



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

**Memorandum**

**TO:** Montgomery County Planning Board

**VIA:** John Carter, Chief *JC*  
Area 3 Planning Team

**FROM:** Richard Weaver, Acting Supervisor *RAW*  
Area 3 Planning Team

**RE:** Revised conditions for Item #10 on the May 31, 2012 Planning Board Agenda

**DATE:** May 24, 2012

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Attached, please find revised conditions for **Item #10 – Palatine, Lot 17, Block E, (12001042A)**, to be considered at the May 31, 2012, Planning Board hearing. This application is a limited amendment to a preliminary plan to address a violation within a forest conservation easement. The applicant proposes to remove the area of the easement in which the violation has occurred and to replace the easement on-site at a 2:1 ratio.

The Planning Board has already received the Staff Report for this item. All three conditions contained in that report are being modified to some degree to accurately reflect the recommended changes to the forest conservation plan. Staff regrets that these revisions were not addressed in the original Staff Report.

This memorandum has been placed on the Department's website and the Draft Resolution to be considered with this preliminary plan amendment is consistent with these revised conditions.

Attachment

**Revised Conditions of Approval – Palatine 12001042A**

STAFF RECOMMENDATION: Approval of the limited amendment to the preliminary plan and associated forest conservation plan, subject to the following conditions:

1. The Applicant must submit a complete record plat application within three (3) months of the mailing of the Planning Board Resolution approving the limited amendment to the preliminary plan. The record plat must show a Category I conservation easement over the existing easement area reduced by the 3,080 square foot area recommended for release and increased by the 6,144 square foot area recommended for replacement. The existing easement remains in full force and effect until the new record plat is recorded.
- ~~2. Prior to Planning Board approval of the record plat, the Applicant must receive staff approval of the certificate of compliance for an offsite forest conservation mitigation bank.~~
2. The Applicant must provide supplemental plantings within the entire forest conservation easement area as shown on the forest conservation plan, as revised, to improve the existing forest structure.
- ~~3. All other conditions of preliminary plan and forest conservation plan No. 120010420 that were not modified herein, as contained in the Planning Board's Resolution dated June 5, 2001 remain in full force and effect.~~
3. The Applicant must enter into a maintenance and management agreement approved by Staff and post the required surety to ensure compliance with the conditions of the final forest conservation plan.



**Preliminary Plan, 12001042A - Palatine, Lot 17 Block E, to Amend Forest Conservation Plan In Response to a Violation**

*JAP*

Joshua Penn, Senior Planner, [Joshua.Penn@montgomeryplanning.org](mailto:Joshua.Penn@montgomeryplanning.org), 301-495-4546

*RAW*

Rich Weaver, Planner Coordinator, [Richard.Weaver@montgomeryplanning.org](mailto:Richard.Weaver@montgomeryplanning.org), 301-495-4544

*JAC*

John Carter, Chief Area 3 Planning Team, [John.Carter@montgomeryplanning.org](mailto:John.Carter@montgomeryplanning.org), 301-495-4575

**Completed: 05/18/12**

**Description**

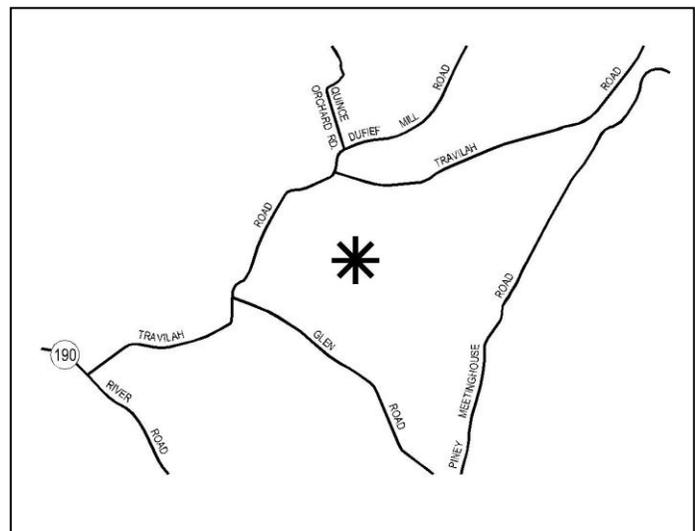
**Preliminary Plan 12001042A, Palatine, Lot 17 Block E (Limited Amendment)**

Request to remove a portion of an existing Forest Conservation Easement on one lot; located at 11809 Centurion Way, approximately 600 feet west of the intersection with Greenbriar Road, 2 acres; RE-2 zone; Potomac Subregion Master Plan.

*Staff Recommendation: Approval with Conditions*

Applicant: James Whang

Submission Date: December 16, 2011



**Summary**

- Applicant requests to remove 3,080 square feet of Stream Valley Buffer Category 1 conservation easement from the Property.
- Applicant proposes 6,144 square feet of new Category 1 conservation easement on site adjacent to the Stream Valley Buffer and offsite Category 1 conservation easements.
- The proposed mitigation results in an approximately 2:1 replacement ratio (16 square feet less than 2:1).
- The proposed mitigation is almost double the Planning Board’s minimum on site mitigation policy requirement.
- Supplemental plantings are proposed to enhance the forest structure throughout the entire easement area, existing and proposed.

**STAFF RECOMMENDATION:** Approval of the limited amendment to the preliminary plan and associated forest conservation plan, subject to the following conditions:

1. The Applicant must submit a complete record plat application within three months of the mailing of the Planning Board Resolution approving the limited amendment to the preliminary plan. The existing easement shall remain in full force and effect until the new record plat has been recorded.
2. Prior to Planning Board approval of the record plat, the Applicant must receive staff approval of the certificate of compliance for an offsite forest conservation mitigation bank.
3. All supplemental plantings must occur within one (1) year of the mailing date of this resolution.

**SITE DESCRIPTION**

The subject property is located at 11809 Centurion Way. It is approximately 600 feet west of the intersection with Greenbriar Road, Potomac MD, and is identified as Lot 17, Block E, Palatine Subdivision (“Subject Property” or “Property”). The Property is 2 acres in size and contains approximately 21,313 square feet of existing Category 1 Forest Conservation Easement encumbering about 25% of the lot. The Property slopes downhill from the west to the east to a stream, stream valley buffer (“SVB”) and floodplain located along its eastern edge, much of which is contained within the Category 1 Conservation Easement. The stream is a tributary of the Watts Branch, a Use I-P stream. The Countywide Stream Protection Strategy (CSPS) rates the tributaries of this portion of the Watts Branch watershed as fair overall condition.



Figure 1: 120010420 Palatine Subdivision with Easements



Figure 2: Lot 17, Block E Palatine "Subject Property"

**BACKGROUND**

The Montgomery County Planning Board originally approved preliminary plan #120010420, Palatine, on June 5, 2001. That approval was for two (2) lots on 4.21 acres of land in the RE-2 zone (Attachment A). The preliminary plan was subject to the forest conservation law (Chapter 22A of the County Code) and a forest conservation plan ("FCP") was required. The approved FCP showed 3.73 acres of forest on site and 1.33 acres of forest clearing (Attachment B). The area of forest save was above the break-even point in the forest conservation worksheet and therefore, no afforestation or reforestation was required.

James Whang, the ("Applicant"), was issued a Notice of Violation (NOV) by a M-NCPPC forest conservation inspector on September 01, 2011 and two Administrative Citations on September 14, 2011 (Citation #EPD 000023 & EPD 000024), (Attachment C and D). The NOV and the Citation were issued because the Applicant cleared and graded more than 5,000 square feet of forested land and constructed a concrete patio, wood stairs, a portion of an enclosed wooden porch, trenched pipes and electrical conduit within the Category I conservation easement.

**PROPOSAL**

On January 9, 2012, the Applicant submitted an application to amend the preliminary plan of subdivision and FCP #120010420 (Attachment E). The Applicant requested removal of 3,080 square feet of Category I conservation easement to better accommodate their rear yard and patio. The Applicant proposes to mitigate for the removal of the Category I conservation easement on site with the addition of 6,144 square feet of currently unprotected forest being placed into Category I conservation easement (Figure3). This is a mitigation ratio of almost 2:1 (Figure 4). Additionally, the Applicant proposes supplemental plantings within the entire easement to help improve the quality of the existing forest structure.

