chapter 22A of the County Code, when an applicant removes forest below a certain percentage (called the conservation threshold) that forest must be compensated by planting 2 acres of forest for each acre removed (2:1 ratio). Forest that is removed above the conservation threshold is compensated at a ratio of ¼:1. In this particular two-lot subdivision, the conservation threshold is 1.04 acres. If the 1.1 acres of forest retention is permanently removed from Lot 17, forest retention for the overall subdivision will be reduced to the 0.33 acres that was retained on Lot 16. Thus, total forest clearing for the overall subdivision would increase from 0.18 acres to 1.28 acres. According to the law, to make that change, the applicant must compensate for the removal of forest both above and below the conservation threshold. According to the forest conservation worksheet, the removal of the 1.1 acre Category I conservation easement on Lot 17 generates a

1.57-acre planting requirement (0.14 acres from clearing above the conservation threshold and 1.43 acres from clearing below the conservation threshold). Due to this, the applicant's proposal does not meet the minimum standards set forth under Chapter 22A of the County Code.

The Applicant's proposal does not meet the requirements of the Forest Conservation Law and is in conflict with Planning Board policy, as adopted in November of 2008 and supported in other forest conservation plan amendments, which sets the minimum replacement ratio for removal for any conservation easement at 2:1, in-kind, regardless of whether the forest removal is above or below the conservation threshold.

In Staff's opinion, the amendment to the preliminary plan, as proposed by the Applicant, is a retroactive response to address the violation and not a proactive attempt to bring the site into compliance. The proposed plan does not comply with Chapter 22A, the forest conservation regulations, the Trees Technical Manual, or Planning Board policy.

Notification and Outreach

The Subject Property was appropriately signed with notification of the upcoming preliminary plan amendment prior to the December 11, 2009 submission in accordance with established procedures. All adjoining and confronting property owners and people who have expressed an interest will be notified of the upcoming hearing on the proposed amendment. As of the date of this report, staff has received no inquiries regarding this application. Any comments received hereafter will be forwarded to the Board.

RECOMMENDATION

Staff recommends denial of the limited amendment to the preliminary plan and associated final forest conservation plan and further recommends that the case be scheduled for an enforcement hearing.

Attachment A: July 14, 2009 Notice of Violation



MONTGOMERY COUNTY PLANNING DEPARTMENT
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
 8787 Georgia Avenue, Silver Spring, Maryland 20910
 Environmental Planning Division 301.495.4540 Fax: 301.495.1303

NOTICE OF VIOLATION

FOR MONTGOMERY COUNTY, MARYLAND, the undersigned issuer, being duly authorized, states that:

On, 07/14/09 the recipient of this NOTICE, Kambiz & A Kazemi
Date Recipient's Name

who represents the property owner, Kambiz A Kazemi
Property Owner's Name

is notified that a violation of the Montgomery County Forest Conservation Law (Chapter 22-A) exists at the following location: 10410 Riverwood Drive Potomac MD 20854

Plan No. 119990340 Explanation: Maintenance of structural improvements, impeding natural plant regeneration and drainage and cutting of grass within a category I conservation easement

VIOLATION:

- Failure to hold a required pre-construction meeting.
- Failure to have tree protection measures inspected prior to starting work.
- Failure to install or maintain tree protection measures per the approved Forest Conservation or Tree Save plan.
- Failure to comply with terms, conditions and/or specifications of an approved Forest Conservation plan or Tree Save plan, or as directed by Forest Conservation Inspector.
- Failure to obtain an approved Forest Conservation plan or Tree Save plan prior to cutting, clearing, or grading 5,000 square feet on a property of 40,000 square feet or greater.
- Failure to comply with reforestation or afforestation requirements of a Forest Conservation Plan.
- Failure to obtain written approval for a fence permit prior to installing a fence that passes through or around a conservation easement.
- Other: violations of the category I conservation easement agreement

Failure to comply with this NOV by 08/15/09 may result in i) issuance of a citation, ii) issuance of a Stop Work Order, and/or iii) issuance of a Notice of Hearing to appear before the Planning Board for appropriate Administrative Action. Recipient is to call the inspector at 301-495-4564 when the corrective action is complete. The following corrective action(s) must be performed as directed and within any timeframes specified below:

- Stake out limits of disturbance (LOD) and contact Forest Conservation Inspector for a pre-construction meeting;
- Install tree protection measures and/or tree care as directed by Forest Conservation Inspector.
- Submit required application for compliance with Chapter 22A of the County Code. Contact Environmental Planning at 301-495-4540.
- Cease all cutting, clearing, or grading and/or land disturbing activity. Approval from Forest Conservation Inspector is required to resume work.
- Schedule a pre-planting meeting with the Forest Conservation Inspector prior to the reforestation of afforestation planting.
- Schedule and attend a meeting with staff to determine appropriate corrective action to be performed by a date certain. Failure to complete the corrective action by the date assigned may result in i) issuance of a citation, ii) issuance of a Stop Work Order, and/or iii) issuance of a Notice of Hearing to appear before the Planning Board for appropriate Administrative Action.
- Other: schedule a meeting with this inspector by 08/15/09 - to discuss remedial actions necessary to bring easements into compliance

MNCPPC Inspector Stephen Beck Stephen Beck 07/14/09
Printed Name Signature Date

RECEIVED BY: Sent cert. filed mail
Printed Name Signature Date

Attachment B: August 28, 2009 Notice of Violation and
Attached Letter



MONTGOMERY COUNTY PLANNING DEPARTMENT

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue, Silver Spring, Maryland 20910

Environmental Planning Division 301.495.4540 Fax: 301.495.1303

www.MontgomeryPlanning.Org

NOTICE OF VIOLATION: *Corrective Action*

SP2
EDPNOV 0001

FOR MONTGOMERY COUNTY, MARYLAND, the undersigned issuer, being duly authorized, states that:

On, 08/28/2009 the recipient of this NOTICE, Kambiz & A Kazemi

Date

Recipient's Name

who represents the property owner, Kambiz Kazemi

Property Owner's Name

is notified that a violation of the Montgomery County Forest Conservation Law (Chapter 22-A) exists at the following location: 10410 Riverwood Drive Patomac MD 20854

Plan No. <u>119990340</u>	Explanation: <u>maintenance of structural improvements impeding natural plant regeneration and drainage and cutting of grass within a category I conservation easement.</u>
VIOLATION:	
<input type="checkbox"/>	Failure to hold a required pre-construction meeting.
<input type="checkbox"/>	Failure to have tree protection measures inspected prior to starting work.
<input type="checkbox"/>	Failure to install or maintain tree protection measures per the approved Forest Conservation or Tree Save plan.
<input checked="" type="checkbox"/>	Failure to comply with terms, conditions and/or specifications of an approved Forest Conservation plan or Tree Save plan, or as directed by Forest Conservation Inspector
<input type="checkbox"/>	Failure to obtain an approved Forest Conservation plan or Tree Save plan prior to cutting, clearing, or grading 5,000 square feet on a property of 40,000 square feet or greater.
<input type="checkbox"/>	Failure to comply with reforestation or afforestation requirements of a Forest Conservation Plan.
<input type="checkbox"/>	Failure to obtain written approval for a fence permit prior to installing a fence that passes through or around a conservation easement.
<input checked="" type="checkbox"/>	Other: <u>violations of the category I conservation easement agreement</u>
<p>Failure to comply with this NOV by <u>12/01/09</u> may result in i) issuance of a citation, ii) issuance of a Stop Work Order, and/or iii) issuance of a Notice of Hearing to appear before the Planning Board for appropriate Administrative Action. Recipient is to call the inspector at <u>301-495-4564</u> when the corrective action is complete. The following corrective action(s) must be performed as directed and within any time frames specified below:</p>	
<input type="checkbox"/>	Stake out limits of disturbance (LOD) and contact Forest Conservation Inspector for a pre-construction meeting:
<input type="checkbox"/>	Install tree protection measures and/or tree care as directed by Forest Conservation Inspector.
<input type="checkbox"/>	Submit required application for compliance with Chapter 22A of the County Code. Contact Environmental Planning at 301-45-4540.
<input type="checkbox"/>	Cease all cutting, clearing, or grading and/or land distributing activity. Approval from Forest Conservation Inspector is required to resume work.
<input type="checkbox"/>	Schedule a pre-planting meeting with the Forest Conservation Inspector prior to the reforestation of afforestation planting.
<input type="checkbox"/>	Schedule and attend a meeting with staff to determine appropriate corrective action to be performed by a date certain. Failure to complete the corrective action by the date assigned may result in i) issuance of a citation, ii) issuance of a Stop Work Order, and/or iii) issuance of a Notice of Hearing to appear before the Planning Board for appropriate Administrative Action.
<input checked="" type="checkbox"/>	Other: <u>submit limited amendment to the preliminary plan as described in attached letter with the agreement of implementing this plan after approval</u>

