



Preliminary Plan Amendment, 11995095A: Rapley Preserve at Avenel (Lot 117, Block C)

JAP

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JAC

John Carter, Chief Area 3 Planning Team



Completed: 2/3/2012

Description

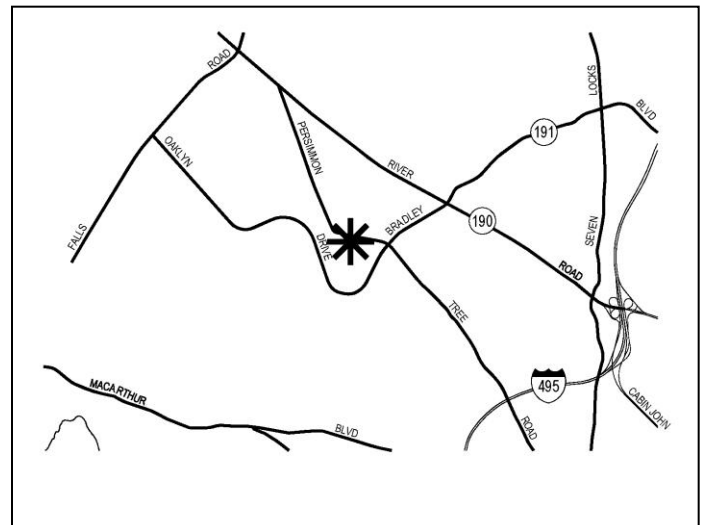
Preliminary Plan Amendment 11995095A: Rapley Preserve at Avenel (Lot 117, Block C)

Modify the Category I Conservation Easement in response to a forest conservation violation on property located at 9313 Rapley Preserve Drive, 2.07 acres, RE-2C Zone, Potomac Master Plan

Staff Recommendation: approval with conditions

Applicant: Marc Solomon

Submission Date: May 5, 2010



Summary

- Application filed in response to a forest conservation violation
- Removal of 546 square feet of Category I conservation easement
- Mitigation for removal of easement to be met on-site with the addition of 1,035 square feet of forested Category I conservation easement
- Resolution of noise issues

STAFF RECOMMENDATION: Approval of the Limited Amendment to the Preliminary Plan and associated Final Forest Conservation Plan, with the following conditions:

1. Applicant must submit a new record plat within three (3) months of the mailing of the Planning Board Resolution approving the limited amendment to the Preliminary Plan. The record plat must reflect the amended forest conservation easements and reference the standard Category I conservation easement as recorded at liber 13178 and folio 412 in the Land Records for Montgomery County, Maryland.
2. All other conditions of Preliminary Plan and Forest Conservation Plan No. 119950950 contained in the Planning Board's Resolution dated August 7, 1995, not modified herein, remain in full force and effect.
3. The applicant must complete installation of a suitably designed noise attenuating structure around the emergency generator and properly stabilize the disturbed area within three (3) months of the mailing of the Planning Board Resolution approving the limited amendment to the Preliminary Plan. The enclosure shall be considered "installed" when an Acoustical Engineer monitors the actual noise levels at the nearest property line and certifies that the generator complies with the Montgomery County Noise Ordinance.

BACKGROUND

The Montgomery County Planning Board approved Preliminary Plan #119950950 "Rapley Preserve at Avenel", on May 5, 1995. The approval was for fifty-two (52) lots on 68.58 acres of land in the RE-2C zone. The property was subject to the forest conservation law (Chapter 22A of the County Code) and a forest conservation plan (FCP) was required.

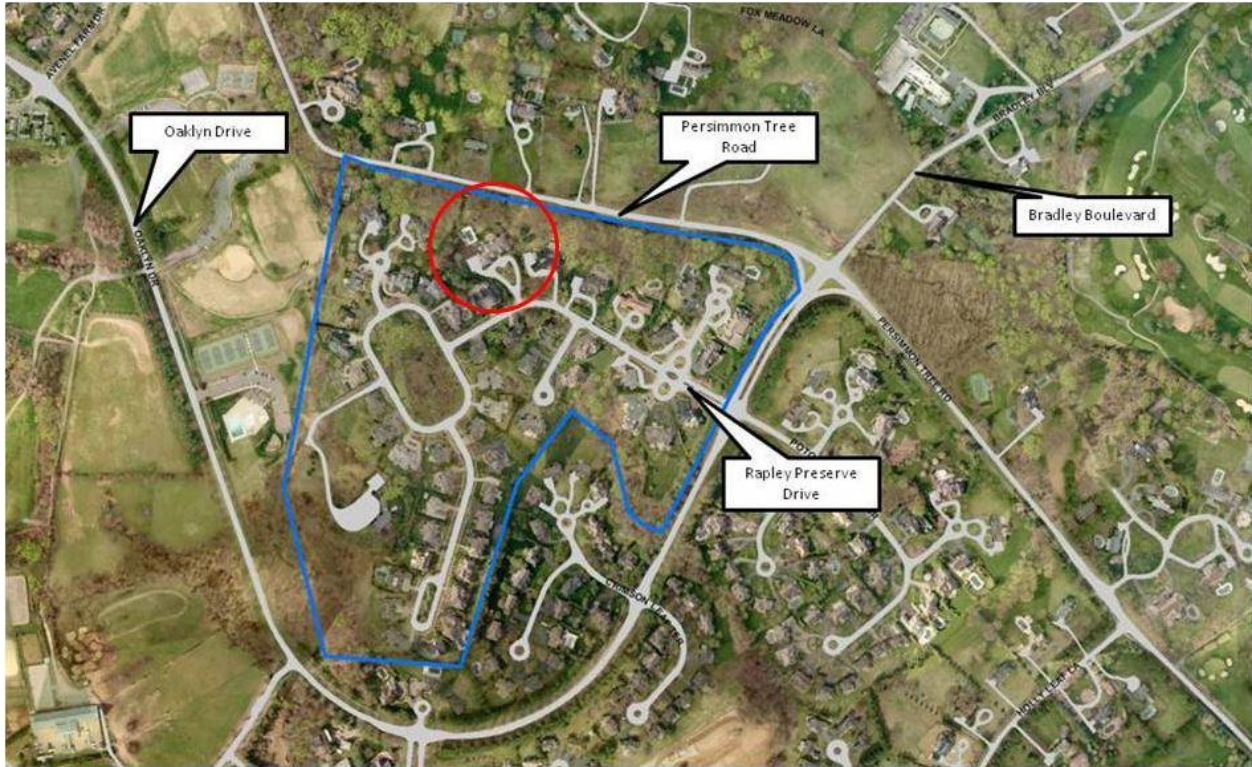


Figure 1: Srour Falls Subdivision

The FCP approved with the preliminary plan included 21.32 acres of existing forest on the overall 68.58 acre site; clearing of 11.63 acres of forest and 9.69 acres of forest retention. This generated a 9.95 acre afforestation requirement which was met on-site through landscape credit and with off-site planting.