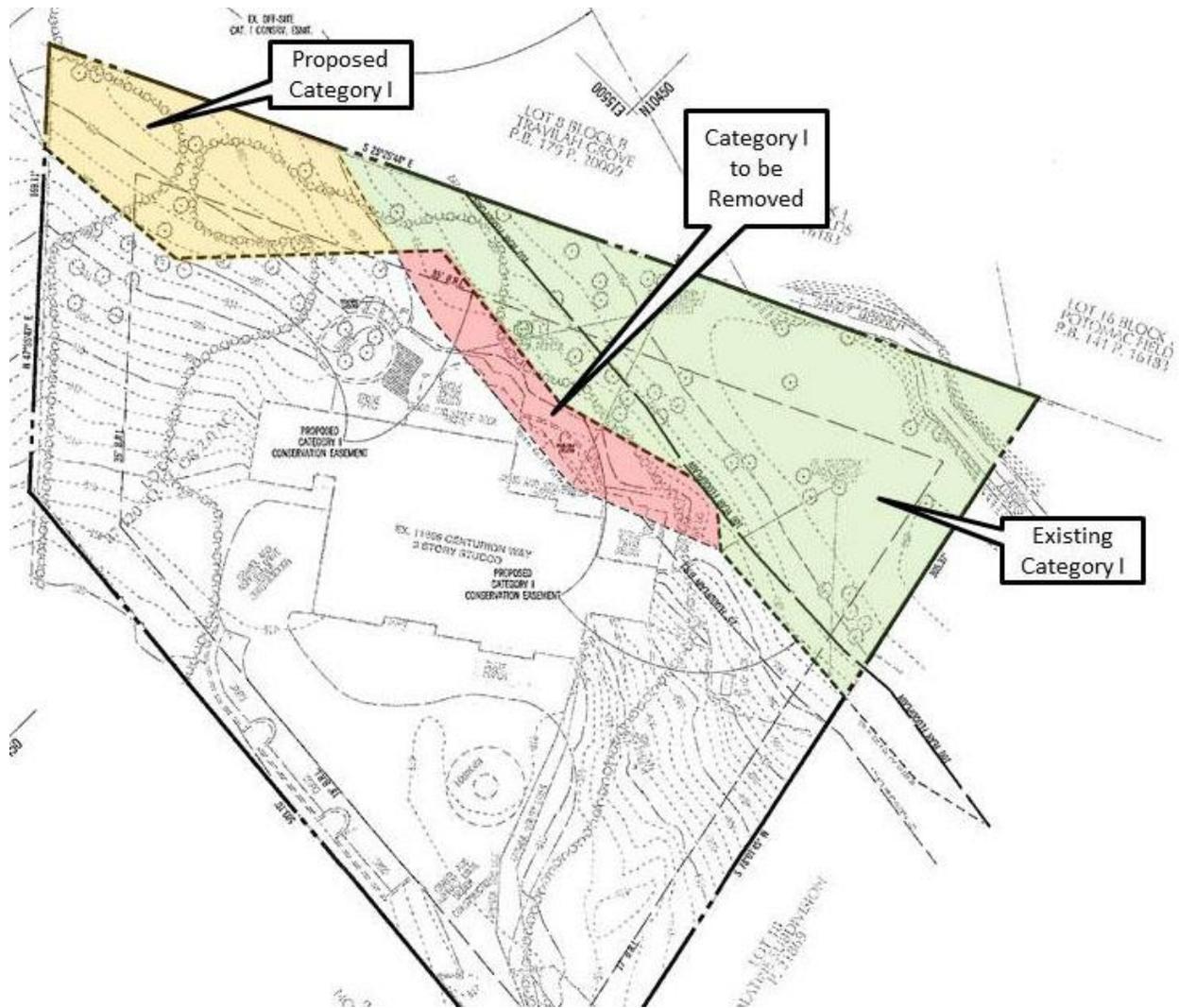
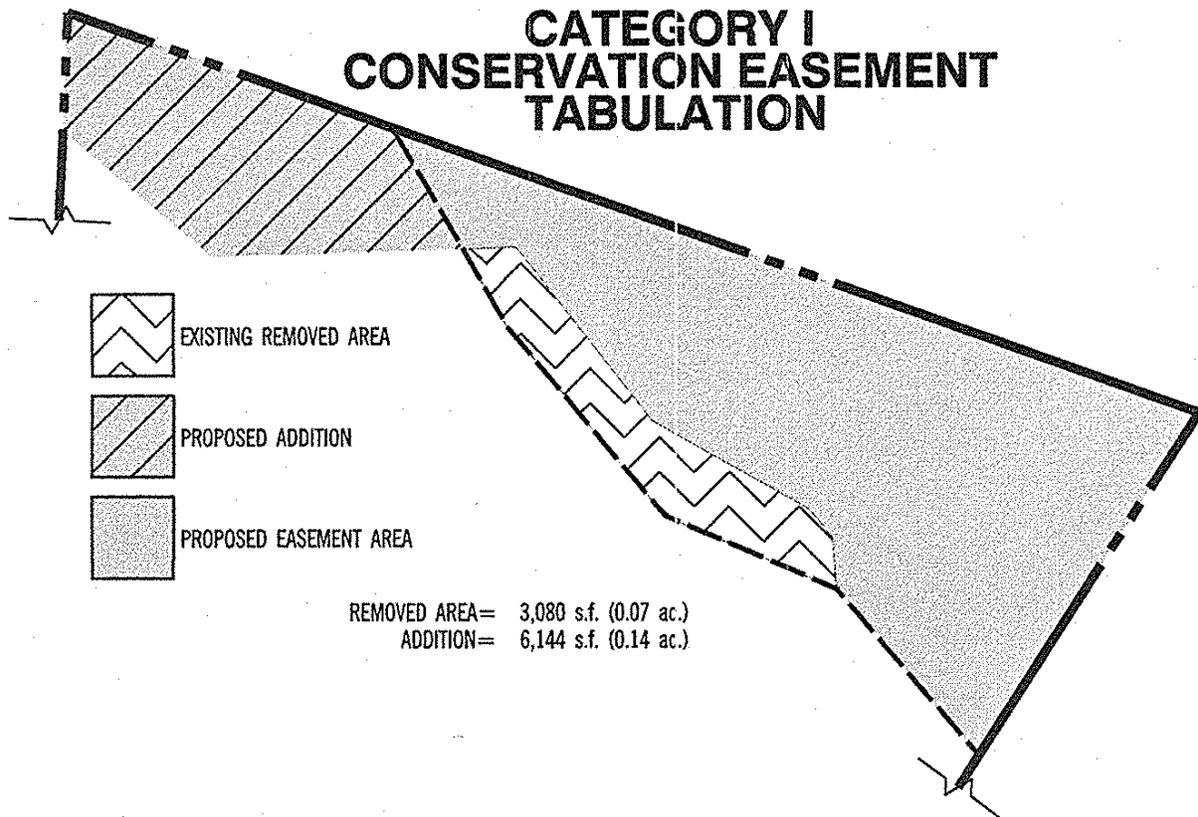


Figure 3: Applicants Proposal



**Figure 4: Proposed Easement Acreage**

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

The Forest Conservation Regulations require Planning Board action on certain types of modifications to an approved FCP. Section 22A.00.01.13.A 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 Board has stated in other cases that the removal of, or change to, a conservation easement warrants consideration in a public forum with a final decision from the Planning Board.

#### **REVIEW**

This application is in response to a violation. The Applicant has been working with staff to come to a mutually supportable resolution that meets the Planning Board's mitigation policy and the needs of the Homeowner. The house is located on the lot so that it is within six to seven feet of the easement line, which subsequently caused issues when the Applicant extended his outdoor living area to include decks and patios extending off the rear of the house. Due to these extensions off the rear of the house there are areas of encroachment into the SVB including a covered deck, patio and tree planters. These encroachments are not in compliance with the recorded Category I conservation easement language and would not be able to remain if the Category I conservation easement were to be retained.

