



**Preliminary Plan Amendment 12004082A: Clover Ridge Lots 6-8, and Outlot A (in response to a violation)**

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John Carter, Chief Area 3 Planning Team

**Completed: 4/13/2012**

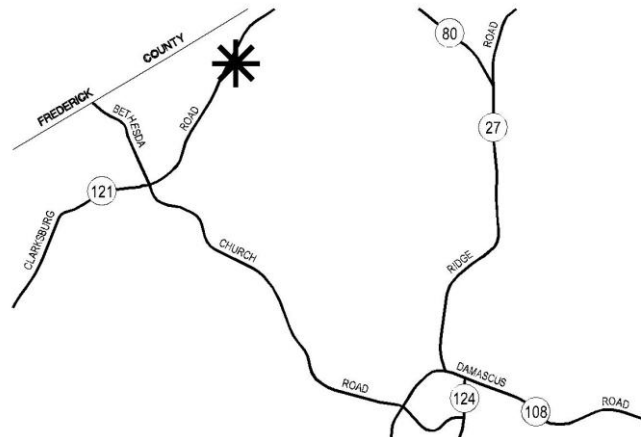
**Description**

**Preliminary Plan Amendment 12004082A: Clover Ridge Lots 6-8, and Outlot A (in response to a violation)** Removal of 2.5 acres of Category I Conservation Easement on 85.09 acres, located at 28301 Clarksburg Road, RDT Zone, Agriculture and Rural Open Space Master Plan

**Staff Recommendation:** Denial

**Applicant:** Victor Loun

**Submission Date:** September 28, 2011



**Summary**

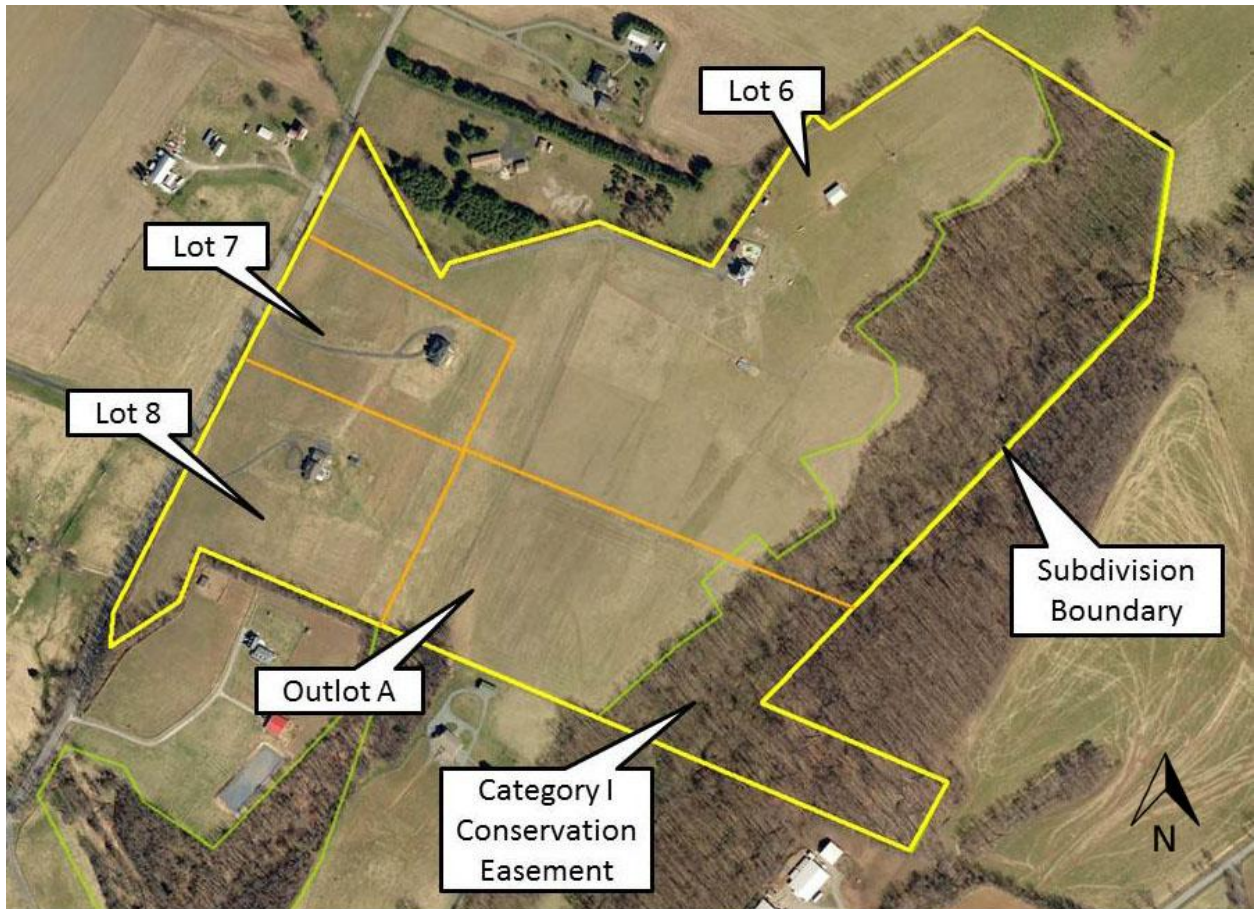
The Applicant is currently in compliance with the Category I Conservation Easement. The applicant wishes to have agricultural uses (pasturing sheep) in the unforested area stream buffer within the existing easement and is requesting that 2.5 acres be removed from the easement and is offering no mitigation. The Planning Board's policy since November 2008 is to require at least 1:1 on site or 2:1 offsite mitigation for any easement removal.

**STAFF RECOMMENDATION**

Staff recommends **Denial** of the request to remove 2.5 acres of Category I Conservation easement. The applicant is not providing the 1:1 onsite mitigation or the 2:1 offsite mitigation and therefore, does not meet the Planning Board’s established mitigation policy.

**SITE DESCRIPTION**

The property (“Subject Property” or “Property”) is located at 28301 Clarksburg Road, approximately 2,500 feet north of the intersection with Moxley Road, in Damascus. It is identified as Lots 6-8 and Outlot A, Clover Ridge, containing 85.09 acres and developed with three, one family residences and zoned RDT. All conservation easements on the Property are located on Lot 6 and Outlot A. Lot 6 and Outlot A together total 65.39 acres, of which 24.4 acres are in a Category I conservation easement. The Property slopes from its highest point on the west to the east and is located within the Little Bennett Creek watershed, which is a Use I-P designation. There is a perennial stream and associated 100 year floodplain on the east side of the site. The Countywide Stream Protection Strategy (CSPS) rates this watershed as good.



**Figure 1: 2011 Aerial Photograph of Subject Property**



## **BACKGROUND**

Prior to the Planning Board's approval of Preliminary Plan No. 120040820 on June 9 2005, Mr. Victor Loun ("Applicant") submitted a request in March 2003 to be exempt from submitting a Forest Conservation Plan. The exemption request was for the 85.09 acre Property (then named Parcel 909) for the construction of a single family home on a single farm parcel. A Forest Conservation Plan exemption was confirmed under Section 22A-5(a) of the Montgomery County Code on March 13, 2003, with a Declaration of Intent (DOI) signed by the Applicant (Attachment A). The DOI is a required document under the 22A-5(a) "single lot" exemption and requires that the Property conform to the conditions of the exemption and restricts the owner from submitting an application for another regulated activity for five years from the date of approval of the application.

In December of 2003, the co-owner<sup>1</sup> of the Property submitted an application for a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) for the Property (420041660). The NRI/FSD was subsequently approved by M-NCPPC in February of 2004.

In April 2004, the co-owner of the Property submitted an application for Preliminary Plan No. 120040820, which included a Preliminary Forest Conservation Plan for the Property. This submission violated the terms of the DOI and terminated the approved exemption from submitting a Forest Conservation Plan. A Forest Conservation Plan was required to be submitted for the entire 85.09 acre Property because the exemption was terminated. The Planning Board approved Preliminary Plan No. 120040820 and a Preliminary Forest Conservation Plan for the Property on June 9, 2005 (Attachment B). The Planning Board opinion was mailed on September 23, 2005. The Applicant signed the record plat, which created the Category I Conservation Easement for the Property and was recorded on June 28, 2007 (Attachment C).

The Final Forest Conservation Plan, submitted by the co-owner on July 15, 2008, was approved by M-NCPPC staff ("Staff") on July 21, 2008. The approved Final Forest Conservation Plan did not include any forest removal nor did it have any planting requirements, but, it did require the permanent protection of all forested and unforested stream buffers in accordance with Section 22A-12(b) of the Montgomery County Code (Attachment D).

On February 7, 2011, the Applicant was issued an Administrative Citation, No. EPD000077, ("Citation") (Attachment E) for continued agricultural and mowing activities and the installation of a fence within a Category I Conservation Easement. The Citation was for \$500 and instructed the Applicant to cease all agricultural and or mowing activities within the conservation easement area, install the fence as specified in condition 4 of the Preliminary Plan Resolution (120040820) and depicted on the approved Final Forest Conservation Plan, install easement signage, and remove a shed that had been constructed within the easement shown on Lot 6 on record plat #23637.

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<sup>1</sup> At the time of the preliminary plan application, the applicant co-owned the property with his grandfather, who is identified as the co-owner. The grandfather submitted the application for the preliminary plan and died during the application process. The Applicant was the signatory of the record plat after the preliminary plan was approved.

In a letter received by M-NCPPC on February 9, 2011, The Applicant contested the Citation and requested a hearing in front of the Planning Board's designee as provided in Section 22A-20(d) of the Montgomery County Code.

On June 1, 2011, Staff issued a Notice of Hearing to the Applicant and scheduled a violation hearing for July 12, 2011. The Applicant requested postponement of the violation hearing due to a scheduling conflict with the Applicant's legal counsel. The hearing was rescheduled for September 13, 2011. The hearing was further postponed to October 18, 2011 in order to allow the Applicant additional time to resolve the violation. The Applicant subsequently removed the livestock from the easement and ceased mowing the easement area. On October 13, 2011, counsel for the Planning Department withdrew the violation case without prejudice to re-file. At this time, Staff was directed to process Preliminary Plan Amendment No. 12004028A, which had been submitted by the Applicant on September 7, 2011. The Application requested the removal of 18.06 acres of easement (outside the 100-year Floodplain) but, was subsequently revised on September 28, 2011, to request removal of only 2.5 acres of easement (the area of unforested stream valley buffer) (Attachment F). The Application does not propose any mitigation for the easement removal.

#### **PROPOSAL**

Preliminary Plan Amendment No. 12004082A is a request to amend Forest Conservation Plan No. 120040820 by removing 2.5 acres of the Category I Conservation Easement on Lot 6 and Outlot A. The area within the 2.5 acres of Category I Conservation Easement is unforested and within the stream valley buffer shown on the both the Forest Conservation Plan and Preliminary Plan.

The Applicant's request is based on the position that the Property is zoned Rural Density Transfer (RDT) and that Section (59-C-9.23) of the Montgomery County Zoning Ordinance was overlooked during the original Preliminary Plan review process. The Applicant argues that the 2.5 acres of unforested stream valley buffer should not have been placed into easement because it interferes with agriculture.

