

**Preliminary Plan Amendment No. 11994094B: Ketcham's Subdivision Srour Falls**

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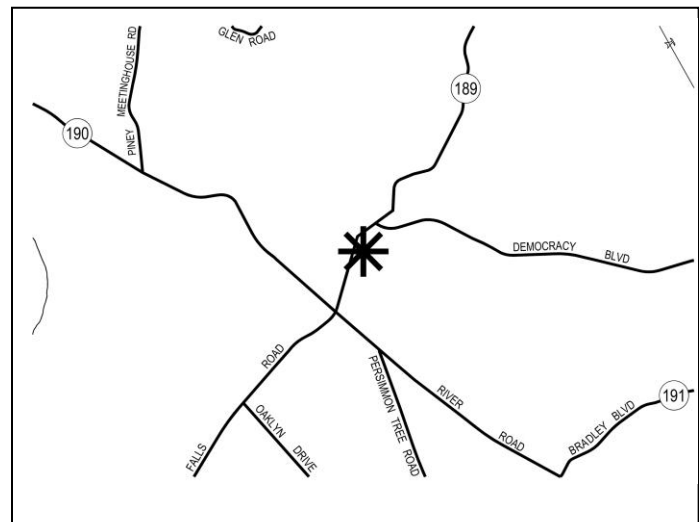
**Completed: 1/25/13**

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**Description**

**Preliminary Plan Limited Amendment No. 11994094B:** Ketcham's Subdivision Srour Falls  
Remove a portion of the Category I easement along the rear of property on Woodford Road (MD-189), 0.46 acres, R-200 Zone, Potomac Master Plan.

**Staff Recommendation:** Approve with conditions  
**Applicant:** Kosmas Lois and Tiffany Koons  
**Submittal Date:** September 4, 2012  
**Review Basis:** Chapter 22A



**Summary**

- Pursuant to a previous amendment to the forest conservation plan for this Property, a portion of the forest conservation worksheet requirements (afforestation/reforestation) was transferred from on-site and taken offsite, however; the Category I easement was not removed from the record plat or otherwise extinguished and it remains over area of stream buffer and floodplain.
- This Application proposes to remove 1,937 square feet of Category I conservation easement within a stream valley buffer.

**STAFF RECOMMENDATION:** Approval of the Limited Amendment to the Preliminary Plan and associated Final 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. The record plat must reference the standard Category I (liber 13178 folio 412) conservation easement as recorded in the Land Records for Montgomery County, Maryland for the remaining Category I easement on the Property.
2. Prior to Planning Board approval of the record plat, the Applicant must submit a Certificate of Compliance to use an offsite forest mitigation bank. The Certificate of Compliance must provide mitigation credits for onsite conservation easement removal of 3,874 square feet (0.09 acre) at a rate of 2:1 ratio.
3. The Applicant must delineate the revised Category I easement boundary with permanent easement markers and appropriate signage within three (3) months of the mailing date of the Planning Board Resolution.
4. All other conditions of Preliminary Plan No. 119940940 and Forest Conservation Plan No. 119940940 that were not modified herein, as contained in the Planning Board's Resolution dated June 19, 1995, remain in full force and effect.

#### **DISCUSSION**

The Montgomery County Planning Board originally approved Preliminary Plan No. 119940940, "Ketcham's Subdivision Srour Falls", on June 15, 1995 for four (4) lots on 1.94-acres of land in the R-200 zone. 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 FCP approved with that preliminary plan, the entire four lot subdivision, showed no existing forest on the 1.94 acre property and generated a 0.28 acre afforestation requirement which was to be met on-site and included an easement on a portion of Lot 8, Block A, which is the Applicant's property.

In 1998, the previous property owner of Lot 8, Block A was given a civil citation of \$1,000 for clearing in the Category I conservation easement and was required to mitigate the area of forest removed. The mitigation was met off-site in a forest conservation bank, but the portion of the easement in which the violation occurred was intentionally left in place to protect the floodplain and stream buffers in that area. Lot 8 was subsequently sold, and at that time there was an unforested area within the conservation easement due to the clearing by the previous owner.