The Planning Board policy for the removal of conservation easement, as determined in October of 2008, is a ratio of 2:1 if taken off site. However, if the easement can be rearranged onsite, the Board has found a ratio of 1:1 may be acceptable. On site mitigation is generally preferable because it provides in-kind and in-place compensation for what is being removed within the same watershed.

The Palatine preliminary plan, 120010420, created a Category 1 Forest Conservation Easement on the Subject Property and the adjacent property (Lot 18, Block E). The Category I conservation easement contains forest, SVB, and 100-year floodplain. The proposed amendment removes a portion of the Category I easement that is on the SVB, however, the removal does not impact any easement within 100-year Floodplain.

While reviewing a FCP or an FCP amendment certain findings need to be made to show conformance with Chapter 22A. In particular section 22A-12(b) the retention section requirements of a FCP. This section requires the FCP to retain specific areas<sup>1</sup> in an undisturbed condition unless the Planning Board or Planning Director, whichever is appropriate, makes three findings.

- (A) the development would make maximum use of any available planning and zoning options that would result in the greatest possible forest retention;

The Property is already developed with a single family residence under the RE-2 zone standards. Staff finds there are no planning and zoning options available to remedy the SVB encroachments other than the recommendations made in this report.

- (B) reasonable efforts have been made to protect the specific areas and vegetation listed in the plan; and

Staff finds that reasonable efforts have been made to protect the specific areas and vegetation listed in 22A-12(b)(2) that remain on site and that with the addition of the new on site easement area and the supplemental plantings will leave this portion of the Property in better condition than the undisturbed condition at the time of the original FCP.

- (C) the development proposal cannot be reasonably altered.

Staff finds that it would be unreasonable to remove all structures, patios, decks, etc. from the easement and to replant the area that has been cleared. The proposed mitigation area and supplemental plantings is a reasonable alternative because it provides similar environmental benefit to the area cleared.

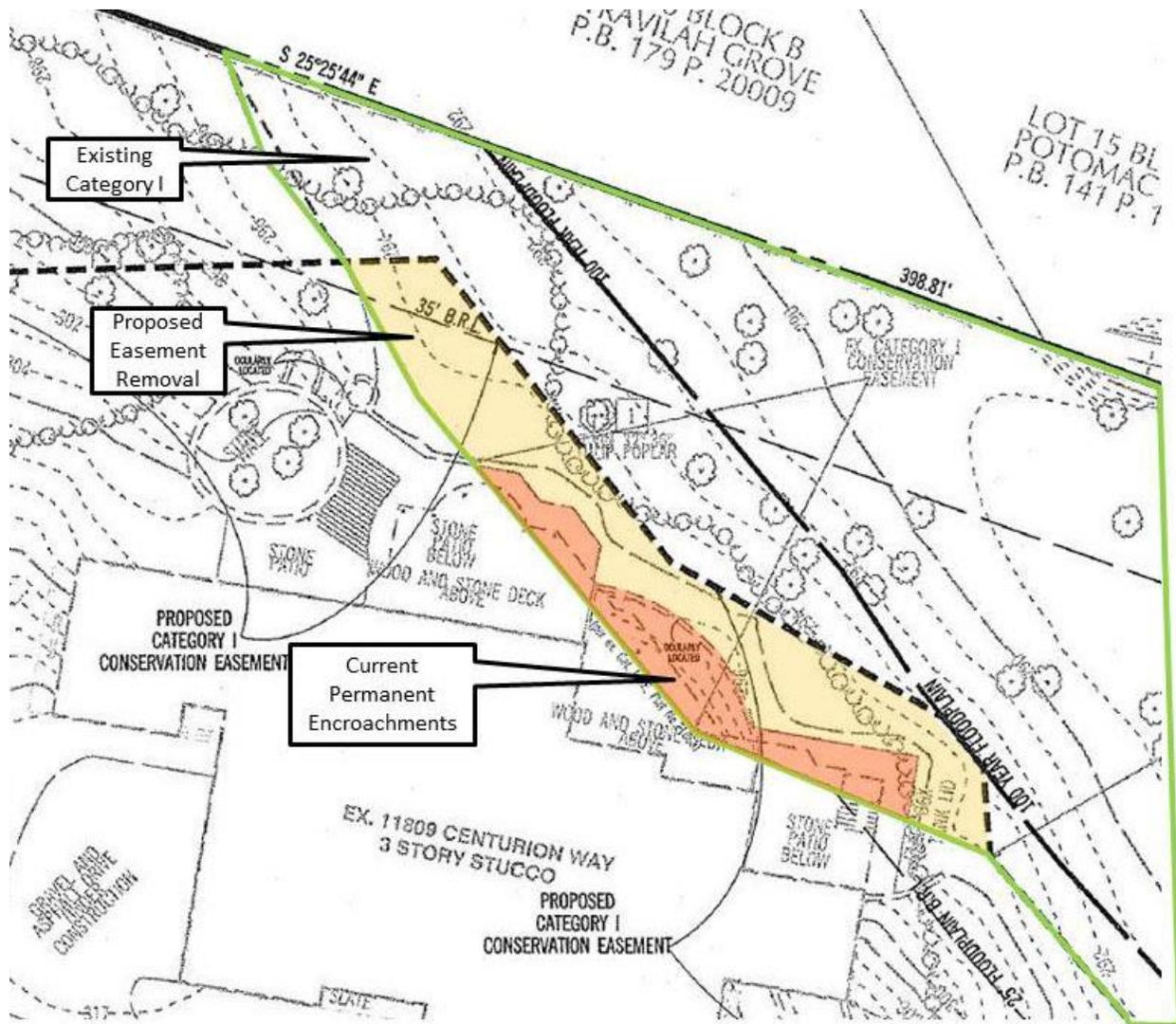
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<sup>1</sup> Chapter 22A-12(b)(2) In general, areas protected under this subsection include: (A) floodplains, stream buffers, steep slopes, and critical habitats; (B) contiguous forests; (C) rare, threatened, and endangered species; (D) trees connected to an historic site; (E) champion trees and other exceptionally large trees; and (F) areas designated as priority save areas in a master plan or functional plan.

Staff believes all necessary findings can be made and that with the proposed on site mitigation and the location of the new easement, the Applicant's proposal is appropriate.

The new easement boundary as shown on the amended FCP (Attachment 3) aligns with off site easements to the north and east on the adjacent lot to the north, (Lot 8, Travilah Grove Subdivision), creating a large contiguous area of Category I conservation easement. While the new easement area is not within the SVB, it will serve many of the same features and expand protection to adjacent areas.

Staff believes that the proposed mitigation to place 6,144 square feet of easement on site, which is almost a 2:1 ratio, along with supplemental plantings (throughout the entire on site easement), meets the Planning Board's mitigation policy and is appropriate in this instance. Further, Staff believes that exceeding the minimum 1:1 easement replacement mitigation ratio for on site easement replacement is appropriate in this case because the Applicant is requesting removal of SVB from the easement.



**Figure 5: Existing Permanent Encroachments and Proposed Easement Removal**

**NOTIFICATION and OUTREACH**

The Subject Property was properly signed with notification of the preliminary plan amendment on December 15, 2011 and prior to the January 9, 2012 submission of the application. 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, but any comments received hereafter will be forwarded to the Board.

**RECOMMENDATION**

Staff recommends the Planning Board approve this limited preliminary plan of subdivision to revise the forest conservation plan, subject to the previously specified conditions.