***59-C-9.23. Intent of the Rural Density Transfer zone.*** *The intent of this zone is to promote agriculture as the primary land use in sections of the County designated for agricultural preservation in the General Plan, the Functional Master Plan for Preservation of Agriculture and Rural Open Space, and other master plans. This is to be accomplished by providing large areas of generally contiguous properties suitable for agricultural and related uses and permitting the transfer of development rights from properties in this zone to properties in designated receiving areas.*

*Agriculture is the preferred use in the Rural Density Transfer zone. All agricultural operations are permitted at any time, including the operation of farm machinery. No agricultural use can be subject to restriction on the grounds that it interferes with other uses permitted in the zone, but uses that are not exclusively agricultural in nature are subject to the regulations in Division 59-C-9 and in Division 59-G-2, "Special Exceptions—Standards and Requirements."*

The Applicant believes the 2.5 acres of Category I Conservation Easement within the unforested portion of the stream valley buffer should be released with no mitigation because the easement interferes with the agricultural use of the Subject Property and should not have been applied at the time of the

Preliminary Plan. The Applicant argues that this area of the farm should have remained available for agricultural uses.

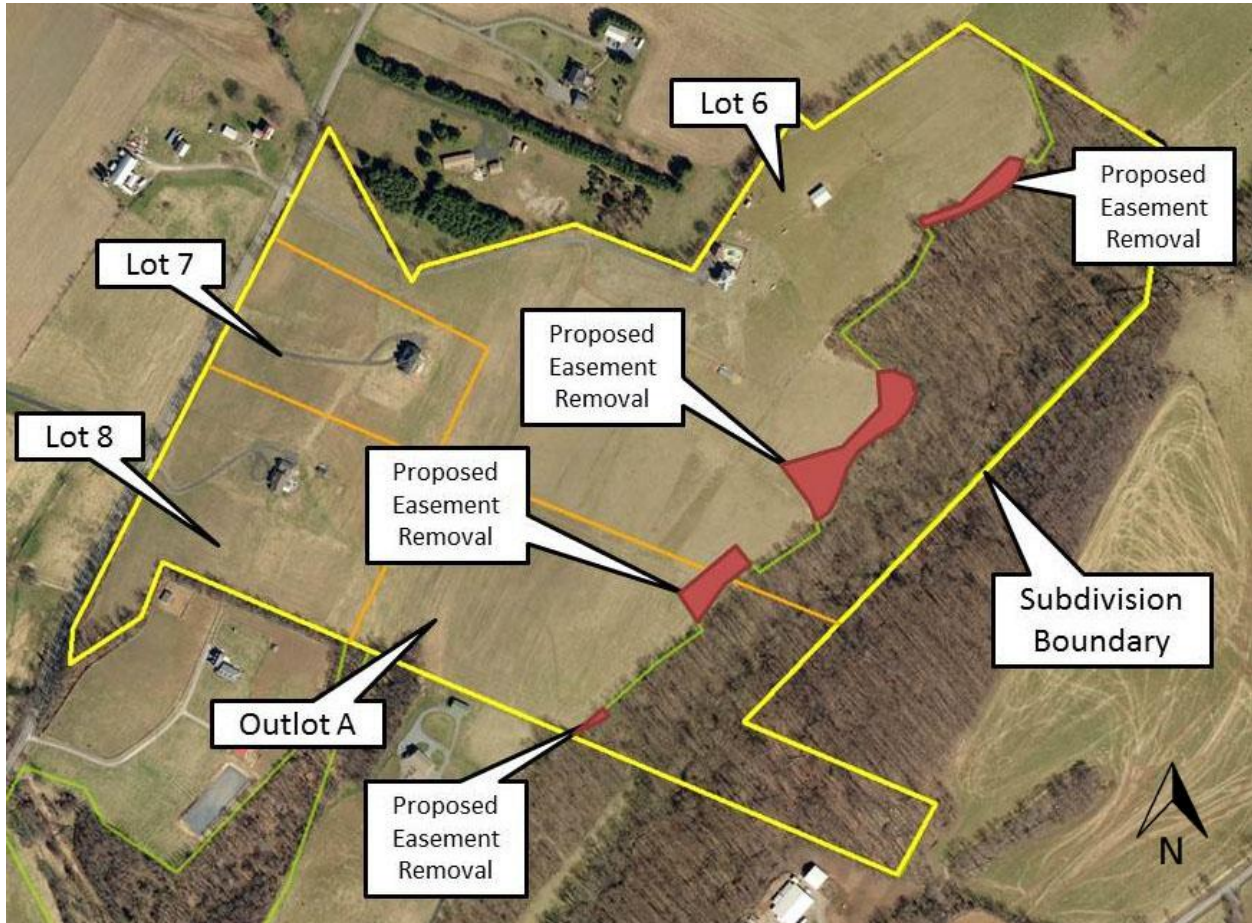


Figure 2: Applicant's Proposed Easement Removal

#### **PLANNING BOARD REVIEW AUTHORITY**

The Forest Conservation Regulations require Planning Board action on certain types of modifications to an approved Forest Conservation Plan. Section 22A.00.01.13.A(1) 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 of additional forest clearing, the Planning Board has stated that the removal of, or change to, any conservation easement warrants consideration in a public forum with a final decision from the Planning Board.

#### **REVIEW**

This Application is a retroactive attempt to resolve a violation, and not a proactive attempt to bring the site into compliance. The Planning Board policy for the mitigation of the removal of a conservation easement, as determined in November of 2008, is at a minimum, a ratio of 2:1 if off site. However, if the easement can be rearranged onsite, the Planning Board has found mitigation acceptable at a minimum



ratio of 1:1. The Planning Board has consistently maintained this policy in Forest Conservation Plans since November 2008 and in some cases required greater mitigation. In all cases the new easement areas must be planted with forest if unforested. On site mitigation is generally preferable to offsite mitigation because it provides in-kind and in-place benefits for what is being removed and provides equivalent, or better, protection in the same watershed and on the same Property. The Applicant has proposed no mitigation for the removal of 2.5 acres of Category I Conservation Easement and, therefore; does not meet the Planning Board's established mitigation policy. This is the core of Staff's objection to this Preliminary Plan Amendment.

The Applicant asserts that the 2.5 acres of Category I Conservation Easement in question conflicts with the agricultural use of the Property and should not have been applied. Staff disagrees. As noted in the Background section, in March 2003, the Applicant submitted a forest conservation exemption request for the Property for the construction of a single family home on a single lot. A forest conservation exemption was confirmed under Section 22A-5(a) of the Forest Conservation Regulation on March 13, 2003 and executed with a signed Declaration of Intent (DOI). That DOI was valid until March 13, 2008. The Applicant submitted a Preliminary Plan of Subdivision, a regulated activity, in April of 2004 thereby terminating the DOI. Section 22A.00.01.12.E of the Forest Conservation Regulations states:

*If a regulated activity on the area covered by the declaration of intent occurs within 5 years of the effective date of the declaration of intent:*

*(1) the exemption immediately terminates without any action by the Planning Board; and*

*(2) The Board may take other enforcement actions under Article II of the Forest Conservation Law.*

The single-lot exemption granted to the Applicant was immediately terminated upon the submission of the Preliminary Plan application, rendering the Property no longer exempt and subject to submitting a Forest Conservation Plan under Article II of the Forest Conservation Law.

The Applicant never applied for an agricultural exemption under the Forest Conservation Law and was not eligible to receive one at the time of the Preliminary Plan review due to the termination of the DOI. The exemptions allowed under the Forest Conservation Law are exemptions from Article II of the law, which is the Article that requires the submission of a Forest Conservation Plan. When the DOI was terminated by submittal of a Preliminary Plan, the Property was now subject to Article II of the Forest Conservation Law. Once a Property is subject to Article II of the Forest Conservation Law, it is no longer eligible for exemptions from Article II.

Not only does Staff disagree with the Applicant's argument, but the assertion that the original Preliminary Plan was inappropriately reviewed is untimely. The appropriate time for the Applicant to raise this argument would have been within 30 days of the mailing date of the Planning Board's Resolution for the original Preliminary Plan. Since the mailing date for the Planning Board's Resolution was September 23, 2005, that time period is long past.

The Preliminary Plan and the Preliminary Forest Conservation Plan approved by the Planning Board on June 9, 2005 were consistent with the Agriculture and Rural Open Space Master Plan, the Zoning Ordinance, the Subdivision Regulations and the Montgomery County Forest Conservation Law. The Category I Conservation Easements were placed over the entirety of the stream valley buffers as required in Chapter 22A-12(b) of the Montgomery County Code. The Applicant had the opportunity to express concerns about the Category I Conservation Easement and the Forest Conservation Plan at the time of the hearing in 2005 and failed to do so. The Applicant had a second opportunity to appeal the Planning Board's approval contained in the Opinion mailed on September 23, 2005. The Applicant did not object to the easements shown on the Forest Conservation Plan at the hearing and did not file an appeal after the approval. The Applicant signed the record plats that recorded the easements in their current location and is the owner of Lot 6.

### **NOTIFICATION and OUTREACH**

In accordance with established procedures, the Subject Property was signed with notification of the upcoming Preliminary Plan amendment prior to the September 7, 2011, submission. All adjoining and confronting property owners, civic associations, and other registered interested parties will be notified of the upcoming public hearing on the proposed amendment. As of the date of this report, Staff has not received any inquiries.

Any comments received hereafter will be forwarded to the Board

### **RECOMMENDATION**

As stated above, the Applicant has not proposed any mitigation for the removal of easement. This is contrary to the Planning Board's well established policy regarding easement removal. Staff cannot support removal of the Category I Conservation Easement without mitigation. Therefore, Staff recommends that the Planning Board deny the Amendment to the Preliminary Plan and associated Final Forest Conservation Plan.

### **Attachments:**

- A- Forest Conservation Exemption and Single-lot DOI
- B- Planning Board Opinion for Preliminary Plan 120040820
- C- Record Plat for Preliminary Plan 120040820
- D- Original Approved Final Forest Conservation Plan
- E- Administrative Citation, No. EPD000077
- F- Proposed Amended Final Forest Conservation Plan

**MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
FOREST CONSERVATION RECOMMENDATIONS**

**TO:** Site Inspector, Development Review Division

**SUBJECT:** Project Name 28301 Clarksburg Road Date Recd 03/13/03 NRI/FSD #4-03237E

The above-referenced plan has been reviewed by the Environmental Planning Division to determine the requirements of Chapter 22A of the Montgomery County Code (Forest Conservation Law). A determination has been made that the plan qualifies for the following exemption:

**EXEMPTION:**

**Single Lot** – activity\* on existing single lot of any size required to construct a dwelling house or accessory structure.

(\*The activity: 1) does not require a special exception; 2) does not disturb(i.e., cutting, clearing, or grading that results in tree loss): >40,000 square feet of forest; any forest in a stream buffer; any forest on property subject to SPA WQP requirements; any specimen/champion trees; or any trees covered by a previously approved tree save plan; and 3) **for which a declaration of intent has been filed with the Montgomery County Planning Director.**)

**This property is not subject to a Tree Save Plan.**

- Tree protection measures are required; sediment control permit should not be released until MNCPPC staff has approved the Tree Save Plan.
- MNCPPC inspector must be contacted for pre-construction inspection of tree protection measures and authorization to begin any tree clearing.

**This property is not within a Special Protection Area\*.**

\* Properties within a Special Protection Area (SPA) must submit a Preliminary Water Quality Plan. Contact Leo Galanko at MCDEP for information regarding the requirements (301-217-6323).

Comments Proposed disturbance 20,593 s.f. at 28301 Clarksburg Road (Parcel 909), SLDA 207065. Per applicant, there are no forests/trees on this lot to be disturbed. DOI on file.