SITE DESCRIPTION

The subject property is located at 9313 Rapley Preserve Drive, approximately 300 feet northeast of the intersection with Rapley Preserve Circle, in Potomac. It is identified as Lot 117, Block C, Rapley Preserve at Avenel containing 2.07 acres and developed with a single family residence. The lot contains 12,800 square feet of Category I conservation easement along the north side of the property, between the house and Persimmon Tree Road. The lot gently slopes downhill from the northwest to the southeast. The property is located within the Rock Run watershed, which is a Use I designation. There are no intermittent streams or associated 100 year floodplain on or adjacent to the site. The Countywide Stream Protection Strategy (CSPS) rates this watershed as fair.



Figure 2: Rapley Preserve at Avenel, Lot 117, Block C

The subject property was issued a violation of the Category I conservation easement by an M-NCPPC forest conservation inspector on March 6, 2009 (Citation #DRD 0000213, Attachment A). The applicant constructed a storage structure and an emergency electrical generator within the Category I conservation easement. These structures prevent the natural regeneration of forest in the impacted area. This limited preliminary plan amendment is the applicant's response to the violation.

PROPOSAL

On May 5, 2010, the applicant submitted this application to amend Preliminary Plan and Forest Conservation Plan #119950950 by adjusting the location of the Category I easement on Lot 117. This amendment proposes to remove 546 square feet of Category I conservation easement where the

electrical generator and shed was placed and to add 1,035 square feet of Category I conservation to the south side of the easement. This new area of easement is adjacent to the existing easement and is currently forested in the same condition as other areas of the easement. The storage structure is to be removed from the easement.

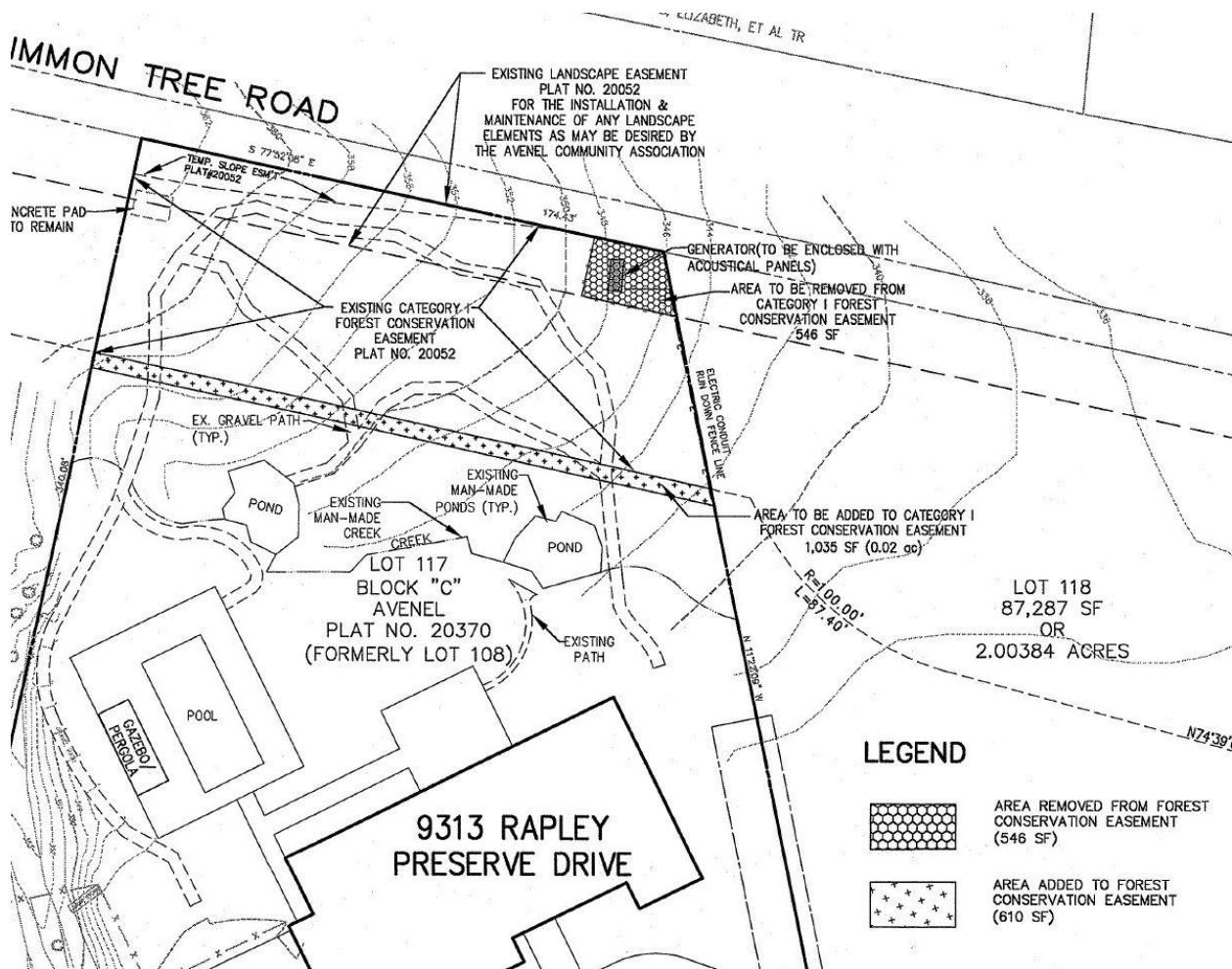


Figure 3: Proposed Amendment

PLANNING BOARD REVIEW

The Forest Conservation Regulations require Planning Board action on certain types of modifications to an approved FCP. Section 22A.00.01.13.A(1) of the Forest Conservation Regulation states:

Minor amendments which do not result in more than a total of 5000 square feet of additional forest clearing may be approved by the Planning Director on a case by case basis...