Attachments:

- A- Approved Preliminary Plan and Resolution
- B- Approved Forest Conservation Plan
- C- Notice of Violation
- D- Civil Administrative Citation
- E- Amended Forest Conservation Plan

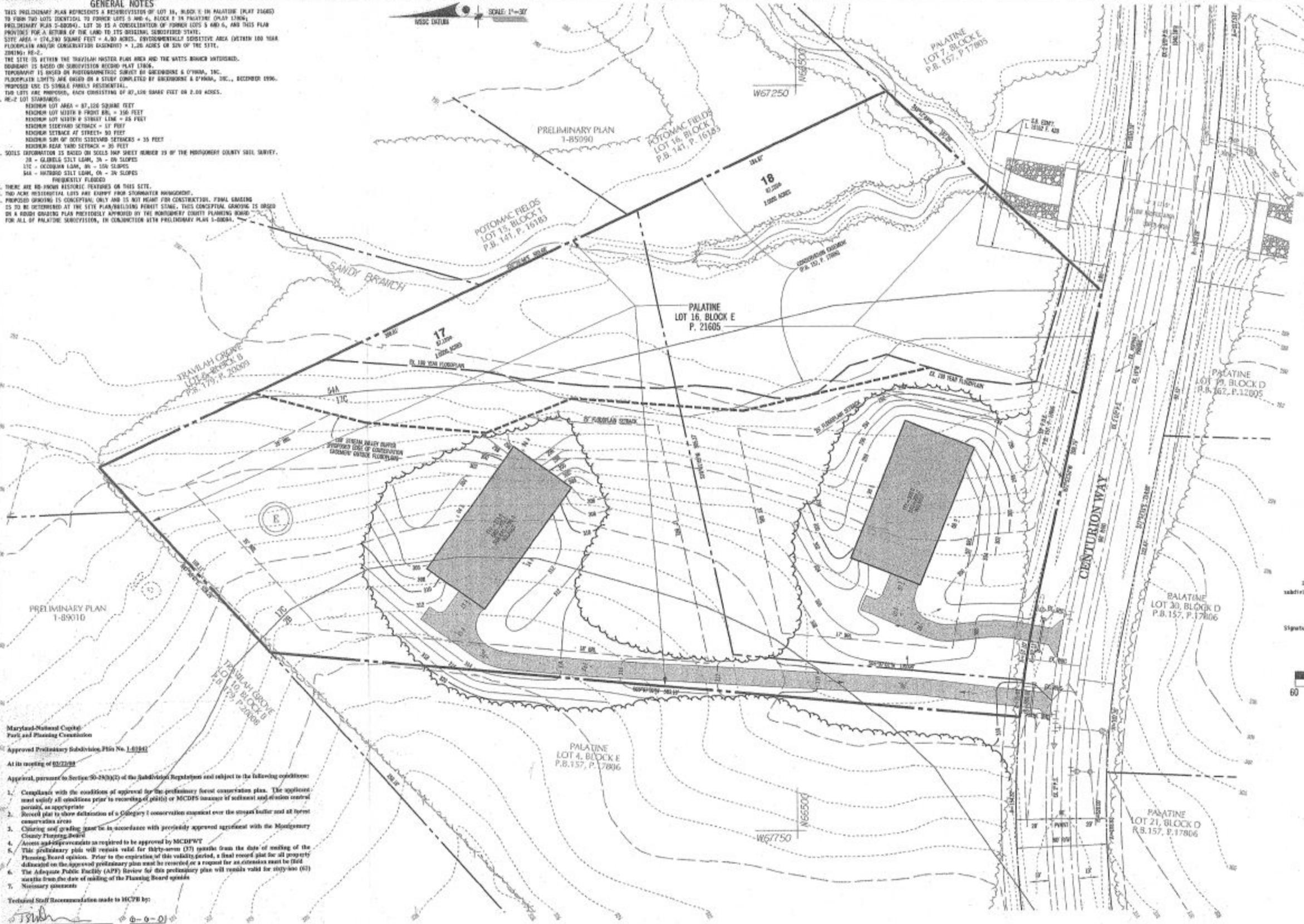
**GENERAL NOTES**

- THIS PRELIMINARY PLAN REPRESENTS A RESUBDIVISION OF LOT 16, BLOCK E IN PALATINE (LOT 21660) TO FOUR (4) LOTS IDENTICAL TO FORMER LOTS 5 AND 6, BLOCK E IN PALATINE (PLAN 17864) (PRELIMINARY PLAN 1-85094). LOT 16 IS A CONSOLIDATION OF FORMER LOTS 5 AND 6, AND THIS PLAN PROVIDES FOR A RETURN OF THE LAND TO ITS ORIGINAL SUBDIVISION STATE.
- SITE AREA = 674,240 SQUARE FEET = 4.80 ACRES. ENVIRONMENTALLY SENSITIVE AREA (WITHIN 100 FEET FLOODPLAIN AND/OR CONSERVATION EASEMENTS) = 1.26 ACRES OR 20% OF THE SITE.
- ZONING: R5-2.
- THE SITE IS WITHIN THE TRAVILAH MASTER PLAN AREA AND THE WATTS BRANCH WETLANDS.
- BOUNDARY IS BASED ON SURVEYOR RECORD PLAN 17864.
- TOPOGRAPHY IS BASED ON PHOTOGRAMMETRIC SUBJECT BY GREENHORNE & O'MARA, INC.
- FLOODPLAIN LIMITS ARE BASED ON A STUDY COMPLETED BY GREENHORNE & O'MARA, INC., DECEMBER 1996.
- PROPOSED USE IS SINGLE FAMILY RESIDENTIAL.
- THE LOTS ARE PROPOSED, EACH CONSISTING OF 87,106 SQUARE FEET OR 2.63 ACRES.
- RE-Z LOT STANDARDS:  
 REFORM LOT AREA = 87,106 SQUARE FEET  
 REFORM LOT WIDTH R FRONT RL = 150 FEET  
 REFORM LOT WIDTH R STREET LINE = 25 FEET  
 REFORM SIDEYARD SETBACK = 17 FEET  
 REFORM SETBACK AT STREET = 30 FEET  
 REFORM SIDE OF DRIVE SIDEYARD SETBACKS = 35 FEET  
 REFORM REAR YARD SETBACK = 30 FEET
- SOILS INFORMATION IS BASED ON SOILS MAP SHEET NUMBER 23 OF THE MONTGOMERY COUNTY SOIL SURVEY.  
 2B - GARDNER SILT LOAM, 2A - ON SLOPES  
 11C - OCCURRING LOAM, 8A - ON SLOPES  
 6A - INTERMEDIATE SILT LOAM, 8A - ON SLOPES
- THERE ARE NO KNOWN HISTORIC FEATURES ON THIS SITE.
- THE ACRAGE INDICATED LOTS ARE EXEMPT FROM STORMWATER MANAGEMENT.
- PROPOSED GRADING IS CONCEPTUAL ONLY AND IS NOT MEANT FOR CONSTRUCTION. FINAL GRADING IS TO BE DETERMINED AT THE SITE PLAN/PAVING PERMIT STAGE. THIS CONCEPTUAL GRADING IS BASED ON A ROAD GRADING PLAN PREVIOUSLY APPROVED BY THE MONTGOMERY COUNTY PLANNING BOARD FOR ALL OF PALATINE SUBDIVISION, IN CONNECTION WITH PRELIMINARY PLAN 1-85094.



**LEGEND**

- EXISTING 2' TOPOGRAPHY
- EXISTING STREAM
- EXISTING TREE LINES
- EXISTING 100 YEAR FLOODPLAIN
- STREAM VALLEY BUFFER
- WETLANDS AND 20' BUFFER
- SOILS
- STEEP SLOPES (>25%)
- PROPOSED TREE LINES
- PROPOSED HOUSE OR BUILDING
- PROPOSED SPOT ELEVATION
- PROPOSED CONTOURS
- EXISTING RIP-RAP
- EXISTING GUARD RAIL
- EXISTING FENCE
- SITE BOUNDARY
- LOT LINE
- PROPOSED DRIVEWAY



I hereby certify that this Preliminary Plan has been prepared in accordance with the subdivision regulations adopted October 17, 1990, and amendments thereto.