Signature:   
Evelyn W. Gibson, Environmental Planning, CWP Division

Date: 03/13/03

Cc: Victor & Patty Loun (410-747-4233)  
Jeanette Ball, DPS (fax 240-777-6262)

fcpxemption.doc r11/01



4-03237E

**Declaration of Intent for Single Lot Affirming Exemption  
from Montgomery County Forest Conservation Law**

It is this 13<sup>th</sup> day of March, 2003, stated as follows:

WHEREAS Victor A. Loun "Owner") seeks  
(check one of the following):

- Sediment control permit
- Preliminary plan approval
- Site plan approval
- Mandatory referral review
- Development plan approval
- Project plan approval
- Other (please specify):

SLOA# 207065

(Checked item hereinafter referred to as "Development Application"); and

WHEREAS Owner seeks approval of its Development Application for property located at  
28301 Clarksburg Rd. ("Property"); and

WHEREAS the Development Application can be approved only if it complies with or is exempt from Montgomery County's Forest Conservation Law (Montgomery County Code Chapter 22A, 22A-1 *et seq.*, and any amendments thereto) ("FCL"); and

WHEREAS the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission ("Planning Board") and designated Planning Board staff members are responsible for administering the FCL; and

WHEREAS Owner wishes to demonstrate that its Development Application is exempt from the provisions of the Forest Conservation Law; and

WHEREAS to obtain the exemption Owner must verify that the following conditions exist:

- (a) Owner's proposed construction activity will be conducted on a existing single lot of any size, and is required to construct a dwelling house or accessory structure (such as a pool, tennis court, or shed) intended for the use of the Owner;
- (b) the proposed construction activity is not subject to special exception approval;
- (c) the proposed construction activity will not result in the cumulative cutting, clearing, or grading of:
  - (i) more than 40,000 square feet of forest,
  - (ii) any forest in a stream buffer,
  - (iii) any forest on property located in a special protection area which must submit a water quality plan,
  - (iv) any specimen or champion tree; or
  - (v) any trees or forest that are subject to the requirements of a

previously approved forest conservation plan or tree save plan.

("Conditions.")

THEREFORE, in consideration of the forgoing promises, the mutual covenants contained herein, and the following terms and conditions, the parties agree as follows:

1. The recitals set forth above are incorporated in full herein.
2. Owner guarantees that the Property and Development Application conform with the Conditions standards referenced above.
3. Owner further guarantees that the Property will conform with the Conditions for five years after receiving approval of the Development Application (the five-year period to begin on the mailing date of the written opinion adopting the Development Application approval).
4. For purposes of ensuring compliance with the Conditions, the Planning Board or its designees may, after reasonable notice to the Owner, enter upon the Property at any time from the date of Owner's signature of this document until the five-year restriction has expired.
5. This agreement shall constitute a covenant running with the land and shall be binding on the landowner, its administrators, executors, heirs and assigns.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of this paper are true:


  
 \_\_\_\_\_  
 OWNER

NOTARY STATEMENT

State of Maryland, Montgomery County to wit:

I hereby certify, that on this 13<sup>th</sup> day of March, 20003, before the subscriber, a Notary Public of the State of Maryland, in and for County, personally appeared Villan A. Kiser, and acknowledged the foregoing Declaration of Intent to be his/her act.



  
 \_\_\_\_\_  
 Signature of notary public

\_\_\_\_\_  
 Name of notary public (print or type)

My commission expires 2/27/06

CHARMAINE M. D'MONTE  
 NOTARY PUBLIC STATE OF MARYLAND  
 My Commission Expires February 27, 2006

M-NCPPC



## MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4500, [www.mncppc.org](http://www.mncppc.org)**Board Approval Date: June 9, 2005****Date Mailed: SEP 23 2005****Action: Approved Staff  
Recommendation****Motion of Commissioner Bryant,  
seconded by Commissioner Robinson,  
with a vote of 5-0;****Chairman Berlage and Commissioners  
Perdue, Bryant, Wellington, and  
Robinson voting in favor.**

## MONTGOMERY COUNTY PLANNING BOARD

## OPINION

Preliminary Plan 1-04082

NAME OF PLAN: Clover Ridge

The date of this written opinion is SEP 23 2005 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this written opinion, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules of Court – State).

On 4/27/04, the applicant, Chester Leishear ("Applicant"), submitted an application for the approval of a preliminary plan of subdivision of property in the RDT zone. The application proposed to create 3 lots and 1 outlot on 85.09 acres of land located on the south side of Clarksburg Road, approximately 2,500 feet northeast of the intersection with Moxley Road, in the Agriculture and Rural Open Space Master Plan Area. The application was designated Preliminary Plan 1-04082 ("Application"). On 6/09/05, the Application 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.

The record for this application ("Record") closed at the conclusion of the public hearing, upon the taking of an action by the Planning Board. The Record includes: the information on the Preliminary Plan Application Form; the Planning Board staff-



generated minutes of the Subdivision Review Committee meeting(s) on the application; all correspondence and any other written or graphic information concerning the application received by the Planning Board or its staff following submission of the application and prior to the Board's action at the conclusion of the public hearing, from the applicant, public agencies, and private individuals or entities; all correspondence and any other written or graphic information issued by Planning Board staff concerning the application, prior to the Board's action following the public hearing; all evidence, including written and oral testimony and any graphic exhibits, presented to the Planning Board at the public hearing.

### **PUBLIC HEARING TESTIMONY**

On June 9, 2005, Preliminary Plan 1-04082 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. Staff presented the application to the Board and provided revised conditions of approval for the Board's consideration. The Applicant's engineer testified on behalf of the Applicant and advised the Board that the Applicant concurred with the Staff recommendation and all conditions of approval, as revised. No testimony was presented in opposition to the application and the record contains no correspondence opposing the Application. The Board questioned the Applicant concerning the proposed 18-acre outlot ("Outlot A"), which the Applicant testified is intended to be conveyed to a neighboring property owner to be used for pasture purposes. The Applicant confirmed that the neighbor will acquire no additional density and, therefore, no additional building capacity as a consequence of purchasing Outlot A.

### **FINDINGS**

Having given full consideration to the findings and recommendations of its Staff, which the Board adopts; the recommendations of the applicable public agencies<sup>1</sup>; the applicant's position; and other evidence contained in the Record, which is hereby incorporated in its entirety into this Opinion, the Montgomery County Planning Board finds that:

- a) The Preliminary Plan No. 1-04082 substantially conforms to the Agriculture and Rural Open Space Master Plan.
- b) Public facilities will be adequate to support and service the area of the proposed subdivision.

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<sup>1</sup> The application was referred to outside agencies for comment and review, including the Washington Suburban Sanitary Commission, the Department of Public Works and Transportation, the Department of Permitting Services and the various public utilities. All of these agencies recommended approval of the application.

- c) The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision.
- d) The application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A. This finding is subject to the applicable condition(s) of approval.
- e) The application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.
- f) Outlot A has been used in the density calculations for the overall property and all available density has been taken from the Property with the approval of the subject preliminary plan. The Board therefore finds that no additional density and no additional building capacity may be acquired through the purchase of Outlot A.
- g) The Record of this application does not contain any contested issues; and, therefore, the Planning Board finds that any future objection, which may be raised concerning a substantive issue in this application, is waived.

### **CONDITIONS OF APPROVAL**

Finding Preliminary Plan No. 1-04082 in accordance with the purposes and all applicable regulations of Montgomery County Code Chapter 50, the Planning Board approves Preliminary Plan No. 1-04082, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to three (3) lots and one (1) outlot.
- 2) Compliance with the conditions of approval for the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits.
- 3) All stream valley buffers and onsite forest must be placed into a Category I Forest Conservation Easement.
- 4) A fence suitable to prevent pasturing animals from entering the forest conservation easement areas must be erected prior to release of building permits.
- 5) The applicant shall enter in a covenant for the future reconstruction of the Clarksburg Road's paved surface in accordance with DPWT.

- 6) The applicant shall dedicate all road rights-of-way shown on the approved preliminary plan to the full width mandated by the Master Plan unless otherwise designated on the preliminary plan.
- 7) Record plat to reflect common ingress/egress and utility easements.
- 8) Compliance with the conditions of the MCDPS stormwater management approval dated May 6, 2005.
- 9) Compliance with conditions of the MCDPS (Health Dept.) septic approval letter dated May 27, 2005.
- 10) Record plat shall indicate that acreage within Outlot "A" has been used in the density calculations for the overall property and that all available density has been taken from the parent parcel with the approval of the subject preliminary plan.
- 11) Other necessary easements.
- 12) Access and improvements as required to be approved by MCDPWT prior to recordation of plat.

This Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended). Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded among the Montgomery County Land Records or a request for an extension must be filed.

APPROVED AS TO LEGAL SUFFICIENCY  
*TAB*  
M-NCPPC LEGAL DEPARTMENT  
DATE *5/14/05*

[CERTIFICATION OF BOARD VOTE ADOPTING OPINION ON FOLLOWING PAGE]



**CERTIFICATION OF BOARD ADOPTION OF OPINION**

At its regular meeting, held on **Thursday, September 15, 2005**, in Silver Spring, Maryland, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, by unanimous consent **ADOPTED** the above Opinion which constitutes the final decision of the Planning Board and memorializes the Board's findings of fact and conclusions of law for **Preliminary Plan No. 1-04082, Clover Ridge**. Vice Chair Perdue was absent.



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Certification As To Vote of Adoption  
E, Ann Daly, Technical Writer

<b>PLAT TOTALS</b>	
NUMBER OF LOTS	3
NUMBER OF OUTLOTS	1
AREA OF LOTS	62.846 ACS
AREA OF OUTLOT	18.385 ACS
AREA OF DEDICATION	1.386 ACS
TOTAL AREA SHOWN ON PLAT	82.617 ACS

<b>WELL EASEMENT FOR LOT 7</b>	
WE1 N27°03'14"E	60.0'
WE2 S62°56'46"E	80.0'
WE3 S27°03'14"W	60.0'

**LEGEND**

LIMIT OF TOTAL ABSORPTION SYSTEM AND SEPTIC EASEMENT 20' SEPTIC FIELD B.R.L.