#### **SITE DESCRIPTION**

The subject property is located on the south side of Woodford Road, approximately 400 feet southeast of the intersection with Falls Road (MD-189) in Potomac and is identified as Lot 8, Block A, Ketcham's Subdivision Srour Falls ("Subject Property" or "Property"). The Property is 20,083 square feet in size and developed with a one family residence. The Property contains 8,435 square feet of Category I conservation easement which comprises 42% of the total lot area. The easement is essentially divided into two separate easements areas by a WSSC right-of-way. The Property gently slopes from the northwest downhill to the southeast where there is an intermittent stream and an associated 100 year

floodplain. The Property is located within the Rock Run watershed, which has a Use I designation. The Countywide Stream Protection Strategy (CSPS) rates the water quality of this watershed as poor.

**PROPOSAL**

On September 4, 2012, the application to amend the easement on the Subject Property was submitted and designated Preliminary Plan No. 11994094B ("Application"). The Application requests removing 1,937 square feet of unforested Category I conservation easement where the previous owner had illegally removed forest and where the Applicant maintains turf grass. To mitigate for the 1,937 square feet of easement area removal, the Applicant proposes to purchase credits in an offsite forest conservation bank. The remaining 6,498 square feet of easement will remain on the Property.

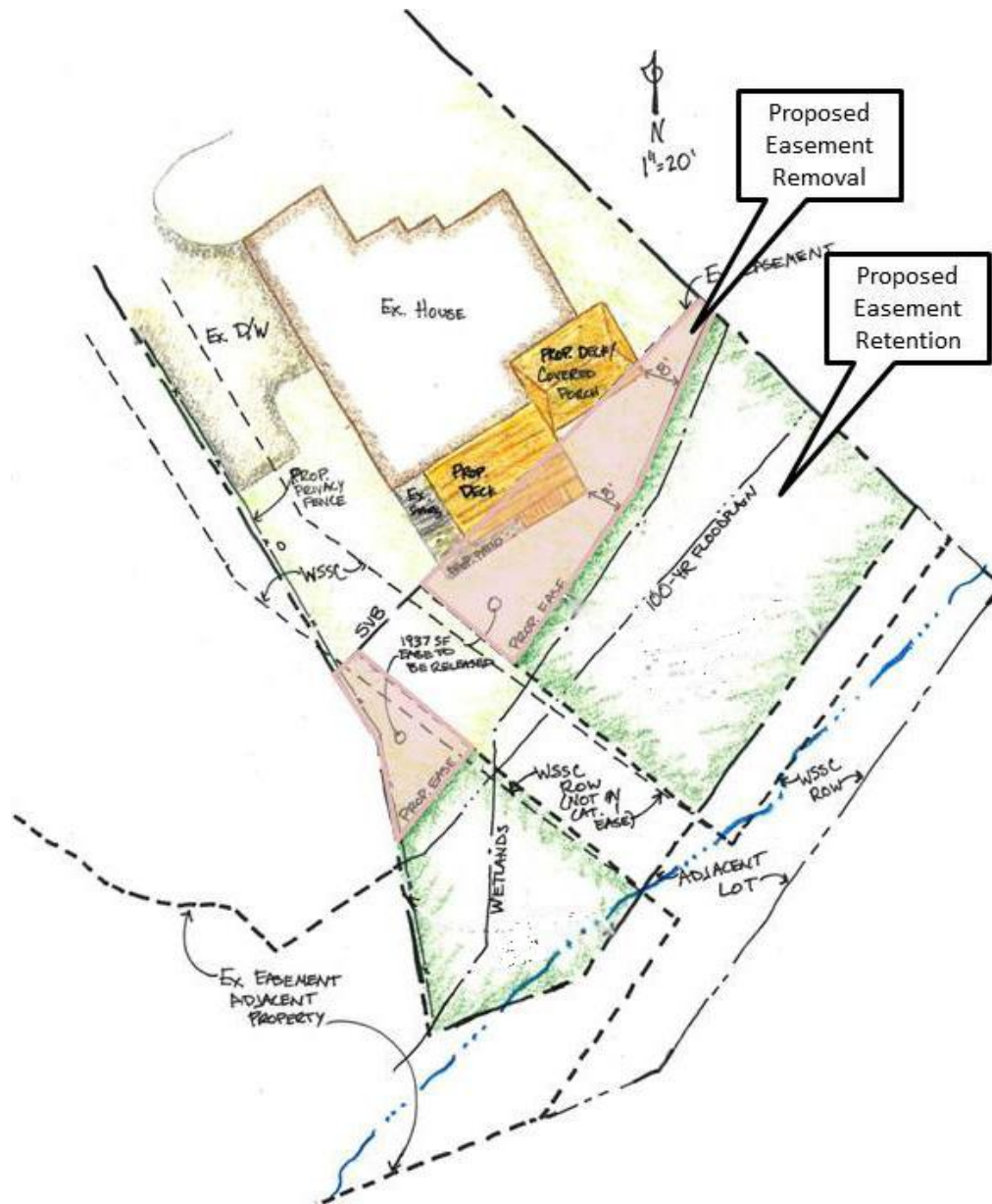


Figure 1: Rendering of Proposed Plan



**Figure 2: Aerial View of Proposed Plan**

**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(1) of the Forest Conservation Regulation states:

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

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

## **REVIEW and ANALYSIS**

The Application is a proactive request, to remove a portion of the easement, and it is not in response to violation. The revision to the easement will provide the Applicant with additional usable rear yard space. The Applicant has been working with Staff to come to a mutually supportable mitigation package that meets the statutory requirements of the Planning Board and the needs of the Homeowner.