Signature: *Michael J. Schell*  
 Michael J. Schell, P.E. 20210  
 PROFESSIONAL ENGINEER  
 GRAPHIC SCALE  
 60 30 0 100

Maryland-National Capital  
 Park and Planning Commission  
 Approved Preliminary Subdivision Plan No. 1-61841  
 At its meeting of 02/27/08  
 Approval, pursuant to Section 90-240(b)(2) of the Subdivision Regulations and subject to the following conditions:  
 1. 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 subdivision and division control permits, as appropriate.  
 2. Revised plan to show delineation of a Category I conservation easement over the stream buffer and all forest conservation areas.  
 3. Clearing and grading must be in accordance with previously approved agreement with the Montgomery County Planning Board.  
 4. Access and improvements as required to be approved by MCDPWT.  
 5. This preliminary plan will remain valid for thirty-six (36) months from the date of meeting of the Planning Board. Prior to the expiration of this validity period, a final record plan for all property delineated on the approved preliminary plan must be recorded or a request for an extension must be filed.  
 6. The Adequate Public Facility (APF) review for this preliminary plan will remain valid for sixty-five (65) months from the date of meeting of the Planning Board.  
 7. Necessary amendments.  
 Technical Staff Recommendation made to MCVB by:  
 [Signature]  
 Development Review Division Date



OWNER:  
 DANIEL R. WILKINSON, SR.  
 2214 WOODFORD ROAD  
 VIENNA, VIRGINIA 22182

No.	REVISION	DATE	BY
1	ADD STREAM VALLEY BUFFER, REVISE LOT 17 GRADING	3/16/08	RCS

GENERAL CIVIL  
 TRANSPORTATION  
 ENVIRONMENTAL  
 GEOGRAPHIC SCIENCES  
**GREENHORNE & O'MARA, INC.** 20410 CENTURY BOULEVARD, SUITE 200, GERMANTOWN, MARYLAND 20874  
 PHONE: (301) 444-8282 FAX: (301) 444-8181  
 www.gand-o.com  
 FLORIDA • GEORGIA • MARYLAND • NORTH CAROLINA • PENNSYLVANIA • VIRGINIA • WEST VIRGINIA

PRELIMINARY PLAN  
**PALATINE**  
 EXISTING LOT 16, BLOCK E  
 PROPOSED LOTS 17 & 18, BLOCK E  
 9th ELECTION DISTRICT  
 MONTGOMERY COUNTY, MARYLAND

REV/DESIGN	SCALE	1" = 30'
MAYOR/DRAWN	1 OF 1	
CHECKED	SHEET	
DEC 2000	8178-000	R-3623-4
DATE	PROJ No.	FILE No.



**Action:** Approved Staff Recommendation  
**Motion** of Comm. Holmes, seconded by  
Comm. Bryant with a vote of 3-0;  
Comms. Bryant, Holmes, and  
Hussmann voting in favor  
Comms. Perdue and Wellington absent

## MONTGOMERY COUNTY PLANNING BOARD

### OPINION

Preliminary Plan 1-01042

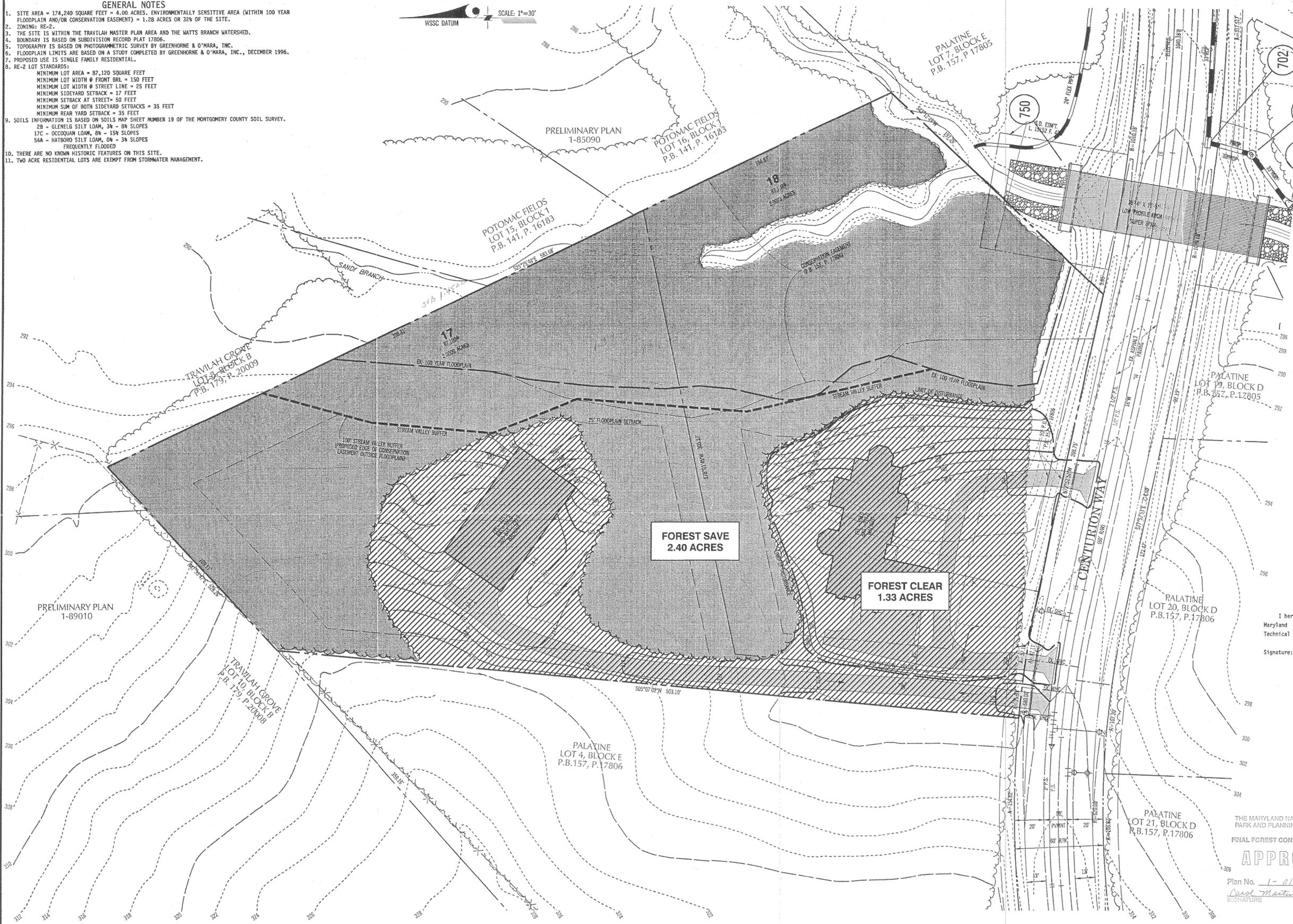
NAME OF PLAN: PALATINE (PROPOSED LOTS 17 & 18 BLOCK E)

On 01/17/01, DANIEL R. WILKINSON submitted an application for the approval of a preliminary plan of subdivision of property in the RE-2 zone. The application proposed to create 2 lots on 4.21 acres of land. The application was designated Preliminary Plan 1-01042. On 03/22/01, Preliminary Plan 1-01042 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form, attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-01042 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-01042.

Approval, pursuant to Section 50-29(b)(2) of the Subdivision Regulations and subject to the following conditions:

1. 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, as appropriate
2. Record plat to show delineation of a Category I conservation easement over the stream buffer and all forest conservation areas
3. Clearing and grading must be in accordance with previously approved agreement with the Montgomery County Planning Board
4. Access and improvements as required to be approved by MCDPWT
5. This preliminary plan will remain valid for thirty-seven (37) months from the date of mailing of the Planning Board opinion. Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded or a request for an extension must be filed
6. The Adequate Public Facility (APF) Review for this preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion
7. Necessary easements

- GENERAL NOTES**
1. SITE AREA = 174,240 SQUARE FEET = 4.00 ACRES. ENVIRONMENTALLY SENSITIVE AREA (WITHIN 100 YEAR FLOODPLAIN AND/OR CONSERVATION EASEMENT) = 1.28 ACRES OR 32% OF THE SITE.
  2. ZONING: RE-2.
  3. THE SITE IS WITHIN THE TRAVILAH MASTER PLAN AREA AND THE WATTS BRANCH WATERSHED.
  4. BOUNDARY IS BASED ON SUBDIVISION RECORD PLAT 17806.
  5. TOPOGRAPHY IS BASED ON PHOTOGRAMMETRIC SURVEY BY GREENHORNE & O'MARA, INC.
  6. FLOODPLAIN LIMITS ARE BASED ON A STUDY COMPLETED BY GREENHORNE & O'MARA, INC., DECEMBER 1995.
  7. PROPOSED USE IS SINGLE FAMILY RESIDENTIAL.
  8. RE-2 LOT STANDARDS:  
 MINIMUM LOT AREA = 87,120 SQUARE FEET  
 MINIMUM LOT WIDTH @ FRONT BRL = 150 FEET  
 MINIMUM LOT WIDTH @ STREET LINE = 25 FEET  
 MINIMUM SIDEYARD SETBACK = 17 FEET  
 MINIMUM SETBACK AT STREET = 50 FEET  
 MINIMUM SUM OF BOTH SIDEYARD SETBACKS = 35 FEET  
 MINIMUM REAR YARD SETBACK = 35 FEET
  9. SOILS INFORMATION IS BASED ON SOILS MAP SHEET NUMBER 19 OF THE MONTGOMERY COUNTY SOIL SURVEY.  
 2B - GLENELD SILT LOAM, 3% - 8% SLOPES  
 17C - OCCOQUAN LOAM, 8% - 15% SLOPES  
 54A - HATBORO SILT LOAM, 0% - 3% SLOPES  
 FREQUENTLY FLOODED
  10. THERE ARE NO KNOWN HISTORIC FEATURES ON THIS SITE.
  11. TWO ACRE RESIDENTIAL LOTS ARE EXEMPT FROM STORMWATER MANAGEMENT.