MNCPPC
Inspector

Stephen Peck
Printed Name

Stephen Peck
Signature

08/28/09
Date

RECEIVED
BY:

Sent certified mail
Printed Name

return receipt
Signature

Date



MONTGOMERY COUNTY PLANNING DEPARTMENT

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

August 28, 2009

Kambiz & A. Kazemi
10410 Riverwood Drive
Potomac MD 20854

Dear Mr. Kazemi:

Thank you for meeting with me at your property last month. At our meeting on July 29th I described the forest conservation easement violations. I determined that portions of a tennis court, a shed and driveways are within a recorded category 1 conservation easement. These structures are prohibited within the conservation easement areas. In addition much of the category 1 conservation easement is being mowed, also a violation of the conservation easement agreement. This prevents the growth of natural regenerating trees and shrubs. In our field meeting, I stated you would be mailed a notice of hearing for the forest conservation easement violations. Since our field meeting, I have had discussions with my supervisor, Mark Pfefferle and our legal staff.

The required remediation action for the conservation easement violations is the submittal, approval, and implementation of a "limited amendment to the preliminary plan "Alvermar Woods 119990340". This remedial action is also described on the attached notice of violation.

Please note that this limited amendment to the preliminary plan will require Montgomery County Planning Board approval and will include penalties for the forest conservation easement violations. The penalty will include mitigation planting for any conservation easement area approved for removal. Further, this limited amendment is only to remedy forest conservation easement violations on your property. Mr. Mirzaie, owner of 10420 Riverwood Drive, has agreed to a remediation plan to restore the conservation easements on his property.

You will be given 90 days or December 1, 2009 to submit the limited amendment to the preliminary plan to Environmental Planning Staff. At least, the plan will have to propose how areas incompatible with category 1 conservation easement will be mitigated either onsite or offsite. Areas of the conservation easement that can be restored will need to be restored with detailed plans. I would recommend meeting with Environmental Planning Review Staff once you have decided on a consultant.

Let me know if you have any questions. Please review the attached notice of violation. I can be reached at 301-495-4564 or stephen.peck@mncppc-mc.org.

Sincerely,

A handwritten signature in cursive script that reads "Stephen Peck".

Stephen Peck
Forest Conservation Inspector
Montgomery County Environmental Planning

Attachments: Notice of Violation

Attachment C: Administrative Citation #EPD000004

Administrative Citation
Forest Conservation
The Maryland-National Capital Park and Planning Commission

vs.

Name: Mrs. Kamdi Kazemi
First Middle Last
Company/Position: property owner
Address: 10410 Riverwood Drive Columbia MD 21054
Phone Number: _____ Fax Number: _____ Email: _____

Location and Description of Violation:
Address/location of site: category I conservation easement areas 10410 Riverwood Drive

Pursuant of the M-NCPPC's authority under Chapter 22A of the Montgomery County Code, it is formally charged that the above named defendant on 08/10/2010 (date) at the stated site location did commit the following:

mowed and cut grass and natural vegetation within a category I conservation easement after receiving a Notice of violation for this prohibited action

In violation of:
 Montgomery County Code, Chapter 22A
 Approval of Final Forest Conservation Plan No. 119990340 Other: _____

Civil Fine and Compliance:
1. (a) You shall pay a fine of \$ 500.00 by 08/26/2010 (date) and complete the remedial action listed below
(b) You shall pay a daily fine of \$ _____ if the original fine has not been paid, by _____ (date). The daily fine shall accrue (until the original fine is paid).
2. You shall pay a daily fine of \$ _____ until the remedial action listed below is completed. This fine shall be paid within 15 days of completion of all remedial action.

Checks should be made payable to M-NCPPC and shall be paid during normal business hours at the information Counter of M-NCPPC's Montgomery Regional Office located at 8787 Georgia Avenue, 2nd Floor, Silver Spring, MD 20910, 301-495-4610. Failure to comply with this citation may result in further enforcement proceedings and/or issuance of additional citations including additional fines. You may also request a hearing before the Planning Board or the Board's designee. If you elect to request a hearing, you must notify the M-NCPPC Office of the General Counsel, in writing, at 8787 Georgia Avenue, Suite 205, Silver Spring, MD 20910, within 15 days of the citation.