As proposed by the Applicant, the mitigation for the easement removal is to replace the easement offsite at a 2:1 ratio. This mitigation proffer has been reviewed by Staff and it mitigates only for the conservation easement removal and does not mitigate for the loss of forest. This situation is somewhat unique in that the Applicant is only required to mitigate for the removal of the easement since the previous lot owner already provided the offsite mitigation for the illegal removal of forest.

Onsite mitigation is generally preferable to offsite mitigation because it provides in-kind and in-place benefits for what is being removed and the Planning Board has found it acceptable to mitigate onsite at a 1:1 ratio. However, Staff could find no acceptable area onsite to mitigate for the easement removal and recommends that all mitigation be taken offsite. The Planning Board practice for the removal of conservation easement, as determined in November of 2008, is a ratio of 2:1 if taken off-site. The area of easement to be removed is within the stream valley buffer but it is currently not forested and severely constrains the usable area of the rear yard. The new proposed alignment of the conservation easement would align well with the revised easement on Lot 9, which the Planning Board approved on June 2, 2011. The 100 year floodplain that is associated with the intermittent stream will continue to be within the new easement and off limits to disturbance or structures.

Staff supports the revision to the Category I easement so that the Applicant may have additional area within the rear yard for outdoor play or to provide area for a modest addition to the home. The Staff recommendation was influenced in part, by the Planning Board's action on the adjacent Lot 9 which also revised the same easement to allow additional opportunities for use of that rear yard. In addition, the new easement line recommended by Staff for approval provides a seamless continuation of the easement approved for the adjacent Lot 9 as it continues on to the Subject Property.

The Application satisfactorily meets the Planning Board's mitigation practice of 2:1 offsite and complies with Chapter 22A, the Montgomery County Forest Conservation Law.

## **NOTIFICATION and OUTREACH**

The Subject Property was signed with notification of the upcoming preliminary plan amendment prior to the September 4, 2012 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 received no inquiries. Any comments received hereafter will be forwarded to the Board.