Although the total modification is below the 5000 square foot threshold, the Planning Board has stated that the removal of, or change to, a recorded conservation easement warrants consideration in a public forum with a final decision from the Planning Board.

REVIEW

The limited amendment to the preliminary plan, in this case, is a retroactive process to resolve a violation and not a proactive attempt to bring the site into compliance. The applicant has been working with staff to come to a mutually supportable mitigation package that meets the statutory requirements of the Planning Board and the needs of the Homeowner.

The proposed mitigation for the easement encroachment and subsequent easement removal is to replace the easement on-site over previously unprotected forested area. The plans calls for 1,035 square feet to be placed into Category I conservation easement, almost a 2:1 replacement to offset the removal of 546 square feet of easement.

The Planning Board policy for the removal of conservation easement, as determined in November of 2008, is a ratio of 2:1 if taken off-site. If the easement can be rearranged onsite, the Planning Board has found this to be acceptable at a ratio of 1:1. On-site mitigation is preferable to off-site mitigation because it provides in-kind and in-place benefits for what is being removed. Staff believes that with the protection of 1,035 square feet of forest placed into Category I conservation easement, the application satisfactorily meets the Planning Board's mitigation policy of 1:1 on-site. The 1,035 square feet of easement being added is of the same condition and character of the easement area to be removed. In-place in-kind mitigation is the best because an equivalent forest protection in the same watershed and, in this case, the same property has been accomplished.

Other Considerations

Montgomery County Noise Ordinance

When the generator was originally installed in 2006, it was placed approximately 12 feet from the side property line prompting the Montgomery County Department of Permitting Services (DPS) to issue a notice of violation (Attachment B) for a structure within the 15 foot side yard setback. The generator was moved to its current location and DPS closed the case regarding the matter. When this preliminary plan amendment was filed, staff expressed concern that the emergency electrical generator might violate the Montgomery County Noise Ordinance.

Staff contacted DEP staff to inform them of the concerns about noise. DEP responded that this emergency standby generator is required to comply with the standards for maximum allowable noise levels as outlined in 31B-5(a)(1). They could not say for sure without taking sound level measurements if this unit is in violation. Staff afforded the applicant time to hire an expert to analyze the noise levels to study the emergency generator's noise levels. The applicant has submitted a noise analysis, by Staiano

Engineering, Inc. (Attachment C), which confirms that the running generator produces 74 dBA at the property line¹. The report states that the Montgomery County Noise Ordinance levels could be met with the construction of a suitable enclosure, designed to attenuate the noise to acceptable levels at the property line. The applicant has agreed to construct such an enclosure and wishes for this application to move forward as a request to amend the easements to allow the generator to remain in its current location and to accommodate a suitable enclosure for noise attenuation around the generator. No additional easement removal should be necessary to construct a suitable enclosure. If the Board approves the changes to the easements, thereby allowing the generator to remain in its current location, a noise attenuating structure should be required to keep the generator in compliance with the Montgomery County Noise Ordinance. This recommendation is reflected in the conditions.

Homeowners Association

In addition to being within a Category I conservation easement, the generator is also within a landscape easement granted to the Avenel Community Association. The Avenel Community Association reviewed and approved the location of the generator as long as it does not create a noise disturbance, in a letter dated August 24, 2006 (Attachment D).

NOTIFICATION and OUTREACH

The subject property was signed with notification of the upcoming preliminary plan amendment prior to the May 5, 2010 submission. All adjoining and confronting property owners, civic associations, and other registered and interested parties will be notified of the upcoming public hearing on the proposed amendment. As of the date of this report, staff has received several phone inquiries from James Smith, a property owner across Persimmon Tree Road in close proximity to the site. Mr. Smith was added to the registered and interested parties list. Mr. Smith's concerns were mainly focused on the noise from the generator and placement of the generator within an easement. Staff has also been in regular contact with the Avenel Community Association representatives.

RECOMMENDATION

Staff recommends that the Planning Board approve this limited preliminary plan amendment to revise the forest conservation plan with the conditions specified above.

Attachments:

- A. Citation #DRD 0000213: Violation of the Category 1 Conservation Easement
- B. Notice of Violation, DPS
- C. Noise Analysis, Staiano Engineering, Inc.
- D. Letter, Avenel Community Association, Location of Noise Generator
- E. Preliminary/Forest Conservation Plan Amendment

¹ The County has a 65 dBA daytime/ 55 dBA nighttime maximum noise level limit

Civil Citation
The Maryland-National Capital Park and Planning Commission

vs.

Name: Marc F Solomon
First Middle Last

Company/Position: lot/home owner
Address: 9313 Rapley Preserve Drive Potomac MD 20854
Phone Number: 301-910-4300 Fax Number: 301-646-4111 ext 765 Email:

Location and Description of Violation:
Address/location of site: category 1 conservation easement 9313 Rapley Preserve Drive
Liber 13178 Folio 412 Plat 20370

Pursuant to the M-NCPPC's authority under Article 28 of the Annotated Code of Maryland and Chapter 50 of the Montgomery County Code, it is formally charged that the above named defendant on 01/29/09 (date) at the stated site location did commit the following:
Maintained structural improvements with the conservation easement. A generator and shed and landscape lighting are within the conservation easement

In violation of:
[X] Montgomery County Code, Chapter 22A
[X] Approval of Final Forest Conservation Plan No. 819950400
[] Montgomery County Code, Chapter 59
[] Other:

Civil Fine and Compliance:
1. (a) [X] You shall pay a fine of \$ 500.00 by 06/05/09 (date) and complete the remedial action listed below, if any, to avoid trial.
(b) [X] You shall pay a daily fine of \$ 25.00 if the original fine has not been paid and/or the remedial action has not been completed by 06/05/09 (date). The daily fine shall accrue until the original fine is paid and all remedial action is completed.
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, Maryland 20910, 301-495-4610. Failure to comply with this citation may result in formal court action or issuance of additional citations including additional fines.

Fine can be mailed to the following address Attn: Taimi Anderson
MNCPPC
8787 Georgia Avenue
Silver Spring MD 20910

Remedial Action:
1) Remove the generator and shed and landscape lighting from the conservation easement and schedule an inspection with this inspector to verify the structural improvements have been moved out of the easement by 06/05/09

by: (date)
2. [X] You have violated Chapter 22A of the Montgomery County Code, and maybe subject to an Administrative Civil Penalty, which may include an additional monetary fine in addition to corrective measures. You must contact Environmental Planning Department of M-NCPPC at 8787 Georgia Avenue, 1st Floor, Silver Spring, Maryland 20910, 301-495-4540, within 15 days of issuance of this citation.