Remedial Action:
1. 1) comply with the conditions of the locally binding conservation easement agreement by stop mowing and cutting natural vegetation from the category I conservation easement areas
2) attend a meeting with MNCPPC staff and implement agreed upon compliance plan or interim compliance plan
by: 08/10/2010 (date) 08/26/2010 (date), you shall pay a daily fine of \$ 2500 a day until work is completed.

2. You have violated Chapter 22A of the Montgomery County Code, and may be subject to an Administrative Civil Penalty and additional corrective measures.

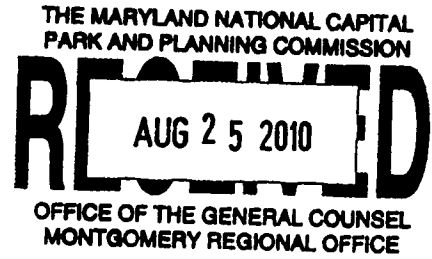
Acknowledgment:
I sign my name as a receipt of a copy of this Citation and not as an admission of guilt. I will comply with the requirements set forth in this Citation. I have a right to request a hearing for the offense(s) charged. If I do not exercise my right to a hearing, I agree to entry by the court judgment on affidavit for the amount of the fine.

refused to sign
Defendant's Signature _____ Date _____

Affirmation:
I solemnly affirm under the penalties of perjury, and upon personal knowledge or based on the affidavit, that the contents of this citation are true to the best of my knowledge, information and belief and that I am competent to testify on these matters.
Inspector's Signature Stephen Beck Date 08/10/2010
Print Name: Stephen Beck Phone Number: 301-495-1234

Attachment D: Letter Contesting Citation

Michele M. Rosenfeld
The Law Office of Michele M. Rosenfeld
11913 Ambleside Drive
Potomac MD 20854-2107
rosenfeldlaw@verizon.net
301-204-0913



August 24, 2010

Ms. Christina Sorrento, Associate General Counsel
MNCPPC
8787 Georgia Avenue
Silver Spring MD 20910

RE: Administrative Citation No. 000004
10410 Riverwood Drive Potomac MD 20854

Dear Ms. Sorrento:

This letter constitutes a written request for a hearing before the Planning Board on the above-referenced Administrative Citation (copy enclosed).