## **RECOMMENDATION**

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

**General Notes**

1. This plan is a limited amendment to Preliminary Plan 119940940, approved by the Planning Board on June 15, 1995 (resolution mailed June 19, 1995). Lot 8, Block A, is the subject of this amendment.
2. Wetlands, Waters of the US, and 100-year floodplain limits as shown on this plan are based on delineations by VIKa in conjunction with Preliminary Plan 119940940.
3. The limits of the 100-year floodplain shown hereon are based on the delineation from an approved floodplain study by VIKa, Inc. dates 8/14/96.
4. The stream valley buffer shown hereon is based on the delineation as shown on Plat No. 20351.
5. The source of boundary information shown hereon is based on a boundary survey prepared by Rodgers Consulting, Inc. in July 2012.
6. No rare, threatened, or endangered species were observed on the property.
7. The area of the lot subject to this amendment is 20,083 sf or 0.46 acres.
8. This plan is for the purpose of revising Category I conservation easements on the property only. No forest conservation law requirements exist for the property.
9. Forest Conservation Law requirements were met through off-site banking as part of Rural Legacy Conservation easement L.19213 F.521.
10. This limited amendment to Preliminary Plan 119940940 is limited to the release of part of the Category I Conservation Easement as shown hereon. The information presented on this plan has been deemed by the Montgomery County Planning Department and Planning Board to be sufficient for the purpose of this plan and application.
11. This application is not binding on any property not mentioned in Note 1.

**Surveyor's Certification**

I hereby certify to the best of my professional belief and knowledge that the outline of the property included in this application is taken from a boundary survey conducted by Rodgers Consulting, Inc., in July 2012. The boundary survey of the property was prepared under my direct responsible charge in accordance with COMAR Title 09, Subtitle 13, Chapter 06, Regulation .12.

8-24-2012  
Date

*[Signature]*  
Timothy Paul Quinn  
Professional Land Surveyor  
Maryland Registration Number  
20002  
License Expiration 9-20-2012

RECEIVED  
M-NCPPC  
AUG 24 2012  
MONTGOMERY COUNTY  
PLANNING DEPARTMENT

**APPROVED PRELIMINARY PLAN**  
FILE NO. 11994094B  
MONTGOMERY COUNTY PLANNING BOARD  
CHAIRMAN OR DESIGNEE \_\_\_\_\_ DATE \_\_\_\_\_

**OWNERS CERTIFICATE**

The Undersigned agrees to execute all the features of the Approved Final Forest Conservation Plan No. 11994094B, including forest planting, maintenance, and all other applicable agreements.