Acknowledgement:
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 stand trial for the offense(s) charged. If I do not exercise my right to stand trial, I agree to entry by the court of judgment on affidavit for the amount of the fine.

Defendant's Signature: Marc F. Solomon
Date: 3/6/09

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. The defendant is not now in the military service, as defined in the Soldier's and Sailor's Civil Relief Act of 1940 with amendments, nor has been in such service within thirty days hereof.
Inspector's Signature: Stephen Peck
Print name: Stephen Peck
Phone number: 301-495-4564
Date: 03/06/09



MONTGOMERY COUNTY
DEPARTMENT OF PERMITTING SERVICES
255 Rockville Pike, 2nd Floor
Rockville, Maryland 20850-4166

NOTICE OF VIOLATION

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

On, 1/5/06 the recipient of this NOTICE, Marc Solomon
Date Recipient's Name

who represents the permittee/defendant, _____
Permittee's Name

is notified that a violation of Montgomery County Code, Section: Ch. 59-C-1,326(a)(2)(c)

exists at: 9313 Rapply Preserve Dr. 11th Stone, MD
Location Case #

The violation is described as: Generator is within the required setback (12 feet) of fifteen feet from the side yard in the RF2C/TDR zone.

The following corrective action(s) must be performed immediately as directed, Remove generator at least 15 feet from the side yard setback, or apply for a variance with the County Board of Appeals

See attached Inspection Report(s) for additional violations and/or required corrective actions.

An inspection fee of \$ _____ is required in addition to any application fee(s).

Compliance Time: 10 days Re-inspection Date(s): _____ Permit Number: _____ Code/Edition: _____

Failure to comply with this notice will result in the issuance of one or more \$500.00 civil citations.

A STOP WORK ORDER is also issued this date at the above referenced project. All construction activities on these premises must cease immediately. Only those activities required to correct violations may continue. Permission is required to resume construction.

ISSUED BY: Frank De Lange Frank De Lange 1/6/06
Printed Name Signature Date

Phone No. 301-370-3655

RECEIVED BY: _____
Printed Name Signature Date

Phone No. _____ Sent by Registered Mail/Return Receipt On: 1/6/06

RECIPIENT'S SIGNATURE ACKNOWLEDGES RECEIPT OF A COPY OF THIS NOTICE OF VIOLATION

This Notice may be appealed to the Montgomery County Board of Appeals within 30 days of the issue date. The Board of Appeals is located in the Council Office Building, 100 Maryland Ave., Room 217, Rockville, MD 20850, telephone (240) 777-8600.

Marc Solomon

From: Ramsey Maalouf <ram@bangspower.com>
Sent: Tuesday, May 16, 2006 9:05 AM
To: Marc Solomon
Subject: FW: 9313 Rapley Preserve Dr.

Dear Marc:

Below please find for your record the email from Frank the MC zoning investigator closing the file. The generator has been reconnected and retested OK. If needed I would be happy to come around anytime to double check before your party.

I hope we have restored your trust in our company, and again thanks for your patience.

Regards,

Ramsey

From: De Lange, Frank [mailto:Frank.DeLange@montgomerycountymd.gov]
Sent: Tuesday, May 16, 2006 8:19 AM
To: ram@bangspower.com
Subject: 9313 Rapley Preserve Dr.

Dear Mr. Maalouf:

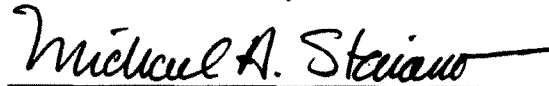
This is to verify that my re-inspection on May 1, 2006, indicated the generator at the rear of 9313 Rapley Preserve Drive, the home of Mr. Marc Solomon, met the 15' side setback required for the zoning of that property. I have closed my case regarding this matter. If you have any questions, you may contact me at (301) 370-3655.

Sincerely,
Frank De Lange, zoning investigator

STAIANO ENGINEERING, INC.

**EMERGENCY POWER GENERATOR
NOISE MEASUREMENTS
SOLOMON PROPERTY
POTOMAC, MARYLAND**

By


Michael A. Staiano

Report No. L 11814A

30 August 2011

For

Finmarc Management, Inc.
Bethesda, Maryland
J/N 669

An emergency generator is installed at the rear of the Solomon property adjacent to Persimmon Tree Rd. in Potomac, Md. In connection with the owner's request to revise a Forest Conservation Easement on the property, Park & Planning staff requested that the owner have a professional analysis be performed of the sound levels emitted by the operating generator in order to evaluate if it is operating within the Montgomery County maximum allowable noise limits. Noise from the generator was measured to quantify its magnitude with respect to the County limits. This report documents those measurements.

SUMMARY

Sound levels from a generator on the Solomon Property were measured to quantify their magnitude with respect to the Montgomery Co. Maximum Allowable Noise Limits. The test found that at the site property line, generator operation produced 74 dBA and exceeded the *daytime* noise limit. However at the approximate nearest position with the property of the closest dwelling, the measured generator noise at 52 dBA is below the maximum allowable *nighttime* noise magnitude. If the reduction of sound levels is required at the Solomon property line, compliance with the County Maximum Allowable Noise Levels may be achieved with a suitably designed enclosure

TERMINOLOGY

Sound is quantified in terms of levels, having units of decibels (dB). Sound levels which are weighted to account for the non-uniform frequency sensitivity of human hearing are defined as "A-weighted" and given in units of "A-weighted decibels" (dBA). Several sound level descriptors are used in this report to describe noise:

- *A-Weighted Sound Level* (L_A) is the overall magnitude of the A-weighted sound throughout the frequency range of human hearing.
- *Equivalent Sound Level* (L_{Aeq}), also known as average sound level, is the level of steady A-weighted sound equivalent to the sound energy of the time-varying sound during the measurement period.
- *Nth-Percentile Sound Level* (L_N) is the A-weighted sound level exceeded during N percent of the measurement period. For example, L_{90} is the sound level exceeded during 90% of the measurement (typical of the relatively steady, low-level noise) and L_{10} is the sound level exceeded during 10% of the measurement (typical of brief, high-level noise events such as loud vehicle pass by).
- *Minimum Sound Level* (L_{Amin}) is the lowest A-weighted sound level measured during a time period or event.
- *Maximum Sound Level* (L_{Amax}) is the highest A-weighted sound level measured during a time period or event.