Sincerely,



Michele M. Rosenfeld

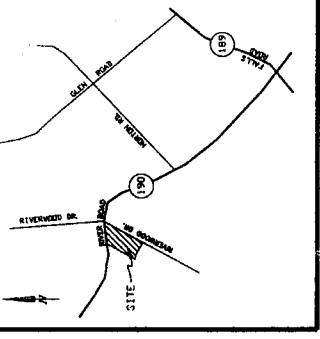
Enclosure

Attachment E: Record Plat

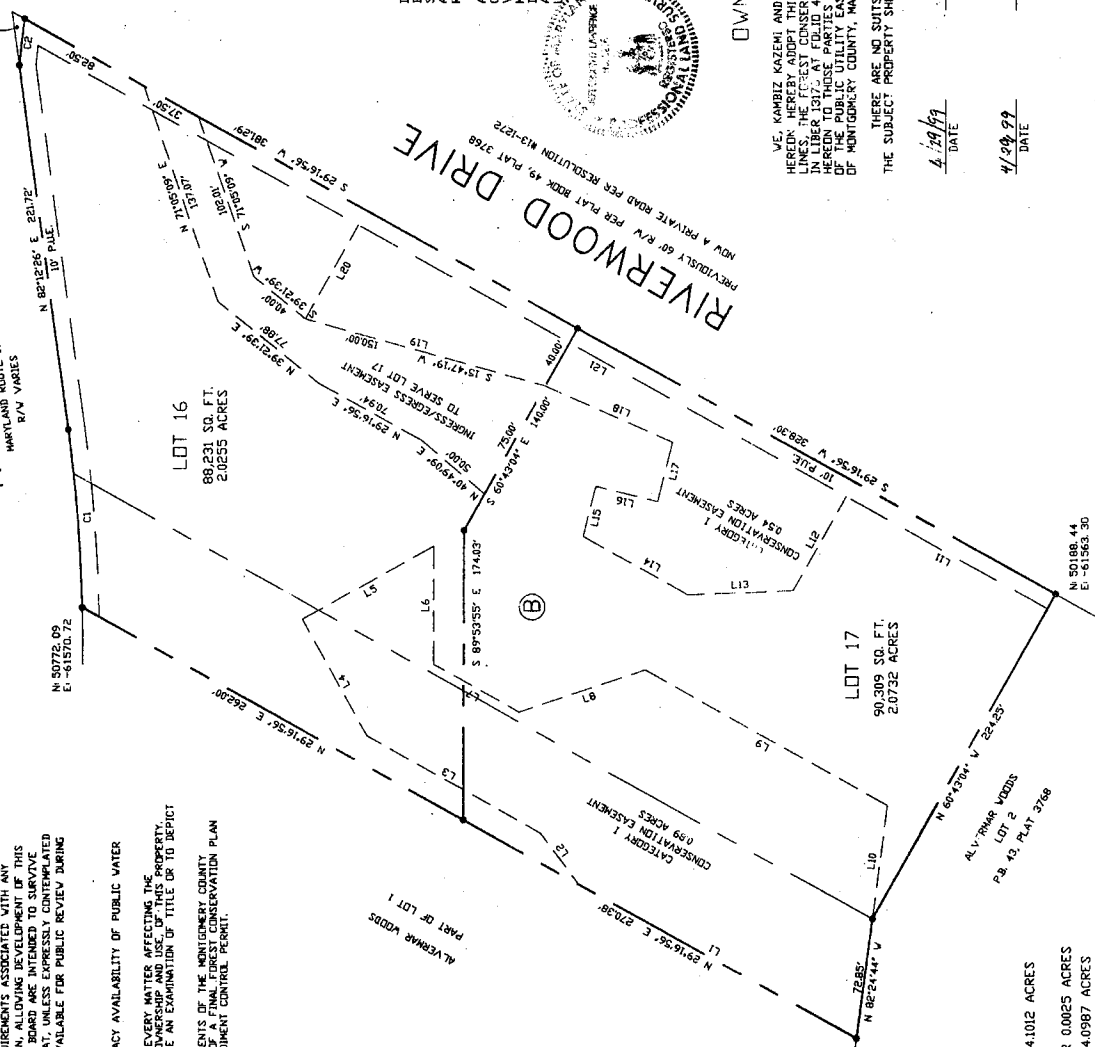
PLAT NO 21237

RIVER RD

AREA DEDICATED TO PUBLIC USE 110.50 ACRES 0.0025 ACRES



VICINITY MAP
SCALE 1"=2000'



NOTES:
ALL TERMS, CONDITIONS, AGREEMENTS, LIMITATIONS, AND REQUIREMENTS ASSOCIATED WITH ANY PRELIMINARY PLAN, SITE PLAN, PROJECT PLAN OR OTHER PLAN, ALLOWING DEVELOPMENT OF THIS PROPERTY, APPROVED BY THE MONTGOMERY COUNTY PLANNING BOARD ARE INTENDED TO SURVIVE AND SHALL BE CONSIDERED PART OF THIS SUBDIVISION RECORD PLAT AS APPROVED BY THE PLANNING BOARD AND AVAILABLE FOR PUBLIC REVIEW DURING NORMAL BUSINESS HOURS.
THE EXISTING DWELLING ON LOT 17 TO REMAIN
THE APPROVAL OF THIS PLAT IS PREDICATED ON THE ADEQUACY AVAILABILITY OF PUBLIC WATER AND SEWER
THIS SUBDIVISION RECORD PLAT IS NOT INTENDED TO SHOW EVERY MATTER AFFECTING THE PROPERTY, INCLUDING EASEMENTS, ENCUMBRANCES, AND INTERESTS IN THE PROPERTY, OR TO REPLACE AN EXAMINATION OF TITLE OR TO DEPICT OR NOTE ALL MATTERS AFFECTING TITLE.
THE PROPERTY SHOWN HEREON IS SUBJECT TO THE REQUIREMENTS OF THE MONTGOMERY COUNTY FOREST CONSERVATION LAW OF 1992, INCLUDING APPROVAL OF A FINAL FOREST CONSERVATION PLAN AND APPROPRIATE AGREEMENTS PRIOR TO ISSUANCE OF A SEDIMENT CONTROL PERMIT.
THE PROPERTY IS ZONED RE-2
PRELIMINARY PLAN NO. 1-99084