100' NON-POLLUTION RADIUS

WELL SITE

ORIGINAL RW ACQUISITION BY MONTGOMERY COUNTY PER LIBER STS 3 FOLIO 400

**CLARKSBURG ROAD**

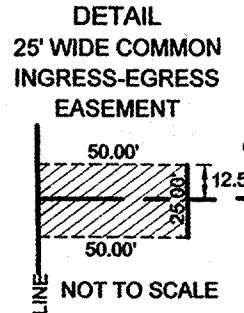
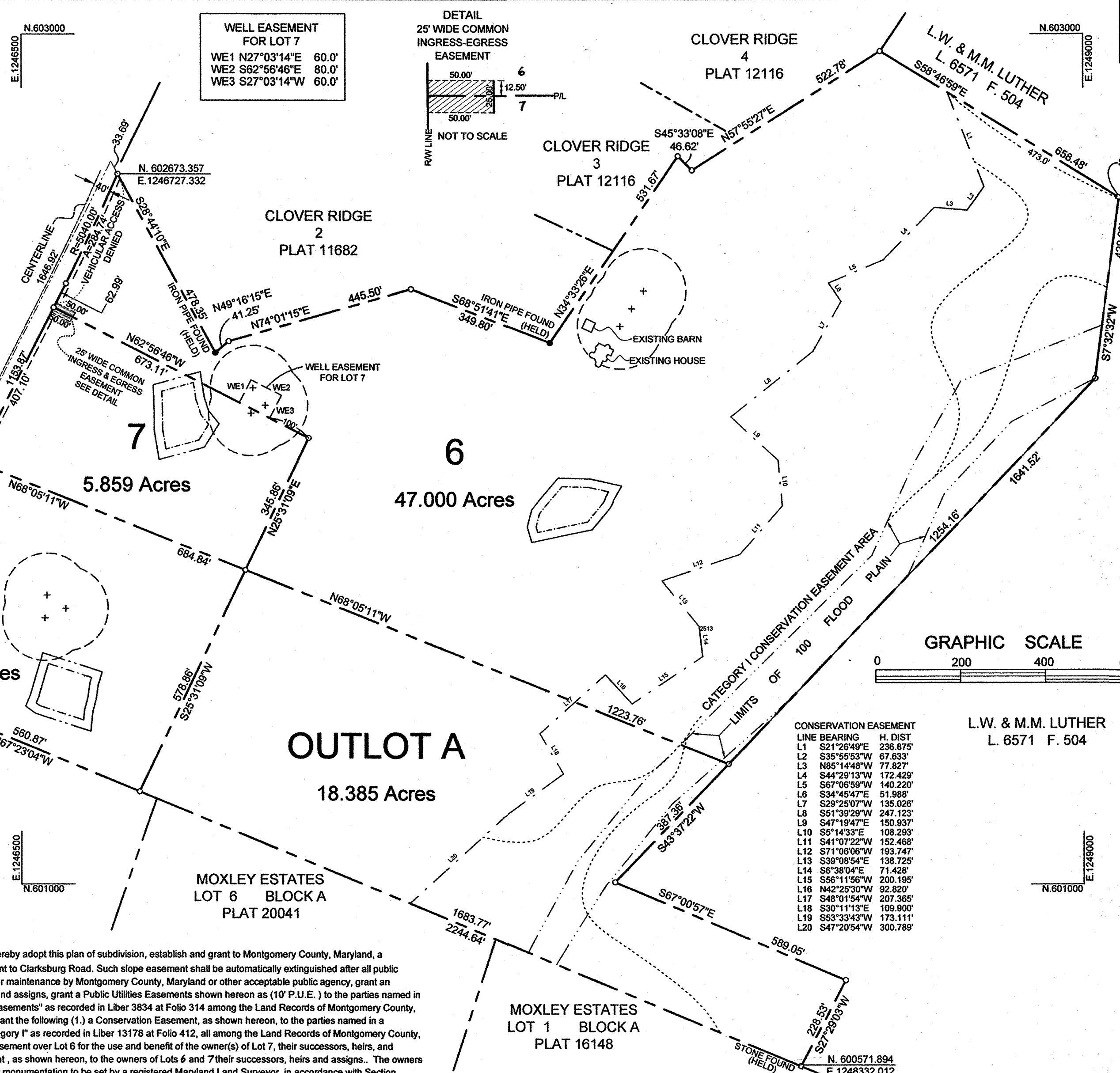
(MASTER PLAN 80' RIGHT OF WAY)

CLARKSBURG ROAD

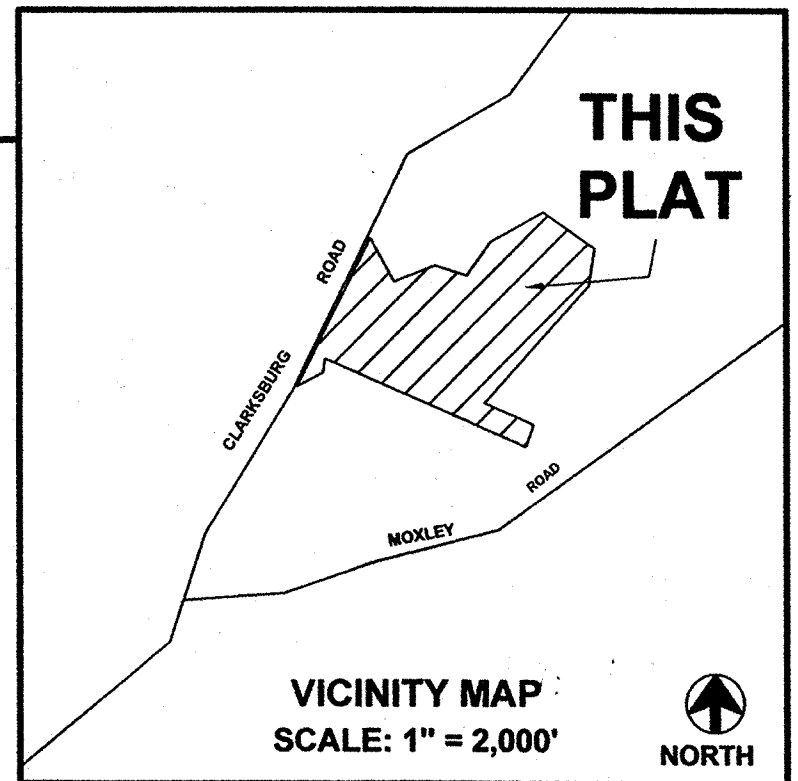
MOXLEY ESTATES LOT 5 BLOCK A PLAT 20041

MOXLEY ESTATES LOT 6 BLOCK A PLAT 20041

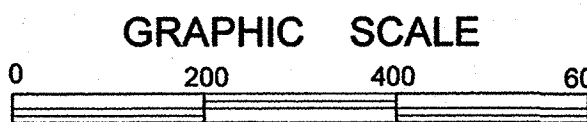
MOXLEY ESTATES LOT 1 BLOCK A PLAT 16148



PLAT NO. **23637**



- NOTES**
- PROPERTY ZONED RDT AT DATE OF RECORDATION. ALL EXISTING AND PROPOSED DEVELOPMENT ON THIS PROPERTY IS SUBJECT TO THE STANDARDS UNDER MONTGOMERY COUNTY ZONING ORDINANCE.
  - ALL LOTS ARE TO BE SERVED BY WELLS AND INDIVIDUAL PRIVATE SEPTIC SYSTEM. EXISTING SEWER AND WATER CATEGORIES: S-6, W-6.
  - THIS PLAT LIMITED TO THE USES AND CONDITIONS AS REQUIRED BY PRELIMINARY PLAN NO. 1-04082, ENTITLED "CLOVER RIDGE", DATED 09/23/05. ANY PROPOSED CHANGES IN USE WILL REQUIRE FURTHER PLANNING BOARD REVIEW AND APPROVAL.
  - THE PROPERTY SHOWN HEREON IS SUBJECT TO THE REQUIREMENTS OF CHAPTER 22A OF THE MONTGOMERY COUNTY FOREST CONSERVATION LAW, INCLUDING APPROVAL OF A FINAL FOREST CONSERVATION PLAN AND APPROPRIATE AGREEMENTS PRIOR TO ISSUANCE OF A SEDIMENT CONTROL PERMIT. THERE IS NO ON-SITE FOREST CONSERVATION ON THIS PLAT.
  - 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 NOT BE EXTINGUISHED BY THE RECORDATION OF THIS PLAT. THE OFFICIAL PUBLIC FILES FOR ANY SUCH PLAN ARE MAINTAINED BY THE PLANNING BOARD AND ARE AVAILABLE FOR PUBLIC VIEWING DURING NORMAL BUSINESS HOURS.
  - THIS PLAT IS NOT INTENDED TO SHOW EVERY MATTER AFFECTING OR RESTRICTING THE OWNERSHIP AND USE OF THE PROPERTY. THIS PLAT IS NOT INTENDED TO REPLACE AN EXAMINATION OF TITLE OR TO DEPICT OR NOTE ALL MATTERS AFFECTING TITLE.
  - PROPERTY FOUND ON MONTGOMERY COUNTY TAX MAP FY23 W.S.S.C. SHEETS 239NW11 & 240NW11.
  - SEPTIC FIELD BUILDING RESTRICTION LINE SUBJECT TO CHANGE UPON REAPPROVAL BY THE MONTGOMERY COUNTY DEPARTMENT OF PERMITTING SERVICES WELL AND SEPTIC SECTION.
  - LOT 6 APPROVED FOR 5 BEDROOM HOUSE  
LOT 7 APPROVED FOR 4 BEDROOM HOUSE  
LOT 8 APPROVED FOR 6 BEDROOM HOUSE
  - ALL AVAILABLE DENSITY FROM THE PARENT PARCEL USED FOR THE FORMATION OF THIS SUBDIVISION. OUTLOT A HAS BEEN USED IN THE DENSITY CALCULATIONS AND NO ADDITIONAL DENSITY OR SUBDIVISION CAN BE APPROVED.
  - THE 100 YEAR FLOOD PLAIN SHOWN HEREON IS BASED ON A STUDY PREPARED BY MICHAEL J. KAY, P.E. AND APPROVED BY DPS ON OCTOBER 26, 2006.
  - THE PROPERTY SHOWN HEREON IS SUBJECT TO A COVENANT WITH MONTGOMERY COUNTY, MARYLAND FOR THE MAINTENANCE OF PRIVATE PARKS, OPEN SPACE, STREETS AND DRAINAGE SYSTEMS RECORDED IN LIBER 33816 AT FOLIO 343 AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND.
  - PRELIMINARY PLAN NO. 1-04082, ENTITLED "CLOVER RIDGE", CONTAINS THE FOLLOWING LANGUAGE IN REFERENCE TO OUTLOT A, AS SHOWN ON THIS PLAT "FOR CONVEYANCE TO OWNER OF LOT 6, BLOCK A OF MOXLEY ESTATES - FOR PASTURE USE". INCLUSION OF THIS NOTE WAS A REQUIREMENT FOR PLAT APPROVAL BY THE MONTGOMERY COUNTY DEPARTMENT OF PERMITTING SERVICES, BUT RECORDATION OF THIS PLAT DOES NOT REQUIRE SAID LAND TRANSFER TO BE COMPLETED.



**CONSERVATION EASEMENT LINE BEARING H. DIST**

L1	S21°26'49"E	236.875'
L2	S35°55'53"W	67.633'
L3	N85°14'48"W	77.827'
L4	S44°29'13"W	172.428'
L5	S67°06'59"W	140.220'
L6	S34°45'47"E	61.988'
L7	S29°25'07"W	135.026'
L8	S51°39'29"W	247.123'
L9	S47°19'47"E	150.937'
L10	S51°14'33"E	108.293'
L11	S41°07'22"W	152.468'
L12	S71°06'06"W	193.747'
L13	S39°08'54"E	138.725'
L14	S6°38'04"E	71.428'
L15	S56°11'56"W	200.195'
L16	N42°23'30"W	92.827'
L17	S48°01'54"W	207.365'
L18	S30°11'13"E	109.900'
L19	S53°33'43"W	173.111'
L20	S47°20'54"W	300.789'

**OWNER'S CERTIFICATION**

The undersigned, owners of the property shown hereon, hereby adopt this plan of subdivision, establish and grant to Montgomery County, Maryland, a temporary slope easement (25 feet wide) parallel and adjacent to Clarksburg Road. Such slope easement shall be automatically extinguished after all public improvements have been lawfully completed and accepted for maintenance by Montgomery County, Maryland or other acceptable public agency, grant an Ingress/Egress/Utilities Easement to their successors, heirs and assigns, grant a Public Utilities Easements shown hereon as (10' P.U.E.) to the parties named in a document entitled "Terms and Provisions of Public Utility Easements" as recorded in Liber 3834 at Folio 314 among the Land Records of Montgomery County, Maryland, subject to the terms set forth therein. We further grant the following (1.) a Conservation Easement, as shown hereon, to the parties named in a document entitled "Conservation Easement Agreement, Category I" as recorded in Liber 13178 at Folio 412, all among the Land Records of Montgomery County, Maryland, subject to the terms set forth therein, (2.) a Well Easement over Lot 6 for the use and benefit of the owner(s) of Lot 7, their successors, heirs, and assigns, (3.) a 25' wide common ingress and egress easement, as shown hereon, to the owners of Lots 6 and 7 their successors, heirs and assigns. The owners will cause all property corner markers and any other required monumentation to be set by a registered Maryland Land Surveyor, in accordance with Section 50-24(e) of the Montgomery County Code.