CRITERIA

In 1975, Montgomery Co. first passed (and revised in 1996) a Noise Control Ordinance "to protect public health and welfare, and to allow the peaceful enjoyment of property."¹ The Ordinance (in Sec. 31B-5) established a *policy* which defines Maximum Allowable Noise Levels as:

"(1) Except as otherwise provided in Sections 31B-6(a) and 31B-8, a person must not cause or permit noise levels that exceed the following levels:

Maximum Allowable Noise Levels (dBA) for [REDACTED]s	[REDACTED]	
	Daytime	Nighttime
Non-residential noise area	67	62
Residential noise area	65	55

- (2) A person must not cause or permit the emission of a prominent discrete tone or impulsive noise that exceeds a level, at the location [REDACTED] where noise from the source is greatest, that is 5 dBA lower than the level set in paragraph (1) for the applicable noise area and time.
- (3) Sound that crosses between residential and non-residential noise areas must not exceed the levels set in paragraph (1) for residential noise areas."

Regulations implementing this policy specified (in Sec. 31B.00.01.02) that the required measurement locations are:

"(1) Measurements shall be taken at any location known to be [REDACTED] or outside the property of the alleged violator. Any doubt regarding the actual location of the property line must be resolved in favor of the operator of the source being investigated. (One exception is where the law specifies otherwise - e.g., at least 50 feet from construction equipment.)"

SOUND LEVEL MEASUREMENTS

The County *policy* sets noise limits at a location on the receiving property while the implementing *regulations* require testing at the property line of the noise source. Consequently, measurements were performed at both locations.

Test Plan

Procedures. Sound levels were measured at two positions, as shown in Figure 1:

- *Location A*—On the Solomon Property at the property line nearest the generator (5-ft from the generator), and
- *Location B*—At the approximate nearest position on the road right-of-way line with property of the closest dwelling to the generator (8725 Persimmon Tree Rd.).

Measurements and subjective observations were made at each location to identify noise sources and their magnitudes. The measurements were performed for approximately 5-min durations twice at each location—background noise (with the generator inoperative) and with the generator operating. Average and percentile sound levels were recorded and the sound levels of specific events noted.

Instrumentation. Sound levels were measured using a Larson-Davis Model 2900 dual-channel, real-time frequency analyzer functioning as a precision (Type 1) sound level meter. The analyzer was used in single-channel mode with: a B&K 4189 ½-in. electret microphone and a Larson-Davis 900B pre-amplifier. The microphone was fitted with a foam windscreen. The instrument was set for third-octave band measurement over a 20 Hz–20 kHz frequency range and 0.125-s exponential time averaging (i.e., "fast response"). The measurement period was nominally 5 min in duration. The microphone was handheld and connected to the analyzer with a 6-ft microphone extension cable at a height of approximately 5 ft. The microphone was generally directed towards the generator. The instrumentation was calibrated regularly during the tests with a B&K 4231 acoustic calibrator.

Measurement Results

The measurements were performed between 10:00–11:45 AM on 22 August. Weather conditions at the time of the measurements were: air temperature, 76°F; relative humidity, 49%; and winds, 0–5 MPH from the west. The measurement results are given in Table 1. The overall sound levels and measurement highlights (L_A) *with the generator operating* were:

- *Location A*—Average sound level (L_{Aeq}) was 75 dBA; 10th-percentile sound level (L_{10}) was 75 dBA; and the range of sound levels occurring 98% of the time (L_{99} – L_1) was 74–76 dBA.
- *Location B*—Average sound level, 62 dBA; 10th-percentile sound level, 64 dBA; and the range of sound levels occurring 98% of the time, 51–74 dBA.

Generator noise is best quantified by the 90th-percentile sound level (L_{90})—74 dBA at Location A and 52 dBA at Location B.

The test results are plotted with the background sound levels in Figure 2 and Figure 3 for Locations A and B, respectively. At Location A, the generator is clearly dominant—sound levels measured with generator operation are virtually constant and the background sound levels are well below those of the generator. At Location B, the generator was audible, but traffic noise was dominant. This is evidenced by the: the observed maxima clearly due to vehicle pass-bys, the relationship between the L_{Aeq} and L_{10} typical of traffic noise, and the negligible difference between the background and generator sound levels—especially the L_{90} levels which reflect a steady noise source such as the generator. (Note that the maximum sound levels have little significance in this test.)

CONCLUSIONS

At Location A, the Maximum Allowable Noise Levels are exceeded with generator operation. At Location B, the measured generator noise is below the County maximum allowable *nighttime* noise magnitude. If the reduction of sound levels is required at Location A (the Solomon property line), compliance with the County Maximum Allowable Noise Levels may be achieved by a suitably designed enclosure with panels capable of reducing sound transmission by at least 30 dBA (i.e., have sound transmission loss, $TL \geq 30$ dBA¹). Such an enclosure can effectively mitigate the generator noise to the allowed limit.

Qualifications. The results of measurements or predictions of noise or vibration magnitudes or changes in level apply only to the evaluated dates and times, locations, and conditions. Exposure uncertainty exists such as due to but not limited to variable outdoor propagation, undefined structural or groundborne transmission, or fluctuating source operation. Assessments of human response to noise or vibration are subject to exposure uncertainties and the varying perceptions of individual sound or vibration receivers. The execution of any recommendations requires the proper selection and installation of materials and equipment, and good workmanship in the construction or modification of equipment, structures or buildings is necessary. Noise or vibration performance is significantly degraded by poor implementation practice. The findings or conclusions may not apply if the implementation of the recommendations differs in any way.

¹ Montgomery County, Maryland, Code of Montgomery County Regulations (COMCOR), "Chapter 31b. Noise Control," last revision 1996.

^{*} *Transmission Loss* is the reduction in sound amplitude as it travels *through* the wall panel.