**FOREST CONSERVATION WORKSHEET**

NET TRACT AREA:

A. Total area of tract.....	4.00
B. Area within 100 year floodplain.....	1.45
C. Area of land to be used for agricultural.....	0.00
D. Area within ROW/ easement for which WSSC or MCDOT/ SHA will be responsible.....	0.00
E. Net tract area: A-B-C-D.....	2.55

F. LAND USE CATEGORY: (from table 3.2.1, page 40, Manual)

Input the number "1" under the appropriate land use zoning, and limit to only one entry.

ARA	MDR	IDA	HDR	MPD	CIA
0	1	0	0	0	0

G. Afforestation Threshold..... 20% x E = -0.51  
 H. Conservation Threshold..... 25% x E = -0.64

EXISTING FOREST COVER:

I. Existing forest cover.....	2.34
J. Forest cover above afforestation threshold: (I-G).....	3.73
K. Forest cover above conservation threshold: (I-H).....	3.09

BREAK EVEN POINT:

L. If K<0 and I>= G, break even point equals I:.....  
 (if I<G there is no break even point and afforestation planting is required. Refer to P below)  
 If K>0, break even point equals (Kx 20%) + H..... 1:26  
 M. Forest cover to be retained..... 2.28  
 N. Total area of forest to be cleared..... 1.45  
 (if M<N, reforestation planting is required. See Q-M below.)

AFFORESTATION REQUIREMENT

P. Afforestation requirement (G-I)..... 0.00

REFORESTATION REQUIREMENT

Q. Area of forest above conservation threshold to be cleared: (if K>N, use K; if K<N, use I)..... 1.45  
 R. Area of forest below conservation threshold to be cleared: (N-Q)..... 0.00  
 S. Forested area above conservation threshold to be saved: (M-H)..... 1.64  
 T. Planting required for clearing above threshold (Q x 1/4)..... 0.36  
 U. Planting required for clearing below threshold: (R x 2)..... 0.00  
 V. Credit for forest saved above conservation threshold equals S..... 1.64  
 W. Total reforestation requirement: (T + U - V)..... 0.00

TOTAL PLANTING REQUIREMENT:

X. Afforestation and reforestation: (P + W)..... 0.00  
 Y. Credit for trees and landscaping..... 0.00  
 Z. Total forest planting (X - Y)..... 0.00

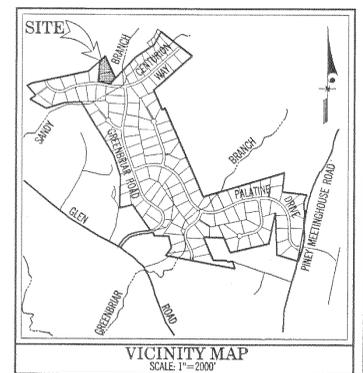
**LEGEND**

- FOREST SAVE
- FOREST CLEAR
- FOREST PLANT
- EXISTING 100 YEAR FLOODPLAIN
- STREAM VALLEY BUFFER

I hereby certify that this Forest Conservation Plan has been prepared in accordance with the Maryland Forest Conservation Act of 1991 and the Prince George's County Woodland Conservation Technical Manual, effective May 1990.

Signature: *Marwan F. Mustafa* (12-17-2001)  
 Marwan F. Mustafa, Qualified Professional MD FCA

**APPROVED NRI/FSD # 4-02167**



THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
**FINAL FOREST CONSERVATION PLAN**  
**APPROVAL**  
 Plan No. 1-01042  
 Signature: *Carol M. Martin* 12-24-01  
 DATE

OWNER/DEVELOPER:  
 LOT 18, BLOCK E  
 ATLANTIC HERITAGE BUILDERS,  
 P.O. BOX 7292  
 GAITHERSBURG, MD 20898

No.	REVISION	DATE	BY

**GREENHORNE & O'MARA, INC.** 20410 CENTURY BOULEVARD, SUITE 200, GERMANTOWN, MARYLAND 20874  
 PHONE: (301) 444-8262 FAX: (301) 444-8181  
 www.g-and-o.com  
 FLORIDA • GEORGIA • MARYLAND • NORTH CAROLINA • PENNSYLVANIA • VIRGINIA • WEST VIRGINIA

PRELIMINARY AND FINAL FOREST CONSERVATION  
**PALATINE**  
 EXISTING LOT 16, BLOCK E  
 PROPOSED LOTS 17 & 18, BLOCK E  
 6th ELECTION DISTRICT  
 MONTGOMERY COUNTY, MARYLAND

CSB/DESIGN	SCALE	1" = 30'
CSB/DRAWN	1 OF 1	
CHECKED	SHEET	
DATE	PROJ No.	FILE No.
DEC. 2000	8170-000	R-3684-X



# MONTGOMERY COUNTY PLANNING DEPARTMENT

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

8787 Georgia Avenue, Silver Spring, Maryland 20910

Environmental Planning Division 301.495.4540 Fax: 301.495.1303

www.MontgomeryPlanning.Org

## NOTICE OF VIOLATION

EDPNOV 0001

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

On, 09/01/2011 the recipient of this NOTICE, Lewis Friedman  
Date Recipient's Name

who represents the property owner, James Whang & Elena C Haibin Whang  
Property Owner's Name

is notified that a violation of the Montgomery County Forest Conservation Law (Chapter 22-A) exists at the following location: 11809 Centurian Way Potomac MD 20854

Plan No. 120010420 Explanation: Violation of Chapter 22A-4 (land disturbance and forest removal over 5,000 sq ft in size without an approved final forest conservation plan amendment)  
**VIOLATION:**

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

Failure to comply with this NOV by 09/08/11 may result in i) issuance of a citation, ii) issuance of a Stop Work Order, and/or iii) issuance of a Notice of Hearing to appear before the Planning Board for appropriate Administrative Action. Recipient is to call the inspector at 301-495-4564 when the corrective action is complete. The following corrective action(s) must be performed as directed and within any time frames specified below:

- Stake out limits of disturbance (LOD) and contact Forest Conservation Inspector for a pre-construction meeting:
- Install tree protection measures and/or tree care as directed by Forest Conservation Inspector.
- Submit required application for compliance with Chapter 22A of the County Code. Contact Environmental Planning at 301-45-4540.
- Cease all cutting, clearing, or grading and/or land disturbing activity. Approval from Forest Conservation Inspector is required to resume work. Stop work order posted on property
- Schedule a pre-planting meeting with the Forest Conservation Inspector prior to the reforestation of afforestation planting.
- Schedule and attend a meeting with staff to determine appropriate corrective action to be performed by a date certain. Failure to complete the corrective action by the date assigned may result in i) issuance of a citation, ii) issuance of a Stop Work Order, and/or iii) issuance of a Notice of Hearing to appear before the Planning Board for appropriate Administrative Action.