There are no suits, liens, mortgages, or trusts, affecting the property including in this plat of subdivision.

WITNESS: *Allen S. Loun* 5/3/07 C. Raymond Green, Personal Representative of the Estate of Chester Leishear  
 WITNESS: *Allen S. Loun* 5/3/07 Walter C. Brown, Personal Representative of the Estate of Chester Leishear  
 WITNESS: *Allen S. Loun* 05/03/07 Victor A. Loun, Individual

**SURVEYOR'S CERTIFICATION**

I hereby certify that the plat shown hereon is correct; that it is a subdivision of the land described in a deed from Ralph B. Duane, Surviving Trustee for Buxton Venture, and Chester M. Leishear dated May 6, 1985 and recorded in Liber 6728 at Folio 511, and subsequently conveyed to Chester M. Leishear, as to a 70% interest, and Victor Allen Loun, as to a 30% interest by deed dated August 15, 2002 and recorded in Liber 23029 at Folio 378, all among the land records of Montgomery County, Maryland. I further certify that, once engaged as described in the owner's certification hereon, all monuments and all property markers and other boundary markers will be set as delineated hereon in accordance with the provisions of Section 50-24(e) of Montgomery County Code. The total area included on this plat is 82.617 acres of land, 1.386 acres or 60,374 square feet is dedicated to the public use.

I further certify that the 100 year flood plain shown hereon is an accurate representation of the study referenced in note #11.

*Thomas A. Maddox* 5/11/07  
 Thomas A. Maddox - Registered Professional Land Surveyor MD #10850

**RECEIVED**

JUN 28 2007  
 Clerk of the Circuit Court  
 Montgomery County, Md.

SUBDIVISION RECORD PLAT  
 LOTS 6-8 & OUTLOT A  
**CLOVER RIDGE**  
 ELECTION DISTRICT 12  
 MONTGOMERY COUNTY, MARYLAND  
 SCALE 1" = 200' FEBRUARY 2007



THOMAS A. MADDOX  
 PROFESSIONAL LAND SURVEYOR  
 8933 SHADY GROVE COURT  
 GAITHERSBURG, MARYLAND 20877  
 (301) 984-5804

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
 MONTGOMERY COUNTY PLANNING BOARD  
 APPROVED *June 21, 2007*  
*Don Pittman* CHAIRMAN  
*Christine McHenry* ASST.-SECRETARY-TREASURER

MONTGOMERY COUNTY DEPARTMENT OF PERMITTING SERVICES  
 APPROVED *5/19/07*  
*Allen S. Loun* DATE  
 DIRECTOR

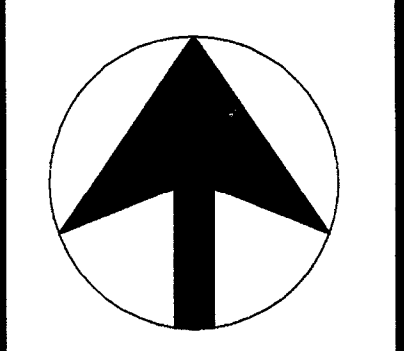
206218104082102308 RDT

MSA SSu 1249 29270 628-59  
 P139731

Maryland State Archives

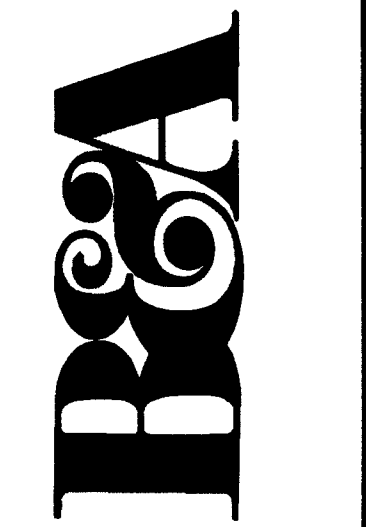


1	July 2008



date: 06/03/08  
scale: 1" = 100'

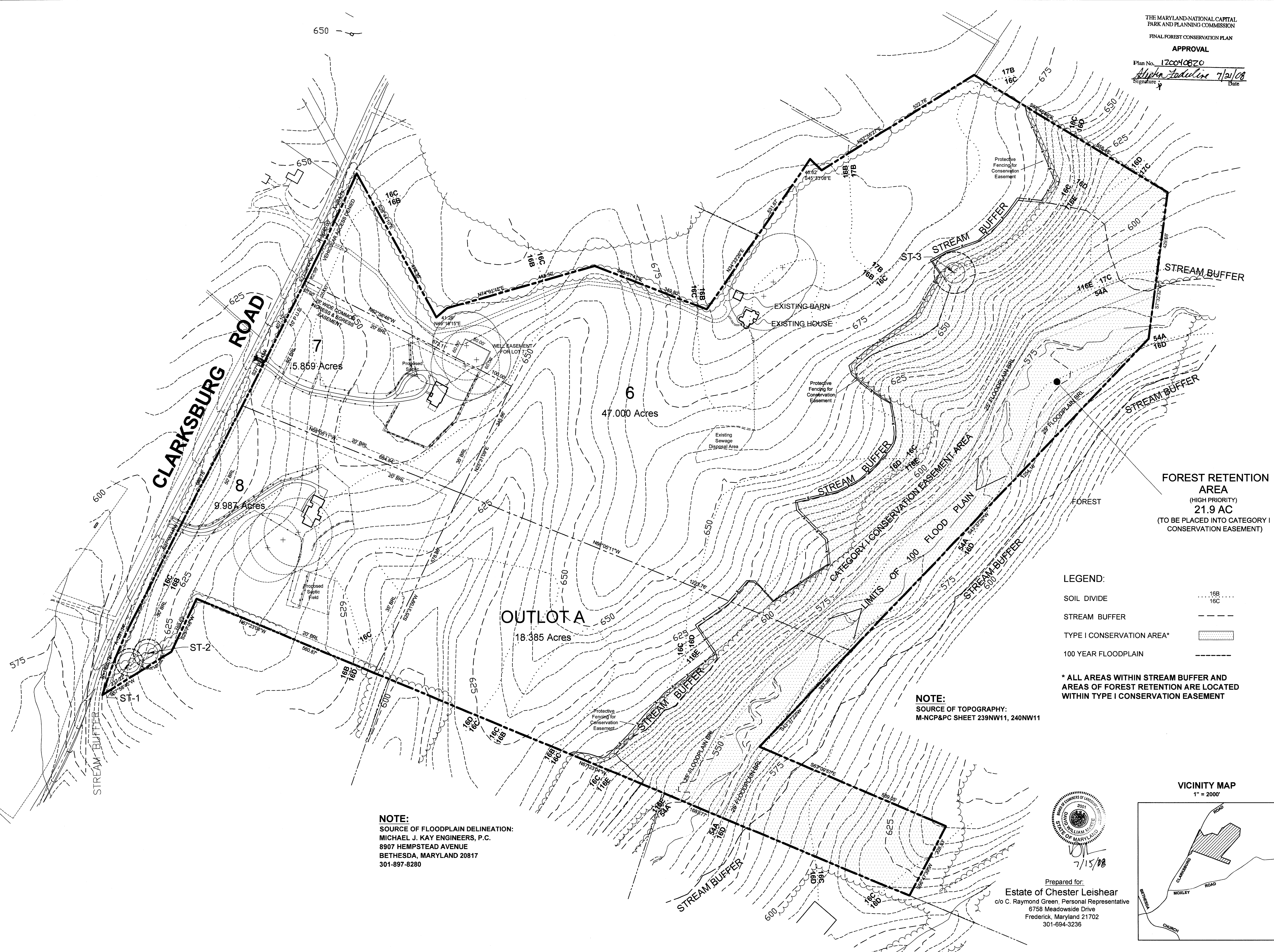
Benning & Associates, Inc.  
Land Planning Consultants  
10000 Greenway  
Columbia, MD 21047  
(301) 998-0240



FINAL FOREST CONSERVATION PLAN  
CLOVER RIDGE  
Montgomery County, Maryland

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION  
FINAL FOREST CONSERVATION PLAN  
**APPROVAL**

Plan No. 17C0040870  
*Alpha Todoline* 7/21/08  
Signature Date



**NOTE:**  
SOURCE OF FLOODPLAIN DELINEATION:  
MICHAEL J. KAY ENGINEERS, P.C.  
8907 HEMPSTEAD AVENUE  
BETHESDA, MARYLAND 20817  
301-897-8280

**NOTE:**  
SOURCE OF TOPOGRAPHY:  
M-NCP&PC SHEET 239NW11, 240NW11

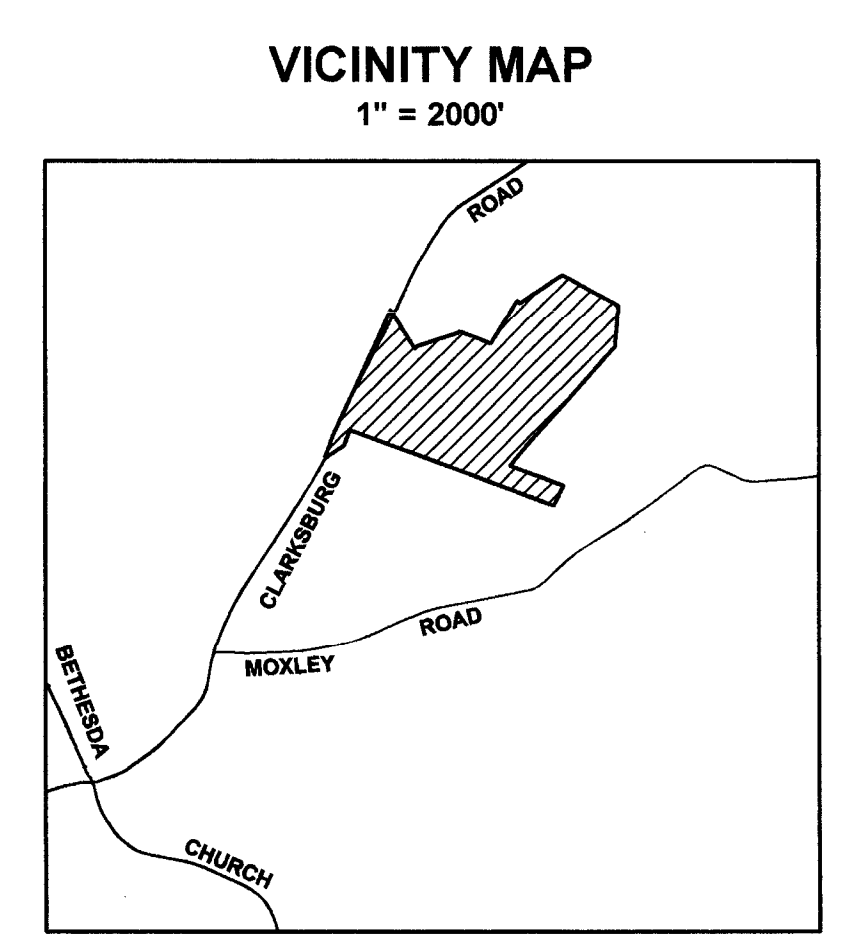
- LEGEND:**
- SOIL DIVIDE                    - - - - - 16B - - - - - 16C
  - STREAM BUFFER                - - - - -
  - TYPE I CONSERVATION AREA\*    [Stippled Box]
  - 100 YEAR FLOODPLAIN        [Dashed Box]