Table 1. MEASURED SOUND LEVELS
sound levels (dBA) measured over approximately 5-min intervals
at Locations A and B per Figure 2 on 22 August 2011

LOC	CONDITION	L₀₁	L₁₀	L₅₀	L₉₀	L₉₉	L_{Aeq}
A	BACKGROUND	70	61	56	54	52	59
	GENERATOR	76	75	75	74	74	75
B	BACKGROUND	75	67	55	52	50	63
	GENERATOR	74	64	54	52	51	62

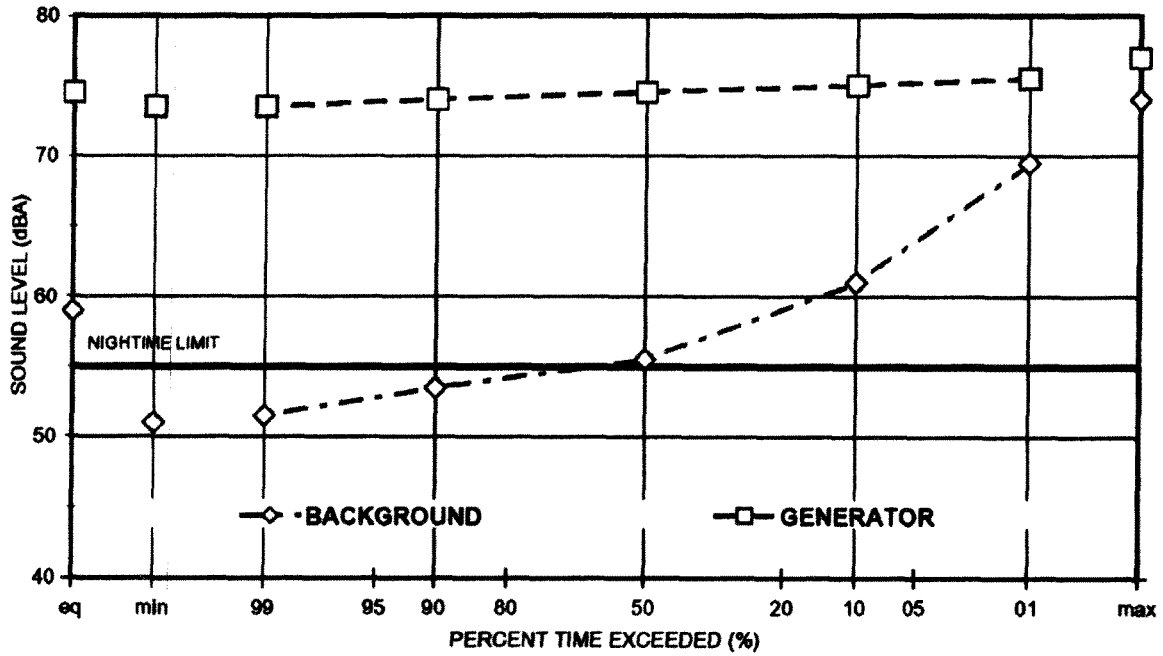


Figure 2. MEASURED SOUND LEVELS—LOCATION A
10:00–11:45 AM 22 August 2011

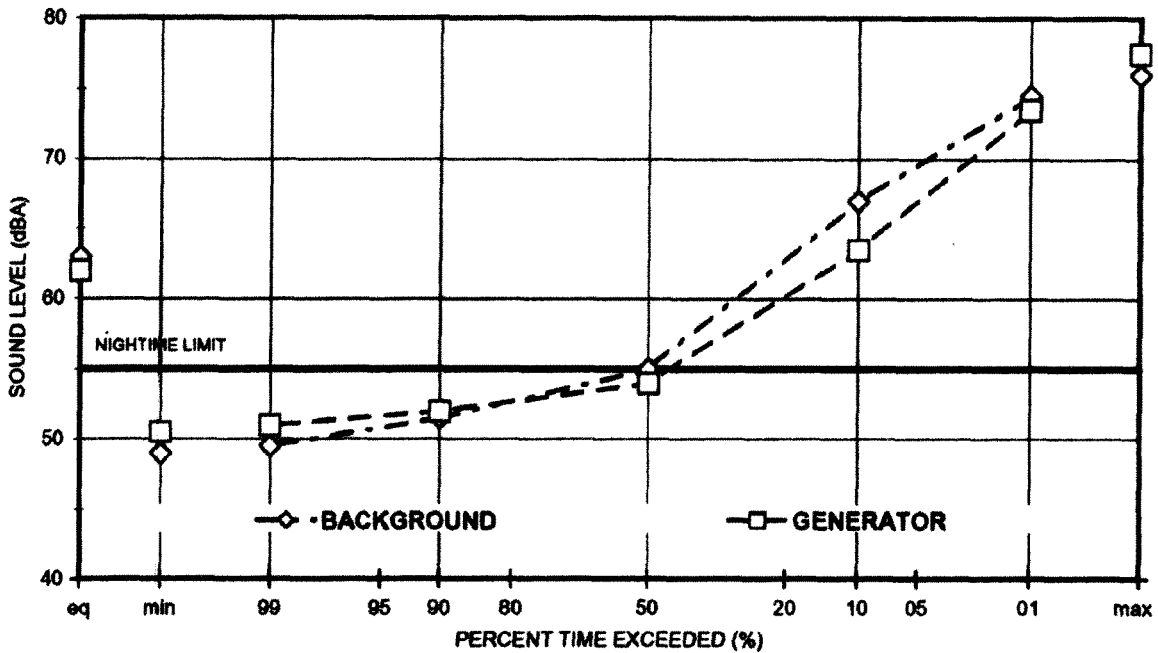


Figure 3. MEASURED SOUND LEVELS—LOCATION B
10:00–11:45 AM 22 August 2011

AVENEL
COMMUNITY ASSOCIATION, INC.

August 24, 2006

Mr. and Mrs. Marc Solomon
"at Avenel"
9313 Rapley Preserve Drive
Potomac, Md. 20854

Dear Mr. and Mrs. Solomon:

Thank you for your Modification Application dated August 1, 2006 for the generator and shed in your back yard, which was installed prior to approval by the Modifications Committee.

The Committee reviewed your application at its August 14th meeting and determined that the generator is approved with the following condition(s):

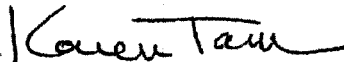
1. Generators should not create a noise disturbance to neighboring properties. If a noise disturbance is reported, then the generator owner may be required to relocate the generator, install a silencing device, or other generator noise reduction device. Should a noise disturbance continue, then the Association reserves the right to prohibit continued use.
2. The Association reserves the right to require additional landscape screening of the generator in the future.

The shed is not approved. The Committee did not approve the shed in your back yard in accordance with the Declaration of Protective Land Use Standards; Use Restriction # 3, which states in part, "no structure shall be erected or placed on any lot which does not have a garage under the dwelling..."