LOT 16
89,221 SQ. FT.
2.0255 ACRES

LOT 17
90,309 SQ. FT.
2.0732 ACRES

LINE	BEARING	DISTANCE
L1	N 29°16'56" E	150.38'
L2	N 82°24'44" V	172.84'
L3	S 89°07'14" E	80.11'
L4	S 89°07'14" E	80.11'
L5	S 89°07'14" E	80.11'
L6	S 89°07'14" E	80.11'
L7	S 89°07'14" E	80.11'
L8	S 89°07'14" E	80.11'
L9	S 89°07'14" E	80.11'
L10	S 89°07'14" E	80.11'
L11	S 89°07'14" E	80.11'
L12	S 89°07'14" E	80.11'
L13	S 89°07'14" E	80.11'
L14	S 89°07'14" E	80.11'
L15	S 89°07'14" E	80.11'
L16	S 89°07'14" E	80.11'
L17	S 89°07'14" E	80.11'
L18	S 89°07'14" E	80.11'
L19	S 89°07'14" E	80.11'
L20	S 89°07'14" E	80.11'
L21	S 89°07'14" E	80.11'
L22	S 89°07'14" E	80.11'

TOTAL AREA OF LOTS = 179,530 SQUARE FEET DR 4.1012 ACRES
TOTAL NUMBER OF LOTS = 2
TOTAL AREA OF DEDICATION = 110 SQUARE FEET DR 0.0025 ACRES
TOTAL AREA OF PLAT = 179,540 SQUARE FEET DR 4.0987 ACRES

DEPARTMENT OF PERMITTING SERVICES
MONTGOMERY COUNTY, MARYLAND

APPROVED: *[Signature]*
DIRECTOR

MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MONTGOMERY COUNTY PLANNING BOARD

APPROVED: *[Signature]*
COMMISSIONER

M.N.C.P. & P.C. RECORD FILE NO. 010-61

SURVEYOR'S STATEMENT

I HEREBY STATE TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF THAT THE PLAT SHOWN HEREON IS CORRECT, THAT IT IS A TRUE AND ACCURATE REPRESENTATION OF THE ENTIRETY, AND THAT THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE MONTGOMERY COUNTY CODE AND THAT THE TOTAL AREA INCLUDED IN THIS PLAN OF SUBDIVISION IS 179,530 SQUARE FEET DR 4.1012 ACRES OF LAND, OF WHICH THE TOTAL AREA DEDICATED TO PUBLIC USE IS 110 SQUARE FEET DR 0.0025 ACRES OF LAND.

[Signature]
D'CONNELL & LAWRENCE, INC.
BY: JEFFERSON D. LAWRENCE
PROFESSIONAL LAND SURVEYOR
MD. REG. NO. 2626



OWNER'S CERTIFICATE

WE, KAMBIZ KAZEMI AND AZAR KAZEMI, OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON, HEREBY ADOPT THIS PLAN OF SUBDIVISION, ESTABLISH THE MINIMUM BUILDING RESTRICTION LINES, THE FOREST CONSERVATION EASEMENTS SHOWN HEREON PER THE REQUIREMENTS SET FORTH IN THE MONTGOMERY COUNTY FOREST CONSERVATION LAW OF 1992, AND ALL OTHER FOREST CONSERVATION RESTRICTIONS HEREBY TO THOSE PARTIES NAMED IN SAID EASEMENT, WITH THE UNDERSTANDING THAT THE FOREST CONSERVATION RESTRICTIONS OF THE PUBLIC UTILITY EASEMENT RECORDED IN LIBER 3834 AT FLD 457 AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND.

THESE ARE NO SUITS, ACTIONS OF LAW, LEASES, LIENS OR TRUSTS AFFECTING THE SUBJECT PROPERTY SHOWN HEREON.

4/29/99 DATE
KAMBIZ KAZEMI

[Signature]
KAMBIZ KAZEMI

4/29/99 DATE
AZAR KAZEMI

[Signature]
AZAR KAZEMI

SUBDIVISION RECORD PLAT

ALVERMAR WOODS
LOTS 16 AND 17, BLOCK "B"
POTOMAC (10TH) ELECTION DISTRICT
MONTGOMERY COUNTY MARYLAND
SCALE: 1" = 50' FEBRUARY, 1999

NOV 16 1999

O'CONNELL & LAWRENCE, INC.
SURVEYORS, ENGINEERS & LAND PLANNERS
17004 Georgia Avenue, Suite 309, Olney, Maryland 20832
Tel: (301) 924-4970 • Fax: (301) 924-5872

CURVE	RADIUS	ARC LENGTH	CHORD LEN	CHORD BEARING	BE-TA ANGLE	TANGENT
C1	650.00'	27.69'	27.69'	N 83°21'30" V	01°52'48"	13.93'

RECORDED
PLAT BOOK

PLAT NO.

2-99-348 09231 OF 2-0301

MSA SSIWA49-27114

010-61