\* ALL AREAS WITHIN STREAM BUFFER AND AREAS OF FOREST RETENTION ARE LOCATED WITHIN TYPE I CONSERVATION EASEMENT

**FOREST RETENTION AREA**  
(HIGH PRIORITY)  
**21.9 AC**  
(TO BE PLACED INTO CATEGORY I CONSERVATION EASEMENT)



Prepared for:  
**Estate of Chester Leishear**  
c/o C. Raymond Green, Personal Representative  
6758 Meadowside Drive  
Frederick, Maryland 21702  
301-694-3236



JUL 15 2008



Sheet 2 of 2  
Revisions

1 July 2008

FINAL FOREST CONSERVATION PLAN NOTES:

- a. An on-site pre-construction meeting shall be required after the limits of disturbance have been staked and flagged, but before any clearing or grading begins. The owner shall contact the Maryland National Capital Park and Planning Commission inspection staff prior to commencing construction to verify the limits of disturbance and discuss tree protection and tree care measures. The attendants at this meeting should include: developer's representative, construction superintendent, ISA certified arborist or MD license tree expert that will implement the tree protection measures, M-NCPPC inspector, and DPS sediment control inspector.
- b. No clearing or grading shall begin before stress-reduction measures have been implemented. Appropriate measures may include, but are not limited to:
  - i. Root pruning
  - ii. Crown Reduction or pruning
  - iii. Watering
  - iv. Fertilizing
  - v. Vertical mulching
  - vi. Root aeration matting
 Measures not specified on the forest conservation plan may be required as determined by the M-NCPPC inspector in coordination with the arborist.
- c. A State of Maryland licensed tree expert, or an International Society of Arboriculture certified arborist must perform all stress reduction measures. Documentation of stress reduction measures must be either observed by the MNCPPC inspector or sent to the MNCPPC inspector at 8787 Georgia Avenue, Silver Spring, MD 20910. The MNCPPC inspector will determine the exact method to convey the stress reductions measures during the pre-construction meeting.
- d. Temporary tree protection devices shall be installed per the Forest Conservation Plan and prior to any construction activities. Tree protection fencing locations should be staked prior to the pre-construction meeting. M-NCPPC inspector, in coordination with the DPS sediment control inspector, may make field adjustments to increase the survivability of trees and forest shown as saved on the approved plan. Temporary tree protect devices may include:
  - i. Chain link fence (four feet high)
  - ii. Snow fence (four feet high)
  - iii. Super silt fence
  - iv. 14 gauge 2 inch x 4 inch welded wire fencing supported by steel T-bar posts (minimum 4 feet high) with high visibility flagging.
- e. Temporary protection devices shall be maintained and installed by the contractor for the duration of construction project and must not be altered without prior approval from MNCPPC. No equipment, trucks, materials, or debris may be stored within the tree protection fence areas during the entire construction project. No vehicle or equipment access to the fenced area will be permitted. Tree protection shall not be removed without prior approval of MNCPPC. Tree protection devices to be coordinated with erosion and sediment control devices as indicated on the approved Erosion and Sediment Control plan approved by the Department of Permitting Services.
- f. Forest retention area signs shall be installed as required by the MNCPPC inspector, or as shown approved plan.
- g. Long-term protection devices will be installed per the Forest Conservation Plan and attached details. Installation will occur at the appropriate time during the construction project. Refer to the plan drawing for long-term protection measures to be installed.
- h. Periodic inspections by MNCPPC will occur during the construction project. Corrections and repairs to all tree protection devices, as determined by the MNCPPC inspector, must be made within the timeframe established by the MNCPPC inspector.
- i. After construction is completed, an inspection shall be requested. Corrective measures which may be required include:
  - i. Removal and replacement of dead and dying trees
  - ii. Pruning of dead or declining limbs
  - iii. Soil aeration
  - iv. Fertilization
  - v. Watering
  - vi. Wound repair
  - vii. Clean up of retention areas
- j. After inspection and completion of corrective measures have been undertaken, all temporary protection devices shall be removed from the site. No additional grading, sodding, or burial may take place.

Inspections:

- A. The Planning Department must conduct field inspections of a site subject to an approved forest conservation plan as follows:
  - 1) After the limits of disturbance have been staked and flagged, but before any clearing or grading begins (the purpose of the meeting should be to field verify the limits of clearing specified on the approved plan, authorize necessary adjustments, and to authorize necessary stress reduction measures and installation of protection devices);
  - 2) After necessary stress reduction measures have been completed and the protection measures have been installed, but before any clearing or grading begins (the purpose of the meeting should be to field verify that both measures have been done correctly and to authorize clearing and grading);
  - 3) After completion of all construction activities to determine the level of compliance with the provisions of the forest conservation plan;
  - 4) Before the start of any required reforestation and afforestation planting (the purpose of the meeting should be to determine whether necessary pre-planting measures have been completed and authorize any necessary adjustments to the planting specifications);
  - 5) After required reforestation and afforestation planting has been completed to verify that the planting is acceptable and begin the two-year maintenance period; and
  - 6) At the end of the two-year maintenance agreement to determine the level of compliance with the provisions of the planting plan and, if appropriate, authorize release of financial security.
- B. These inspections must be requested by the applicant at the designated points.

**NOTE:**  
BUILDING PERMITS WILL NOT BE RELEASED UNTIL THE MNCPPC FOREST CONSERVATION INSPECTOR HAS REVIEWED AND SIGNED OFF ON THE TREE PROTECTION MEASURES.

FOREST CONSERVATION WORKSHEET  
CLOVER RIDGE

NET TRACT AREA:

A. Total tract area ...	85.09
B. Land dedication acres (parks, county facility, etc.) ...	0.00
C. Land dedication for roads or utilities (not being constructed by this plan) ...	1.62
D. Area to remain in commercial agricultural production/use ...	0.00
E. Other deductions (specify) .....	0.00
F. Net Tract Area .....	83.47

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

ARA	MDR	IDA	HDR	MPD	CIA
1.00	0.00	0.00	0.00	0.00	0.00

G. Afforestation Threshold ... 0.20 x F = 16.69  
H. Conservation Threshold ... 0.50 x F = 41.74

EXISTING FOREST COVER:

I. Existing forest cover .....	21.90
J. Area of forest above afforestation threshold .....	5.21
K. Area of forest above conservation threshold .....	0.00

BREAK EVEN POINT:

L. Forest retention above threshold with no mitigation ...	0.00
M. Clearing permitted without mitigation .....	0.00

PROPOSED FOREST CLEARING:

N. Total area of forest to be cleared .....	0.00
O. Total area of forest to be retained .....	21.90

PLANTING REQUIREMENTS:

P. Reforestation for clearing above conservation threshold ...	0.00
Q. Reforestation for clearing below conservation threshold ...	0.00
R. Credit for retention above conservation threshold .....	0.00
S. Total reforestation required .....	0.00
T. Total afforestation required .....	0.00
U. Credit for landscaping (may not exceed 20% of "S") .....	0.00
V. Total reforestation and afforestation required .....	0.00

SIGNIFICANT TREE CHART

TREE NUMBER	BOTANICAL NAME	COMMON NAME	SIZE(D.B.H.)	TREE CONDITION	COMMENTS	STATUS
ST-1	Robinia pseudoacacia	Black Locust	26.0"	Poor	Poison Ivy on trunk	To be removed at owner's discretion
ST-2	Robinia pseudoacacia	Black Locust	26.0"	Poor	Poison Ivy on trunk	To be removed at owner's discretion
ST-3	Liriodendron tulipifera	Tulip Poplar	30.0"	Good	Poison Ivy on trunk	To be retained

**NOTE:**  
THERE ARE NO STATE OR COUNTY CHAMPION TREES OR TREES WITHIN 75% OF STATE AND COUNTY CHAMPION STANDARDS.



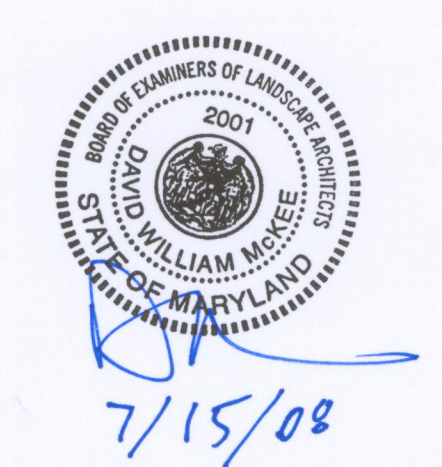
**NOTE:**  
PHOTOS SHOW EXISTING PROTECTIVE FENCING ON PROPERTY. ANY ADDITIONAL FENCING THAT IS REQUIRED IS TO MATCH FENCING THAT IS SHOWN IN PHOTOS.

FINAL FOREST CONSERVATION PLAN

ACREAGE OF TRACT	ACREAGE OF ROAD AND UTILITY R.O.W. NOT TO BE IMPROVED	ACREAGE OF ROAD AND UTILITY R.O.W. NOT TO BE IMPROVED	ACREAGE OF EXISTING FOREST	ACREAGE OF TOTAL FOREST RETENTION	LAND USE CATEGORY	CONSERVATION THRESHOLD	AFFORESTATION THRESHOLD	FOREST WITHIN WETLANDS TO BE RETAINED	FOREST WITHIN WETLANDS TO BE CLEARED	FOREST WITHIN WETLANDS TO BE PLANTED	FOREST WITHIN 100-YEAR FLOODPLAIN TO BE RETAINED	FOREST WITHIN 100-YEAR FLOODPLAIN TO BE CLEARED	FOREST WITHIN 100-YEAR FLOODPLAIN TO BE PLANTED	FOREST WITHIN STREAM BUFFER TO BE RETAINED	FOREST WITHIN STREAM BUFFER TO BE CLEARED	FOREST WITHIN STREAM BUFFER TO BE PLANTED	FOREST WITHIN PRIORITY AREAS TO BE RETAINED	FOREST WITHIN PRIORITY AREAS TO BE CLEARED	FOREST WITHIN PRIORITY AREAS TO BE PLANTED	STREAM BUFFER-LINEAR FEET	STREAM BUFFER-AVERAGE WIDTH
85.09 AC	0.00 AC	1.62 AC	21.90 AC	21.90 AC	AGRICULTURAL RESOURCE AREA	50% = 41.74 AC	20% = 16.69 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	17.4 AC	0.00 AC	0.00 AC	17.4 AC	0.00 AC	0.00 AC	2,000 +/-'	425'

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
FINAL FOREST CONSERVATION PLAN  
APPROVAL

Plan No. 12004082  
Signature: *William M. Moore* Date: 7/15/08



Benning & Associates, Inc.  
Land Planning Consultants  
8933 Shady Grove Court  
Gaithersburg, MD 20878  
Phone: (301) 948-0240

B&A

FINAL FOREST CONSERVATION PLAN  
CLOVER RIDGE  
Montgomery County, Maryland



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

Name: VICTOR & PATRICIA LOUN  
First Middle Last  
Company/Position: \_\_\_\_\_  
Address: 28301 CLARKSBURG RD., DAMASCUUS, MD 20872  
Phone Number: 301-253-2830 Fax Number: \_\_\_\_\_ Email: psloun@msn.com

**Location and Description of Violation:**

Address/location of site: 28301 CLARKSBURG RD

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 2/7/2011 (date) at the stated site location did commit the following:

1. CONTINUED AGRICULTURAL OR MOWING ACTIVITIES ARE OCCURRING WITHIN THE CAT. I FCE ON THIS PROPERTY.
2. PERMANENT FENCE HAS NOT BEEN INSTALLED AS SPECIFIED ON THE APPROVED FFCP.