The Committee asks your cooperation in having the evergreen trees planted around the generator to provide the necessary screening, and to have the shed removed from your back yard within the next sixty days.

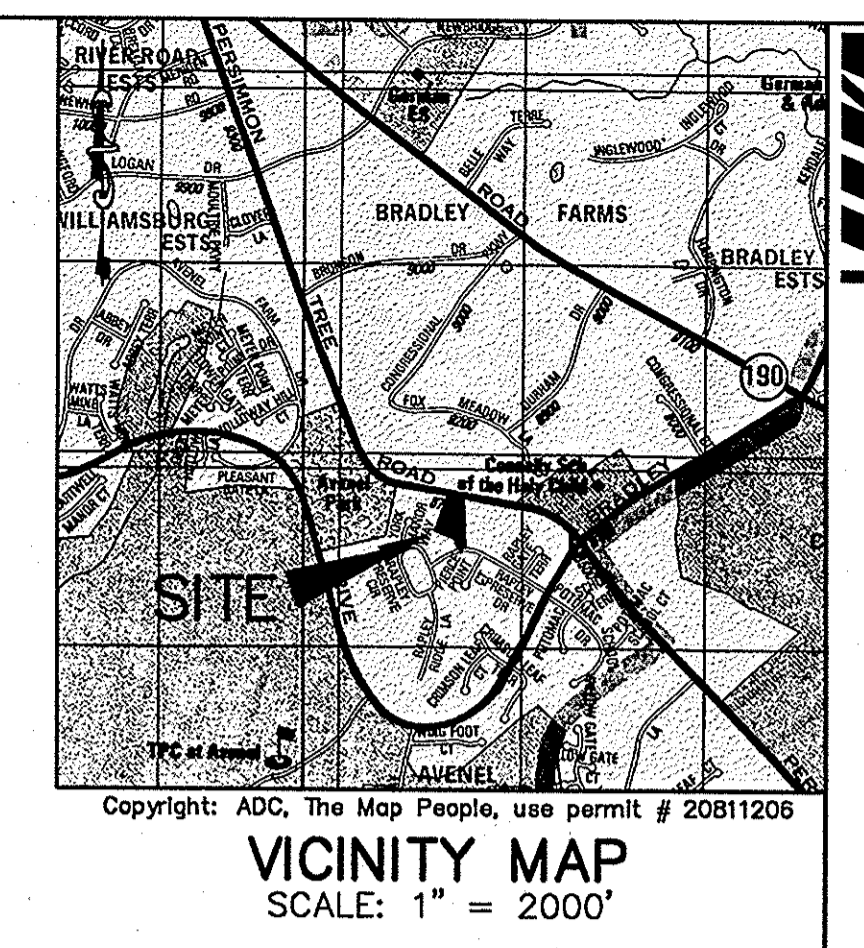
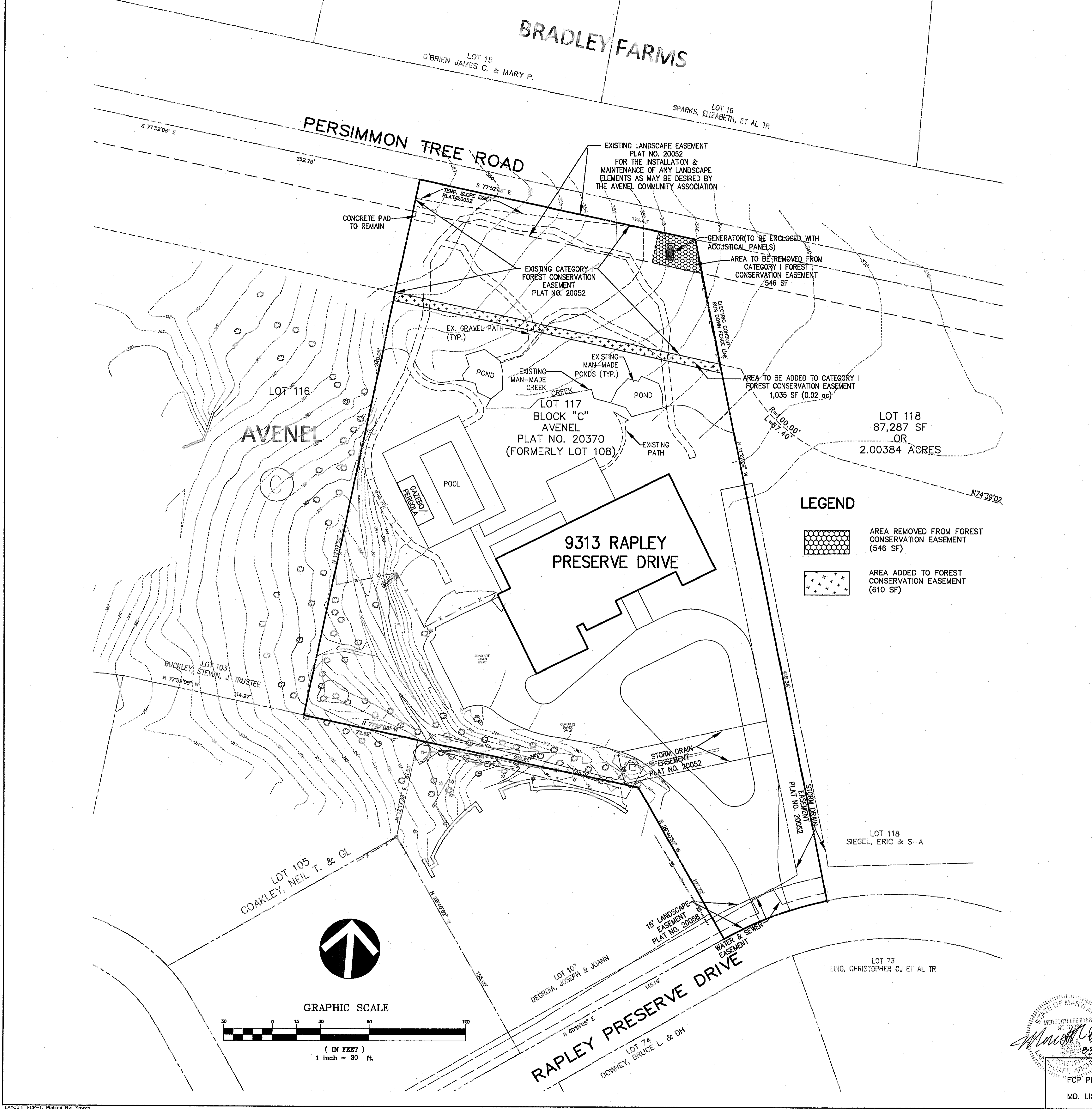
The Committee would like to remind you that all exterior modifications require prior approval. Thank you for working with the Committee in our mutual effort to maintain Avenel as a premier community.