Other: meeting with property owner at property to explain violation to be held before 09/09/11 to issue citation and

MNCPPC Inspector Stephen Beck Signature Stephen Beck Date 09/01/2011  
Printed Name

RECEIVED BY: Lewis Friedman Signature [Signature] Date 9-1-11  
Printed Name

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

Name: James <sup>First</sup> S <sup>Middle</sup> Whang <sup>Last</sup>  
Company/Position: property owner  
Address: 11809 Centurion Way Potomac, MD 20854-6419  
Phone Number: 301-529-4401 Fax Number: \_\_\_\_\_ Email: whang1898@hotmail.com

**Location and Description of Violation:**  
Address/location of site: category 1 conservation easement on Lot 17 Block E Palatine, this location is at address 11809 Centurion Way

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 09/12/2011 (date) at the stated site/location did commit the following:  
Within a category 1 conservation easement erected structural improvements including ~~concrete~~ concrete platforms, metal I beams, wooden staircase, portions of an enclosed wooden porch, installed lighting, and trenched pipes

In violation of:  
 Montgomery County Code, Chapter 22A  
 Approval of Final Forest Conservation Plan No. 120010420  Other: \_\_\_\_\_

**Civil Fine and Compliance:**  
1. (a)  You shall pay a fine of \$ 1000.00 by 09/30/11 (date) and complete the remedial action listed below  
(b)  You shall pay a daily fine of \$ \_\_\_\_\_ if the original fine has not been paid, by \_\_\_\_\_ (date). The daily fine shall accrue (until the original fine is paid).  
2.  You shall pay a daily fine of \$ \_\_\_\_\_ until the remedial action listed below is completed. This fine shall be paid within 15 days of completion of all remedial action.

Checks should be made payable to M-NCPPC and shall be paid during normal business hours at the information Counter of M-NCPPC's Montgomery Regional Office located at 8787 Georgia Avenue, 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.  1) Remove all structural improvements from the category 1 conservation easement area, complete this removal without damaging existing trees. Restore the affected conservation easement area ~~by~~ to original grade and plant 12 inch caliper native trees along the category 1 conservation easement boundary  
by: 12/15/2011 (date)  
If remedial action is not completed by 12/15/2011 (date), you shall pay a daily fine of \$ \$25.00 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: [Signature] James S. Whang Date: Sept. 14, 2011

**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: [Signature] Stephen Peck Date: 09/14/2011  
Print Name: Stephen Peck Phone Number: 301-495-4564

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

Citation No. EPD 000023

REPLACES Citation No. 00002

Name: James S Whang  
First Middle Last  
Company/Position: Property owner  
Address: 11809 Centurion Way Potomac MD 20854-6419  
Phone Number: 301-529-4401 Fax Number: \_\_\_\_\_ Email: whang1898@hotmail.com

**Location and Description of Violation:**  
Address/location of site: 11809 Centurion Way, Lot 17 Block E Palatine

Pursuant to the M-NCPPC's authority under Chapter 22A of the Montgomery County Code, it is formally charged that the above named defendant on 09/01/2011 (date) at the stated site location did commit the following:  
Without prior forest conservation law approval cut cleared and graded more than 5,000 square feet of land and forest. The area cut cleared and graded included forest, portions of a category I conservation easement and forested stream buffer

In violation of:  
 Montgomery County Code, Chapter 22A  
 Approval of Final forest Conservation Plan No. 120010420  Other: \_\_\_\_\_

**Civil Fine and Compliance:**  
1. (a)  You shall pay a fine of \$ 1000.00 by 09/30/11 (date) and complete the remedial action listed below  
(b)  You shall pay a daily fine of \$ \_\_\_\_\_ if the original fine has not been paid, by \_\_\_\_\_ (date). The daily fine shall accrue (until the original fine is paid.  
2.  You shall pay a daily fine of \$ \_\_\_\_\_ until the remedial action listed below is completed. This fine shall be paid within 15 days of completion of all remedial action.

Checks should be made payable to M-NCPPC and shall be paid during normal business hours at the information Counter of M-NCPPC's Montgomery Regional Office located at 8787 Georgia Avenue, 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.) Pursuant to stop worker posted on property - stop all land disturbing construction activity. No earth moving or tree cutting is to occur without prior written approval from MNCPPC  
2) Submit to MNCPPC a revised final forest conservation plan that shows all tree, forest and land clearing and construction activity. Secure approval of this plan and implement this plan after approval.  
3. Submit (date) this final forest conservation plan by 12/15/2011  
If remedial action is not completed by \_\_\_\_\_ (date), you shall pay a daily fine of \$ \_\_\_\_\_ 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: James S. Whang Date: Spt. 14 2011

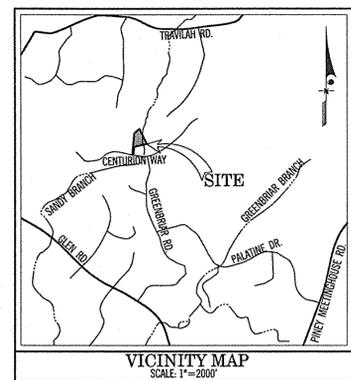
**Affirmation:**  
I solemnly affirm under the penalties of perjury, and upon personal knowledge or based on the affidavit, that the contents of this citation are true to the best of my knowledge, information and belief and that I am competent to testify on these matters.  
Inspector's Signature: Stephen Peck Date: 09/14/2011  
Print Name: Stephen Peck Phone Number: 301-495-4564

**PLANTING NOTES**

- Plant Identification**  
All plants shall be properly marked for identification. All ID tags are to remain until accepted by the Landscape Architect/Arboretist.
- List of Plant Material**  
The Contractor will verify the plant quantities prior to bidding and any discrepancies shall be brought to the attention of the Landscape Architect/Arboretist. The Contractor shall furnish and plant all plants required to complete the work shown on the drawings. Substitution shall not be made without the written approval of the Landscape Architect/Arboretist. This Contract will be based on the bidder having verified prior to bidding, the availability of the required plant material as specified on the Plant Materials List.
- Plant Quality**  
All shrubs shall be dense, heavy to the ground, and well grown, and shall be sound, free of plant disease or insect eggs and shall have a healthy normal root system. Plants shall be freshly dug and not heeled-in stock from cold storage. All plants shall be nursery grown (except as noted below). Plants shall not be pruned prior to delivery. The shape of the plant shall in general conform to its natural growth proportions unless otherwise specified. Trees shall conform to the branching, caliber, and height specification of the American Nursery and Landscape Association, and shall have a well-shaped, heavy branch structure for the species. Evergreen trees are to have an internode no greater than 18" and shall be uniformly well shaped. All plant sizes shall average at least the middle of the range given in the plant list.
- Soil Mix**  
Solid mix will be 2/3 existing soil, 1/3 leafmold or equal organic material, thoroughly mix and homogenized.
- Excavation**  
Holes for all plants shall be 2 times larger in diameter than size of ball or container and shall have sloped sides. Hedges shall be planted in a trench 12" wider; beds for mass planting shall be entirely rototilled to a depth of 8" and shall be 18" beyond the average outside edge of plant balls.
- Planting**  
Backfilling shall be done with soil mix, reasonably free of stones, subsoil, clay lumps, stumps, roots, weeds, Bermuda grass, litter, toxic substances, or any other material which may be harmful to plant growth, or hinder grading, planting, or maintenance operations. Should any unforeseen or unsuitable planting conditions arise, such as faulty soil drainage or chemical residues, they should be called to the attention of the Landscape Architect and Owner for adjustment before planting. The plant shall be set plumb and straight, and shall be staked at the time of planting. Backfill shall be well worked about the roots and settled by watering. Plants will be planted higher than surrounding grade. Shrubs will be 1" higher and trees will be 3" higher.
- Maintenance**  
The Contractor shall be responsible during the contract and up to the time of acceptance, for keeping the planting and work incidental thereto in good conditions, by replanting, plant replacement, watering, weeding, cultivating, pruning and spraying, restocking and cleaning up and by performing all other necessary operations of care for promotion of good plant growth so that all work is in satisfactory condition at time of acceptance, at no additional cost to the Owner. The contractor will be responsible for the removal of tree guying prior to release from the guarantee period. See sheet 2 for additional maintenance and management terms.
- Fertilizer**  
Fertilizer shall be a slow release type contained in polyethylene perforated bags with micropore holes for controlled feeding such as Easy Grow as manufactured by Specialty Fertilizer Inc., Box 355, Suffern, New York, 10901 or approved equal. The bags shall contain 1 ounce of soluble fertilizer analysis 16-18-18 per units to last for three years and shall be applied during planting as recommended by the manufacturer. If fertilizer packets are not used the Contractor shall apply granular fertilizer to the soil mix with 10-6-4 analysis at the following rates: Tree Pits, 2-3 lbs. per caliper inch; Shrub Beds, 3-5 lbs. per 100 square foot; Ground Cover, 2-3 lbs. Per 100 square foot.
- Guarantee and Replacement**  
All materials shall be unconditionally guaranteed for one year and for the additional time necessary to comply with the survival standards determined by MNCPPC and noted in the maintenance and management agreement (See sheet 2). The Contractor is not responsible for losses or damages caused by mechanical injury or vandalism.  
Guarantee shall cover both labor and materials. Earth saucers and stakes and guys shall be removed and trees and shrubs mulched to 3" maximum depth with shredded bark just prior to expiration of the one-year guarantee. The owner shall be notified in writing when this work is to occur.
- Plant Spacing**  
Plant spacing is generally to scale on plan. No plants except viney ground covers or espaliered material shall be closer than 30" to buildings, walks or curbs.
- Schedule and Approvals**  
The landscape contractor shall submit a written schedule of operations and written requests for approvals in accordance with specifications, the contract documents or which these are a part or as otherwise agreed upon with the owner.