In violation of:

- Montgomery County Code, Chapter 22A
- Approval of FINAL FCP Plan No. 120040320
- Other: \_\_\_\_\_

**Civil Fine and Compliance:**

- (a)  You shall pay a fine of \$ 500.00 by FEB 21, 2011 (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.
- 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, 2<sup>nd</sup> 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. CEASE ALL AGRICULTURAL AND/OR MOWING ACTIVITIES WITHIN THE CAT. I FCE ON YOUR PROPERTY IMMEDIATELY.
2. INSTALL THE FENCE AS SPECIFIED ON THE APPROVED FINAL FOREST CONSERVATION PLAN, OR OBTAIN APPROVED VARIANCE FOR FCE FENCE
3. INSTALL 8"x5" METAL EASEMENT SIGNAGE TO FENCE POSTS.
4. REMOVE SHED FROM EASEMENT.

by: MARCH 7, 2011 (date)  
If remedial action is not completed by MARCH 7, 2011 (date), you shall pay a daily fine of \$ 500.00 a day until work is completed.

- 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.

Defendant's Signature \_\_\_\_\_ Date 2/7/11

**Affirmation:**

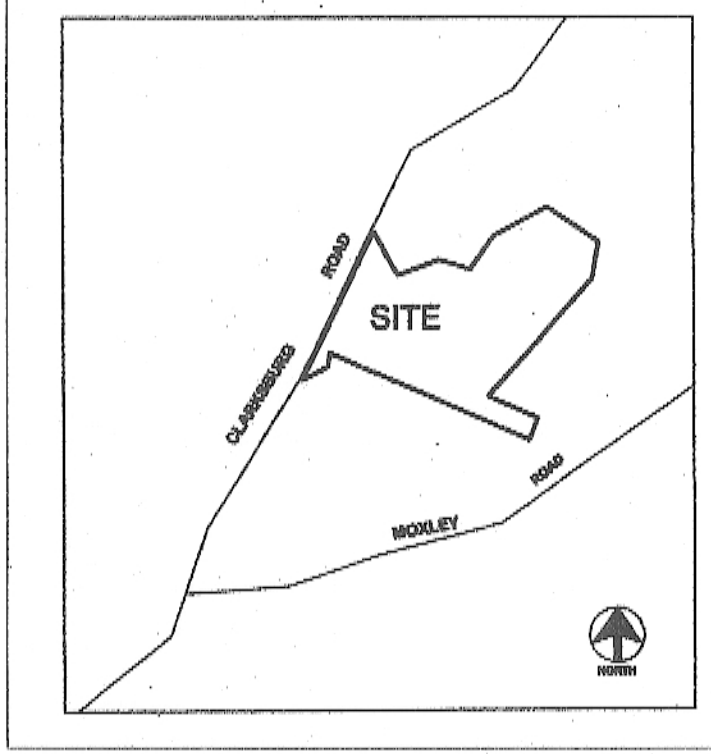
I solemnly affirm under the penalties of perjury, and upon personal knowledge or based on the affidavit, that the contents of this citation are true to the best of my knowledge, information and belief and that I am competent to testify on these matters.

Inspector's Signature Douglas B. Johnson Date 2/7/2011

Print Name: DOUG JOHNSON Phone Number: 301-495-4712  
douglas.johnson@montgomeryplanning.org

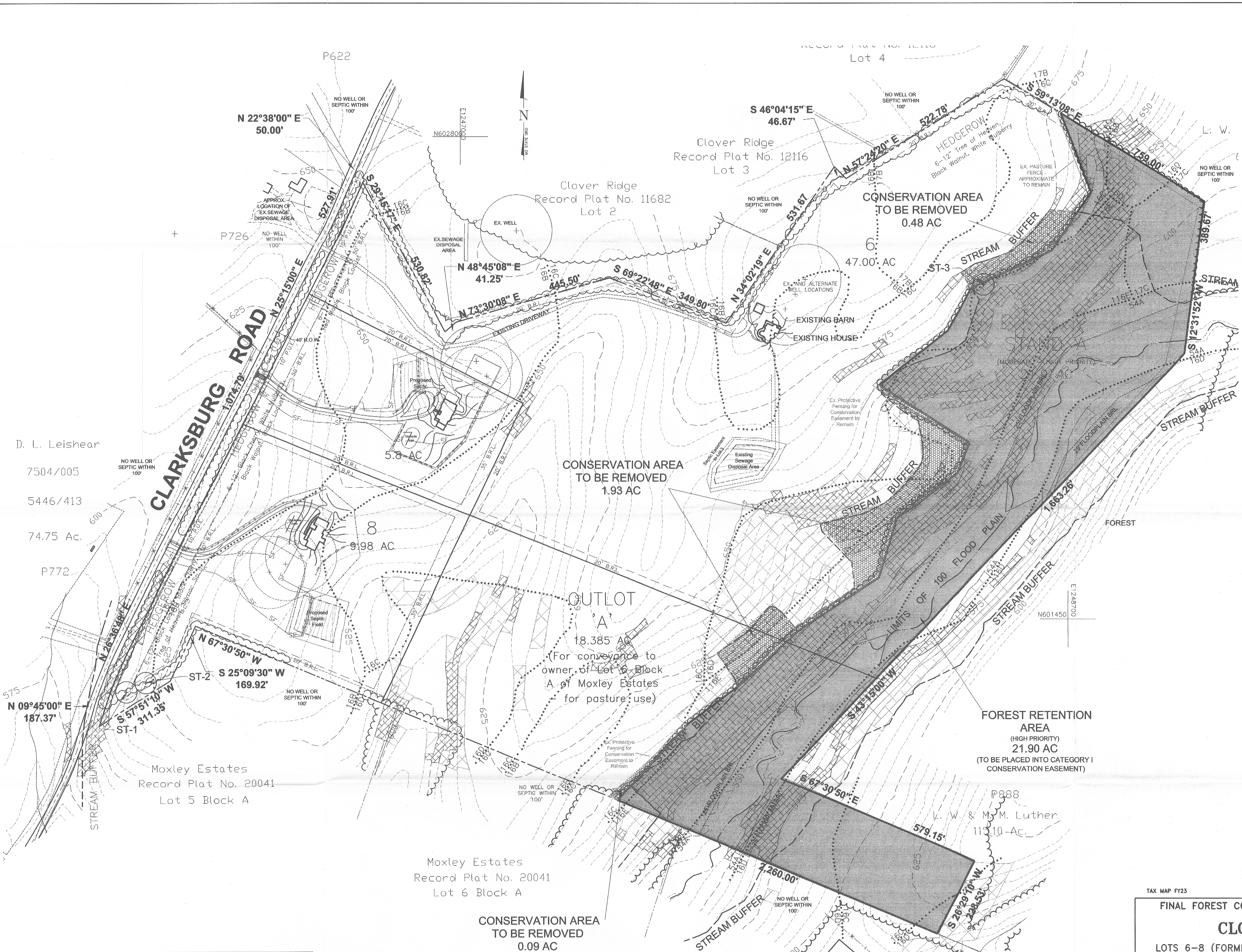


VICINITY MAP  
SCALE: 1" = 2,000'



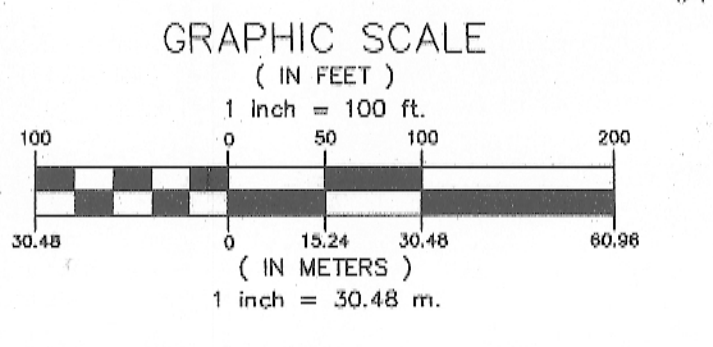
LEGEND

- EXISTING EASEMENT TO BE REMOVED (2.5 acres)
- EXISTING EASEMENT TO REMAIN (21.90 acres)



AMENDMENTS

- REVISE FOREST CONSERVATION EASEMENTS TO REMOVE THE CONSERVATION EASEMENTS FROM THE AREAS OF PASTURE LAND.



PREPARED FOR:  
MR. VICTOR LOUN  
28301 CLARKSBURG ROAD  
DAMASCUS, MD. 20872  
301-253-2830

NO.	DATE	DESCRIPTION	BY
1	9.23.11	Amend approved FFCP	VSB

TAX MAP FY23 WSSC 239N11, 240N11

**FINAL FOREST CONSERVATION PLAN AMENDMENT**  
12004082A  
**CLOVER RIDGE**  
LOTS 6-8 (FORMERLY LOTS 1-3) AND OUTLOT A  
12TH ELECTION DISTRICT - MONTGOMERY COUNTY - MARYLAND

**MHG** Macris, Hendricks & Glascock, P.A.  
Engineers • Planners  
Landscape Architects • Surveyors

9220 Wightman Road, Suite 120  
Montgomery Village, Maryland  
20896-1278  
Phone 301.670.0840  
Fax 301.948.0693  
www.mhga.com

Proj. Mgr. VSB  
Date 7-21-08  
Project No. 11.136

Designer RJB  
Scale 1"=100'  
Sheet 1 of 2





FINAL FOREST CONSERVATION PLAN NOTES:

- a. An on-site pre-construction meeting shall be required after the limits of disturbance have been staked and flagged, but before any clearing or grading begins. The owner shall contact the Maryland National Capital Park and Planning Commission inspection staff prior to commencing construction to verify the limits of disturbance and discuss tree protection and tree care measures. The attendees at this meeting should include: developer's representative, construction superintendent, ISA certified arborist or MD license tree expert that will implement the tree protection measures, M-NCPPC inspector, and DPS sediment control inspector.
- b. No clearing or grading shall begin before stress-reduction measures have been implemented. Appropriate measures may include, but are not limited to:
  - i. Root pruning
  - ii. Crown Reduction or pruning
  - iii. Watering
  - iv. Fertilizing
  - v. Vertical mulching
  - vi. Root aeration/mulching
- c. Measures not specified on the forest conservation plan may be required as determined by the M-NCPPC inspector in coordination with the arborist.
- d. A State of Maryland licensed tree expert, or an International Society of Arboriculture certified arborist must perform all stress reduction measures. Documentation of stress reduction measures must be either observed by the MNCPPC inspector or sent to the MNCPPC inspector at 8787 Georgia Avenue, Silver Spring, MD 20910. The MNCPPC inspector will determine the exact method to convey the stress reduction measures during the pre-construction meeting.
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  - i. Chain link fence (four feet high)
  - ii. Snow fence (four feet high)
  - iii. Super silt fence
  - iv. 14 gauge 2 inch x 4 inch welded wire fencing supported by steel T-bar posts (minimum 4 feet high) with high visibility flagging.
- f. Temporary protection devices shall be maintained and installed by the contractor for the duration of construction project and must not be altered without prior approval from MNCPPC. No equipment, trucks, materials, or debris may be stored within the tree protection fence areas during the entire construction project. No vehicle or equipment access to the forested areas will be permitted. Tree protection shall not be removed without prior approval of MNCPPC. Tree protection devices to be coordinated with erosion and sediment control devices as indicated on the approved Erosion and Sediment Control plan approved by the Department of Permitting Services.
- g. Forest retention area signs shall be installed as required by the MNCPPC inspector, or as shown approved plan.
- h. Long-term protection devices will be installed per the Forest Conservation Plan and attached details. Installation will occur at the appropriate time during the construction project. Refer to the plan drawing for long-term protection measures to be installed.
- i. Periodic inspections by MNCPPC will occur during the construction project. Corrections and repairs to all tree protection devices, as determined by the MNCPPC inspector, must be made within the timeframe established by the MNCPPC inspector.
- j. After construction is completed, an inspection shall be requested. Corrective measures which may be required include:
  - i. Removal and replacement of dead and dying trees
  - ii. Pruning of dead or declining limbs
  - iii. Soil aeration
  - iv. Fertilization
  - v. Watering
  - vi. Wound repair
  - vii. Clean up of retention areas.
- k. After inspection and completion of corrective measures have been undertaken, all temporary protection devices shall be removed from the site. No additional grading, sodding, or burial may take place.