Sincerely,
AVENEL COMMUNITY ASSOCIATION, INC



Karen Tam
Architectural/Covenants Administrator

CC: Property File



FOREST CONSERVATION NOTES

1. THE SUBJECT PROPERTY IS COMPRISED OF LOT 117, BLOCK 'C', IN RAPLEY PRESERVE AT AVONEL, POTOMAC, MARYLAND.
2. THE SITE IS LOCATED ON WSSC GRID 210NW09 AND ON TAX MAP FN53 WITH CORRESPONDING TAX ACCOUNT # 03187017.
3. THE SITE TOTALS +/- 90,356 SF (2.07 ACRES).
4. THE EXISTING CATEGORY I FOREST CONSERVATION EASEMENT ON THE SITE TOTALS +/- 12,800SF (0.29 ACRES).
5. THIS AMENDMENT PROPOSES PLACING 1035 SF (0.02 ACRES) OF EXISTING FOREST IN A CATEGORY I FOREST CONSERVATION EASEMENT AS MITIGATION FOR 546 SF (0.01 ACRES) OF FOREST IN THE EXISTING CATEGORY I FOREST CONSERVATION EASEMENT IN WHICH A GENERATOR WAS PLACED.
6. PRIOR APPROVED PLANS:
PRELIMINARY PLAN : 119950950
SITE PLAN : 819950400

**FOREST CONSERVATION OVERALL WORKSHEET
RAPLEY PRESERVE AT AVONEL**

FROM APPROVED FCP # 819950400

NET TRACT AREA:	
A. Total tract area	68.58
B. Land dedication acres (parks, county facility, etc.)	0.00
C. Land dedication for roads or utilities (not being constructed by this plan)	0.00
D. Area to remain in commercial agricultural production/use	0.00
E. Other deductions (specify)	0.00
F. Net Tract Area =	68.58

LAND USE CATEGORY: (from Trees Technical Manual)
Input the number "1" under the appropriate land use, limit to only one

	ARA	MDR	IDA	HDR	MPD	CIA	
	0	0	0	1	0	0	
G. Afforestation Threshold					15%	x F =	10.29
H. Conservation Threshold					20%	x F =	13.72
EXISTING FOREST COVER:							
I. Existing forest cover =							21.32
J. Area of forest above afforestation threshold =							11.03
K. Area of forest above conservation threshold =							7.60
BREAK EVEN POINT:							
L. Forest retention above threshold with no mitigation =							15.24
M. Clearing permitted without mitigation =							6.08
PROPOSED FOREST CLEARING:							
N. Total area of forest to be cleared =							11.63
O. Total area of forest to be retained =							9.69
PLANTING REQUIREMENTS:							
P. Reforestation for clearing above conservation threshold =							1.90
Q. Reforestation for clearing below conservation threshold =							8.05
R. Credit for retention above conservation threshold =							0.00
S. Total reforestation required =							9.95
T. Total afforestation required =							0.00
U. Credit for landscaping (may not exceed 20% of "S") =							3.47
V. Total reforestation and afforestation required =							6.48

FOREST CONSERVATION AMENDMENT 11995095A

LIST OF CHANGES THIS AMENDMENT:

- 1) PLACING 1035 SF OF EXISTING FOREST IN A CATEGORY I FOREST CONSERVATION EASEMENT AS MITIGATION FOR REMOVING 546 SF OF FOREST IN THE EXISTING CATEGORY I FOREST CONSERVATION EASEMENT IMPACTED BY THE PLACEMENT OF A GENERATOR.

DEVELOPER'S CERTIFICATE

THE UNDERSIGNED AGREES TO EXECUTE ALL THE FEATURES OF THE APPROVED FOREST CONSERVATION PLAN NO. 819950400, INCLUDING FINANCIAL BONDING, FOREST PLANTING, MAINTENANCE, AND ALL OTHER APPLICABLE AGREEMENTS.

DEVELOPER'S NAME: MARC SOLOMON
(Printed Company Name)

OWNER'S NAME: MARC SOLOMON
(Printed Name)

ADDRESS: 9313 RAPLEY PRESERVE DRIVE, POTOMAC, MARYLAND

PHONE & E-MAIL: (801) 656-4111 EXT 765 msolomon@fncarc.com

SIGNATURE: _____ DATE: _____

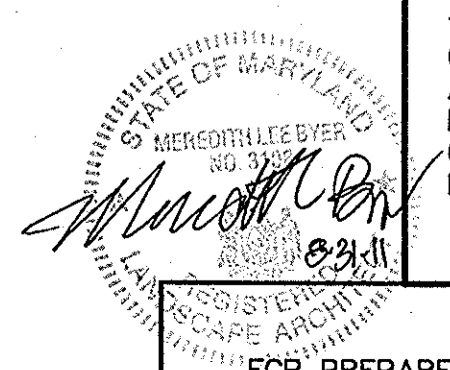
DATE: MARCH, 2010.

DES. DWN. KK NRP

SCALE: 1"=30'

PROJECT/FILE NO. 5850

SHEET NO. FCP 1 OF 1



FCP PREPARED BY : MEREDITH BYER
MD. LICENSED LANDSCAPE ARCHITECT No. : 3108

VIKI
 ENGINEERS PLANNERS LANDSCAPE ARCHITECTS SURVEYORS GPS SERVICES
 20251 CENTURY BOWLING GREEN SUITE 400 GERMANTOWN, MD 20874
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 VIKI INCORPORATED
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LOTS 65 THRU 116, OUTLOTS C,D,E & F, PARCELS A & B, & OUTLOT B & BLOCK 'C' AND PARCELS C & D, BLOCK 'E' RAPLEY PRESERVE AT AVONEL FOR LOT 117, BLOCK 'C' POTOMAC 10TH ELECTION DISTRICT MONTGOMERY COUNTY, MARYLAND
 PRELIMINARY/FOREST CONSERVATION PLAN AMENDMENT # 11995095A
 VIKI REVISIONS