Owner's Name: \_\_\_\_\_  
Printed Company Name

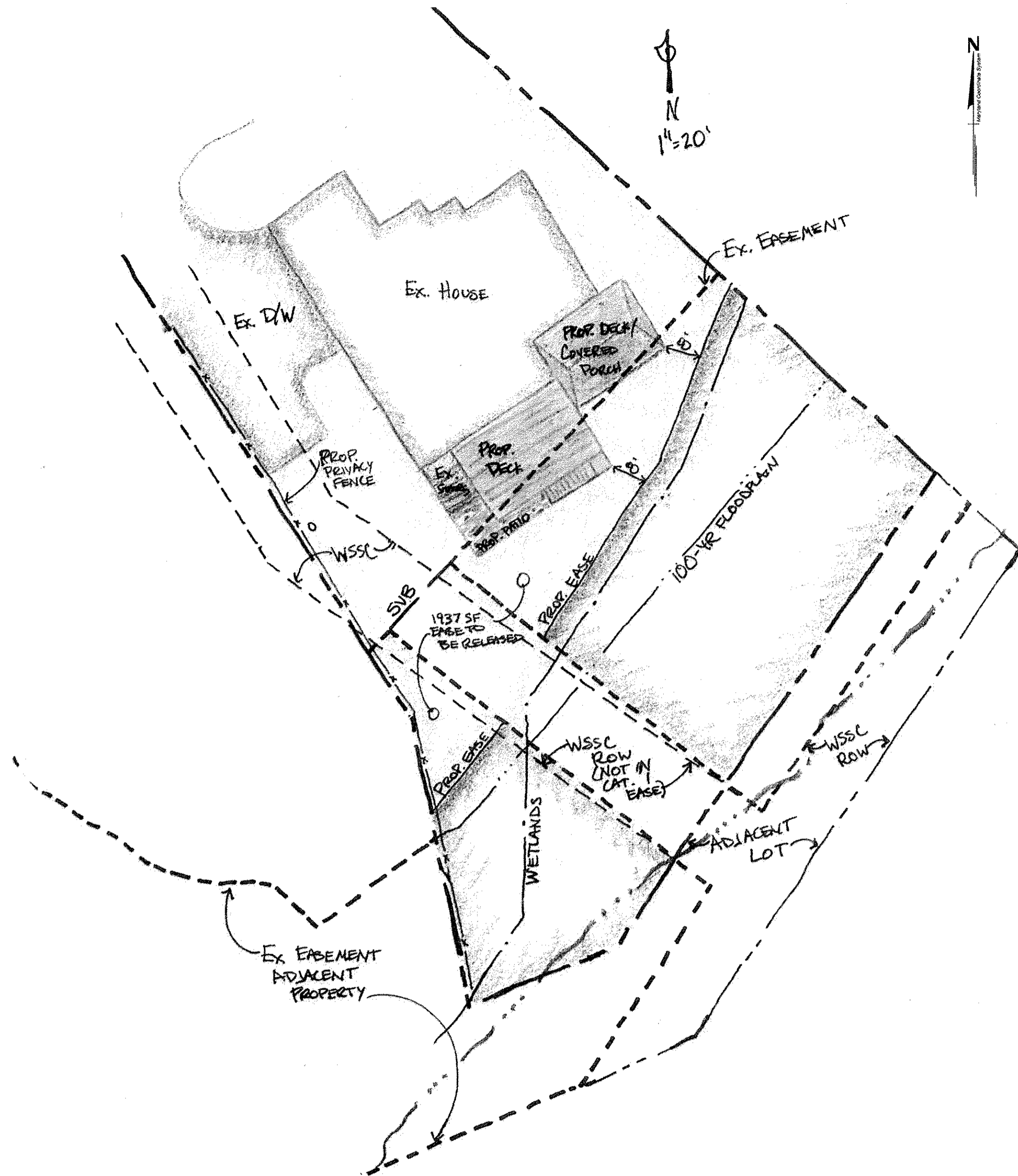
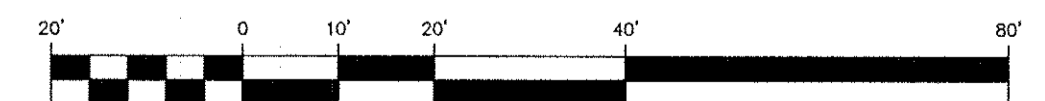
Contact Person or Owner: \_\_\_\_\_  
Printed Name

Address: \_\_\_\_\_

Phone and Email: \_\_\_\_\_

Signature: \_\_\_\_\_

**GRAPHIC SCALE**



- Legend**
- Property Boundary
  - Existing Category I Easement
  - Existing Improvements (House, Driveway)
  - Proposed Category I Easement Area
  - Proposed Patio
  - Proposed Deck
  - Existing Stream
  - Proposed Privacy Fence

1. Title Block revised per P&P request. 8/24/12

**Owner/Applicant:**  
Mr. Kosmas Lois/Mrs. Tiffany Koons  
9910 Woodford Road  
Potomac, MD 20854  
Phone: 240-994-1925/301-919-3331

**Limited Preliminary Plan  
Amendment No. 11994094B**

**RODGERS CONSULTING**  
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**Ketcham's Subdivision**  
Lot 8, Block A  
L.42596 F. 98  
10th Election District  
Montgomery County, MD

SCALE: 1"=20'  
JOB No: 1136A  
DATE: JULY '12  
SHEET No: 1 of 1