Inspections:

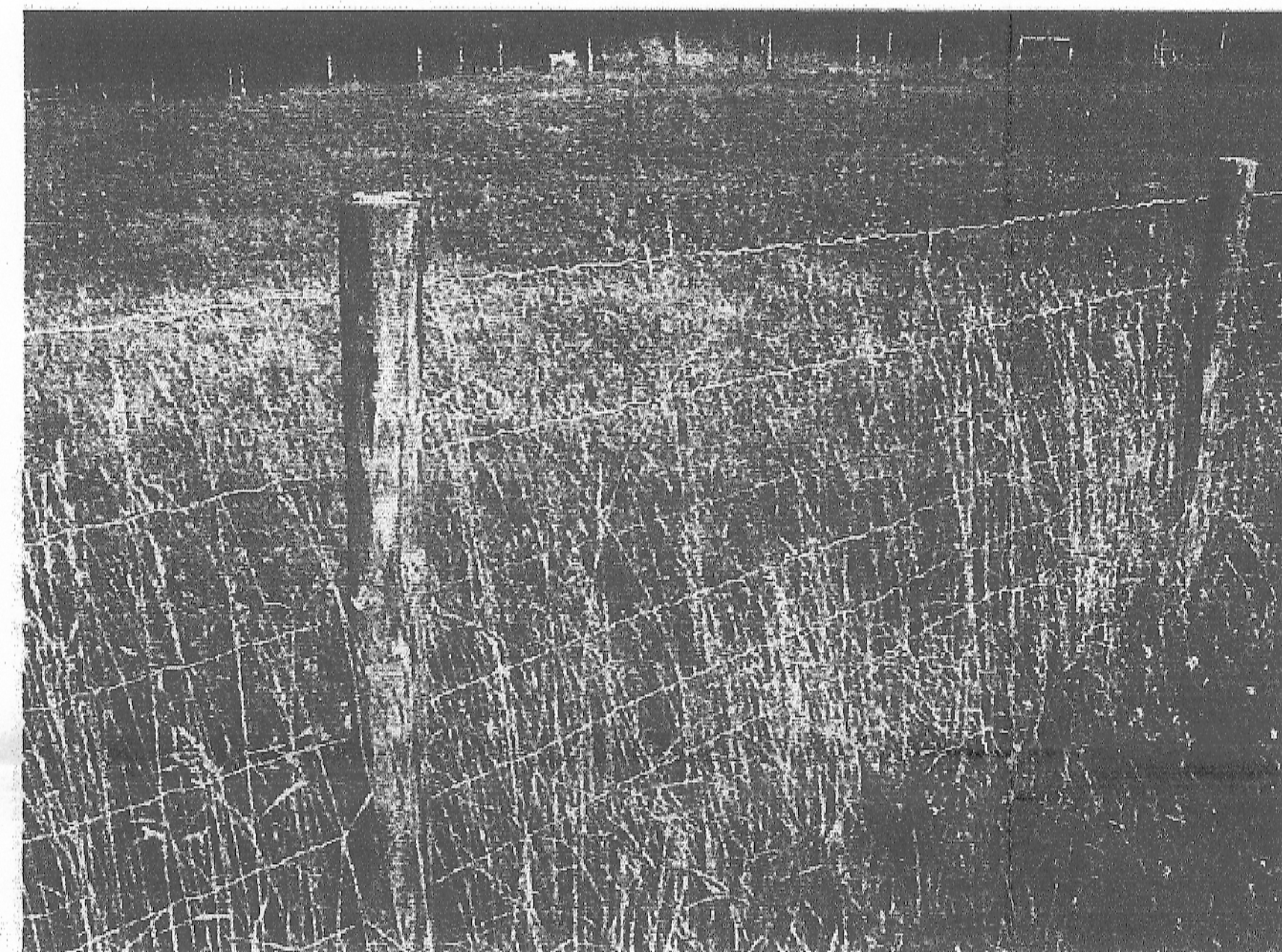
- A. The Planning Department must conduct field inspections of a site subject to an approved forest conservation plan as follows:
  - 1) After the limits of disturbance have been staked and flagged, but before any clearing or grading begins (the purpose of the meeting should be to field verify the limits of clearing specified on the approved plan, authorize necessary adjustments, and to authorize necessary stress reduction measures and installation of protection devices);
  - 2) After necessary stress reduction measures have been completed and the protection measures have been installed, but before any clearing or grading begins (the purpose of the meeting should be to field verify that both measures have been done correctly and to authorize clearing and grading);
  - 3) After completion of all construction activities to determine the level of compliance with the provisions of the forest conservation plan;
  - 4) Before the start of any required reforestation and afforestation planting (the purpose of the meeting should be to determine whether necessary pre-planting measures have been completed and authorize any necessary adjustments to the planting specifications);
  - 5) After required reforestation and afforestation planting has been completed to verify that the planting is acceptable and begin the two-year maintenance period; and
  - 6) At the end of the two-year maintenance agreement to determine the level of compliance with the provisions of the planting plan and, if appropriate, authorize release of financial security.
- B. These inspections must be requested by the applicant at the designated points.

**NOTE:**  
BUILDING PERMITS WILL NOT BE RELEASED UNTIL THE MNCPPC FOREST CONSERVATION INSPECTOR HAS REVIEWED AND SIGNED OFF ON THE TREE PROTECTION MEASURES.

FOREST CONSERVATION WORKSHEET					
Clover Ridge - Agricultural Declaration of Intent					
5 Aug 02					
NET TRACT AREA:					
A. Total tract area	85.09				
B. Land dedication acres (parks, county facility, etc.)	0.00				
C. Land dedication for roads or utilities (not being constructed by this plan)	1.62				
D. Area to remain in commercial agricultural production/use	0.00				
E. Other deductions (specify)	0.00				
F. Net Tract Area	83.47				
LAND USE CATEGORY: (from Trees Technical Manual)					
Input the number "1" under the appropriate land use, limit to only one entry.					
ARA	MDR	IDA	HDR	MPD	CIA
1	0	0	0	0	0
G. Afforestation Threshold	20%	x F =	16.69		
H. Conservation Threshold	50%	x F =	41.74		
EXISTING FOREST COVER:					
I. Existing forest cover			21.90		
J. Area of forest above afforestation threshold			5.21		
K. Area of forest above conservation threshold			0.00		
BREAK EVEN POINT:					
L. Forest retention above threshold with no mitigation			0.00		
M. Clearing permitted without mitigation			0.00		
PROPOSED FOREST CLEARING:					
N. Total area of forest to be cleared			0.00		
O. Total area of forest to be retained			21.90		
PLANTING REQUIREMENTS:					
P. Reforestation for clearing above conservation threshold			0.00		
Q. Reforestation for clearing below conservation threshold			0.00	1	
R. Credit for retention above conservation threshold			0.00		
S. Total reforestation required			0.00	1	
T. Total afforestation required			0.00		
U. Credit for landscaping (may not exceed 20% of "S")			0.00		
V. Total reforestation and afforestation required			0.00		

TREE NUMBER	BOTANICAL NAME	COMMON NAME	SIZE (DBH)	TREE CONDITION	COMMENTS	STATUS
87-1	Rubus perigranensis	Black Locust	25"	Good	Protect by structure	To be retained as on-site tree
87-2	Rubus perigranensis	Black Locust	25"	Good	Protect by structure	To be retained as on-site tree
87-3	Liquidambar styraciflua	Flame Tree	35"	Good	Protect by structure	To be retained

**NOTE:**  
THERE ARE NO STATE OR COUNTY CHAMPION TREES OR TREES WITHIN 75% OF STATE AND COUNTY CHAMPION STANDARDS.



**NOTE:**  
PHOTOS SHOW EXISTING PROTECTIVE FENCING ON PROPERTY. ANY ADDITIONAL FENCING THAT IS REQUIRED IS TO MATCH FENCING THAT IS SHOWN IN PHOTOS.

FINAL FOREST CONSERVATION PLAN																					
ACREAGE OF TRACT	ACREAGE OF TRACT REMAINING IN AGRICULTURE USE	ACREAGE OF ROAD AND UTILITY R.O.W. NOT TO BE IMPROVED	ACREAGE OF EXISTING FOREST	ACREAGE OF TOTAL FOREST RETENTION	LAND USE CATEGORY	CONSERVATION THRESHOLD	AFFORESTATION THRESHOLD	FOREST WITHIN WETLANDS TO BE RETAINED	FOREST WITHIN WETLANDS TO BE CLEARED	FOREST WITHIN WETLANDS TO BE PLANTED	FOREST WITHIN 100-YEAR FLOODPLAIN TO BE RETAINED	FOREST WITHIN 100-YEAR FLOODPLAIN TO BE CLEARED	FOREST WITHIN 100-YEAR FLOODPLAIN TO BE PLANTED	FOREST WITHIN STREAM BUFFER TO BE RETAINED	FOREST WITHIN STREAM BUFFER TO BE CLEARED	FOREST WITHIN STREAM BUFFER TO BE PLANTED	FOREST WITHIN PRIORITY AREAS TO BE RETAINED	FOREST WITHIN PRIORITY AREAS TO BE CLEARED	FOREST WITHIN PRIORITY AREAS TO BE PLANTED	STREAM BUFFER-LINEAR FEET	STREAM BUFFER-AVERAGE WIDTH
85.09 AC	0.00 AC	1.62 AC	21.90 AC	21.90 AC	AGRICULTURAL RESOURCE AREA	50% = 41.74 AC	20% = 16.69 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	17.4 AC	0.00 AC	0.00 AC	17.4 AC	0.00 AC	0.00 AC	2,000 FT	42'

**AMENDMENTS**  
1. REVISE FOREST CONSERVATION EASEMENTS TO REMOVE THE CONSERVATION EASEMENTS FROM THE AREAS OF PASTURE LAND.

PREPARED FOR:  
MR. VICTOR LOUN  
28301 CLARKSBURG ROAD  
DAMASCUS, MD. 20872  
301-253-2830

NO.	DATE	DESCRIPTION	BY
1	9.23.11	Amend approved FFCP	VSB

TAX MAP FY23 WSSC 239NW11, 240RW11

FINAL FOREST CONSERVATION PLAN AMENDMENT  
12004082A  
**CLOVER RIDGE**  
LOTS 6-8 (FORMERLY LOTS 1-3) AND OUTLOT A  
12TH ELECTION DISTRICT - MONTGOMERY COUNTY - MARYLAND

**MHG** Macris, Hendricks & Glascock, P.A.  
Engineers, Planners, Surveyors, Landscapers, Architects

9220 Wightman Road, Suite 120  
Montgomery Village, Maryland  
20886-1279 Phone 301.670.0840  
Fax 301.948.0693  
www.mhga.com

Proj. Mgr. VSB  
Designer RJB  
Date 7-21-08  
Scale 1"=100'  
Project No. 11.136  
Sheet 2 of 2

SEP 28 2011  
Planning Department

Sheet 2 of 2  
Revisions

1	July 2008

date: 06/03/09  
scale:

Benjamin B. Anselmi, Inc.  
Land Planning Consultants  
6903 Sandstone Court  
Columbia, MD 21046-4877  
(410) 996-2420

**B&A**

FINAL FOREST CONSERVATION PLAN  
CLOVER RIDGE  
Montgomery County, Maryland