**DATA TABLE**

4.1	Acres of tract	2.00
4.2	Acres of tract remaining in agricultural use	0.00
4.3	Acres of road and utility ROWs which will not be improved as part of the development application	0.00
4.4	Acres of total existing forest	0.99
4.5	Acres of forest retention	0.99
4.6	Acres of total forest cleared	0.00
4.7	Land use category and conservation/afforestation thresholds from Section 22A-12(1) of the Forest Conservation Law (Medium Density Residential, 25% conservation/ 20% afforestation)	
4.8.a	Acres of forest retained within wetlands	0.00
4.8.b	Acres of forest cleared within wetlands	0.00
4.8.c	Acres of forest planted within wetlands	0.00
4.9.a	Acres of forest retained within 100-year floodplain	0.32
4.9.b	Acres of forest cleared within 100-year floodplain	0.00
4.9.c	Acres of forest planted within 100-year floodplain	0.00
4.10.a	Acres of forest retained within stream buffers	0.41
4.10.b	Acres of forest cleared within stream buffers	0.00
4.10.c	Acres of forest planted within stream buffers	0.00
4.11.a	Acres of forest retained within priority areas	0.49
4.11.b	Acres of forest cleared within priority areas	0.00
4.11.c	Acres of forest planted within priority areas	0.00
4.12	Linear feet and average width of stream buffer provided on each side of streams (292 Linear feet, 125' ave. width)	



**LEGEND**

- EXISTING 1' TOPOGRAPHY
- EXISTING STREAM
- EXISTING TREE LINE (ocularly located)
- EXISTING 100 YEAR FLOODPLAIN
- EX. CAT. I CONSRV. ESMT.
- PROP. CAT I CONSRV. ESMT.
- EX. SPECIMEN TREE
- EXISTING TREE
- PROPOSED TREE OR SHRUB

**GENERAL NOTES**

- The purpose of this plan is to amend the Forest Conservation Plan to show the new configuration of the Category I Conservation Easement and additional plantings located onsite.
- No construction or further disturbed area is proposed per this FFCP amendment.
- Site Area= 87,120 s.f. (2.0 ac.)
- Boundary information shown from survey done by Snider & Associates in Nov. 2011
- Topography is shown at 1' contour intervals. This information was obtained from Snider & Associates in Nov. 2011
- Existing features shown onsite were obtained from the survey done by Snider & Associates. Some elements not shown on the survey were supplemented and are noted as such on the plan.
- The trees and tree line shown were determined via ocular location during a site visit on 12/08/11.
- This site is located in the Watts Branch Watershed (Use I-P Water).
- Zoning: RE-2

**INSPECTION SCHEDULE**

All field inspections must be requested by the applicant. Inspections must be conducted as follows:

- Before the start of any required reforestation and afforestation planting
- After the required reforestation and afforestation planting has been completed to verify that the planting is acceptable and prior to the start the maintenance period.
- At the end of the maintenance period to determine the level of compliance with the provisions of the planting plan, and if appropriate, release of the performance bond.

**SIGNIFICANT TREES: ≥24" (DBH)** Shown thus:

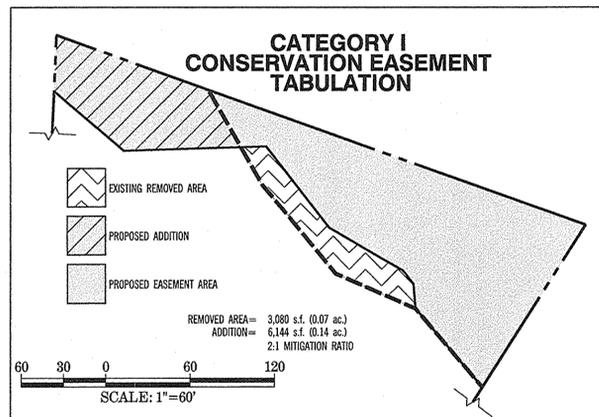
ID	COMMON NAME	SCIENTIFIC NAME	SIZE (DBH)	CONDITION
*1.	TULIP POPLAR	Liriodendron tulipifera	Twin 32", 36"	GOOD

\*Meets Specimen criteria for DBH, from "MNCPPC Trees Technical Manual"

**SUPPLEMENTAL PLANT LIST**

KEY	QTY	BOTANICAL NAME/COMMON NAME	SIZE	METHOD	SPACING*
<b>Deciduous Trees</b>					
NS	04	Nyssa sylvatica/ BLACK GUM	1.5"-2.0" Cal.	B&B	AS SHOWN
AR	05	Acer rubrum/ RED MAPLE	1.5"-2.0" Cal.	B&B	AS SHOWN
LT	04	Liriodendron tulipifera/ TULIP POPLAR	1.5"-2.0" Cal.	B&B	AS SHOWN
PO	02	Platanus occidentalis/ SYCAMORE	1.5"-2.0" Cal.	B&B	AS SHOWN
LS	03	Liquidambar styraciflua/ SHEETGUM	1.5"-2.0" Cal.	B&B	AS SHOWN
CF	04	Cornus florida/ FLOWERING DOGWOOD	1.5"-2.0" Cal.	B&B	AS SHOWN
	22				
<b>Shrubs</b>					
LB	19	Lindera benzoin/ SPICEBUSH	5 gal.	B&B/Cont.	AS SHOWN
VP	15	Viburnum prunifolium/ BLACKHAM VIBURNUM	5 gal.	B&B/Cont.	AS SHOWN
AC	15	Amelanchier canadensis/ SERVICEBERRY	5 gal.	B&B/Cont.	AS SHOWN
	49				

\*Proposed planting locations designated by available space determined via site visit.  
-See Planting and Deer protection details. (Sheet 2 of 2)



PREPARED FOR:  
James Whang  
11809 Centurion Way  
Potomac, MD 20854  
whang1898@hotmail.com  
301-529-4401

No.	REVISION	DATE	BY



**GREENHORNE & O'MARA**  
CONSULTING ENGINEERS  
20410 CENTURY BOULEVARD, SUITE 200, CERMANTOWN, MARYLAND 20874  
PHONE: (301) 444-8282 FAX: (301) 444-8181  
www.g-and-o.com  
FLORIDA • GEORGIA • MARYLAND • NORTH CAROLINA • PENNSYLVANIA • VIRGINIA • WEST VIRGINIA

**FINAL FOREST CONSERVATION PLAN AMENDMENT**

**PALATINE**  
LOT '17', BLOCK 'E'

06th ELECTION DISTRICT  
MONTGOMERY COUNTY, MARYLAND

BEFORE BEGINNING CONSTRUCTION CONTACT  
**"MISS UTILITY"**  
AT  
**1-800-257-7777**  
AT LEAST 48 HOURS PRIOR TO EXCAVATION

DK	DESIGN	SCALE	1" = 30'
DK	DRAWN		
			1 OF 2
CHECKED	SHEET		
DATE	PROJ No.		FILE No.
DEC. 2011	072213		072213