



**Ganassa Property, Preliminary Plan, 120040640**

**CM** Callum Murray, Area 3 Supervisor, [callum.murray@montgomeryplanning.org](mailto:callum.murray@montgomeryplanning.org) 301-495-4733

**JAC** John Carter, Area 3 Division Chief, [john.carter@montgomeryplanning.org](mailto:john.carter@montgomeryplanning.org) 301-495-4575

Staff Report Date: 7/11/13

**Description**

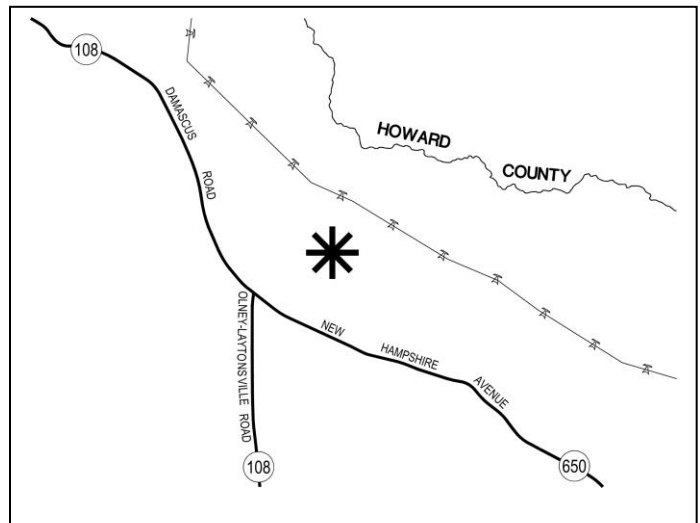
**Preliminary Plan No. 120040640: Ganassa Property**

Five child lots requested, with a farm remainder, located at 24520 Halterman Road, approximately 2000 feet north of New Hampshire Avenue (MD650); 81.72 acres, Rural Density Transfer Zone (RDT); Preservation of Agriculture and Rural Open Space Master Plan.

**Staff Recommendation: Approval with conditions.**

*Applicant: Vera Ganassa ("Applicant")*

*Application Date: March 22, 2004*



**Summary**

- This is a revision of a preliminary plan previously considered by the Planning Board on 2/16/06 as a request for three (3) market lots and five (5) child lots. After considerable debate at the hearing on the ambiguities of the Zoning Ordinance regarding child lots, the applicant requested a deferral, which was granted. The current plan has eliminated the market lots and reduced the size of the five (5) proposed child lots.
- Following several failed attempts at enacting a Zoning Text Amendment with clarifying language, **Sec 59-C-9.41.1. Child Lots in the RDT Zone** was radically amended in 2011. The Zoning Text Amendment placed limits on Child Lots proportional to the size of the farm, and with a maximum of three lots. The Ganassa Property was addressed by a specific provision in Sec 59-C-9.41.1.(f)(3) because the preliminary plan application was filed, but not approved, before October 1, 2010. Five child lots are permitted, as long as all the other provisions of the Section are met, including limitations on the size of the lots.

**STAFF RECOMMENDATION:** Approval of five “child lots” pursuant to Section 59-C-9.74 (b)(4) of the Zoning Ordinance, and subject to the following conditions:

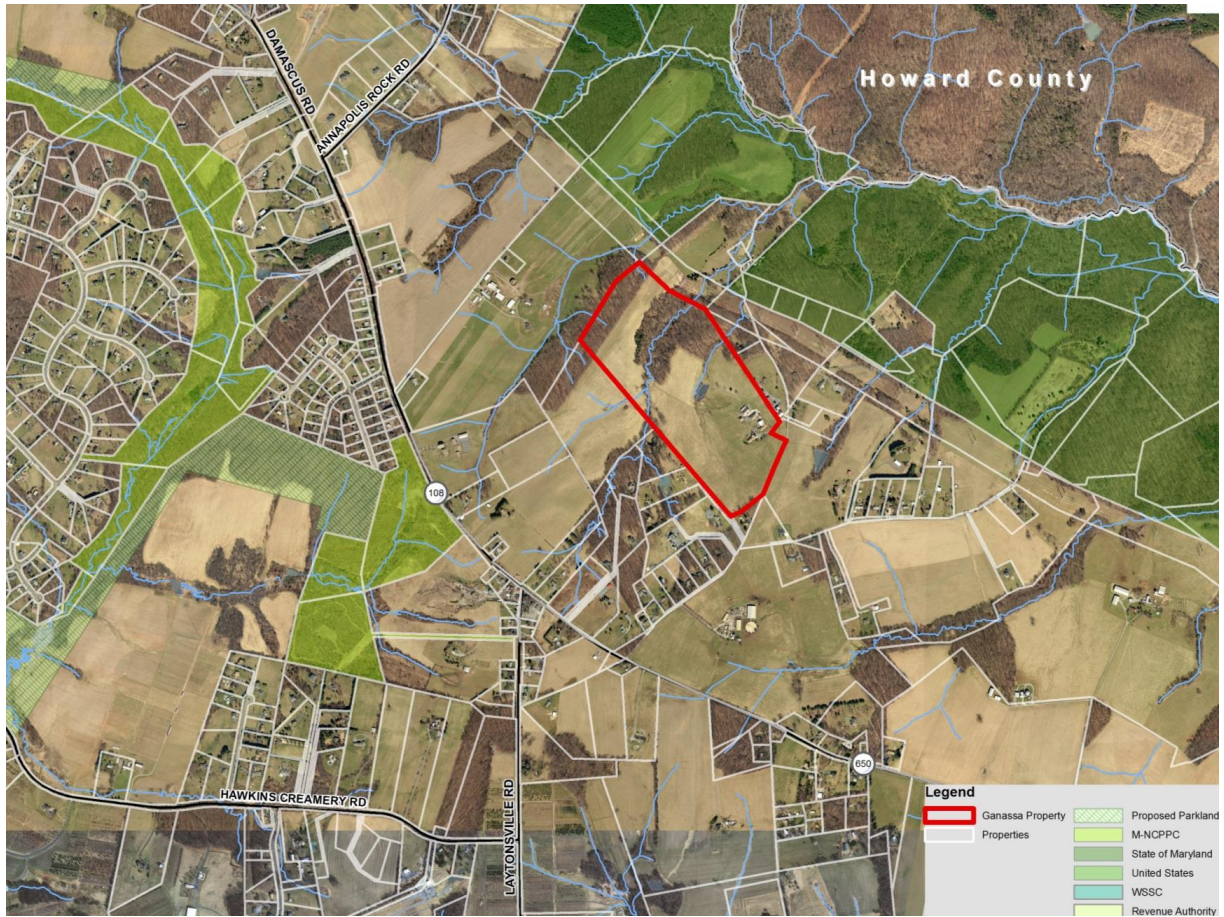
- 1) Approval under this preliminary plan is limited to five lots for one-family residential dwelling units, and a farm remainder.
- 2) Record plat to include the following note: “Lot Nos. 1, 2, 3, 4 and 5 are being created under Section 59-C-9.41.1.(f)(3) for use for a one-family residence by a child, or the spouse of a child of the property owner.” Separate notation to be made on each child lot shown on the plat(s) referencing this note.
- 3) Approval of a final forest conservation plan consistent with the preliminary forest conservation plan to include tree protection measures. The Applicant must satisfy all conditions prior to MCDPS issuance of sediment and erosion control permits.
- 4) Prior to land disturbing activities a Category I easement must be recorded in the land records on the forest mitigation area located on the farm remainder as shown on the preliminary forest conservation plan.
- 5) Record plat to reflect a Category I easement over wetland buffer on proposed lots.
- 6) A two-rail permanent split rail fence must be erected along the wetland buffer easement boundary at time of pre-construction meeting.
- 7) Submit an updated Agriculture Declaration of Intent for future use of the farm remainder prior to record plat.
- 8) The Planning Board accepts and hereby incorporates as conditions of approval, the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated March 6, 2013. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDOT may amend, provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 9) The Planning Board accepts and hereby incorporates as conditions of approval, the recommendations of the Montgomery County Department of Fire and Rescue Services (“MCFRS”) in a memo dated April 18, 2012. The Applicant must comply with each of the recommendations as set forth in the memo, which MCFRS may amend, provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 10) The Planning Board accepts and hereby incorporates as conditions of approval, the recommendations of the Montgomery County Department of Permitting Service (“MCDPS”) – Water Resources Section in its stormwater management concept memo dated March 8, 2012. The Applicant must comply with the recommendation set forth in the memo, which MCDPS – Water Resources Section may amend, provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 11) The Planning Board accepts and hereby incorporates as conditions of approval, the recommendations of the MCDPS – Well and Septic Section in its memo dated December 13,

2012. The Applicant must comply with the recommendations set forth in the memo, which MCDPS – Well and Septic Section may amend, provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

- 12) Dedicate 0.52 acres for future widening of Halterman Road.
- 13) The record plat must show necessary easements.
- 14) An easement must be recorded for the balance of the property noting that 5 TDRs have been utilized for the child lots. Reference to this easement must be reflected on the record plat.
- 15) The certified Preliminary Plan must contain the following note:  
Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, and site circulation shown on the Preliminary Plan are illustrative. The final locations of buildings and hardscape will be determined at the time of issuance of building permits. Please refer to the zoning data table for development standards such as setbacks and building heights. Other limitations for site development may also be included in the conditions of the Planning Board’s approval.
- 16) The record plat(s) must contain the following note:  
Agriculture is the preferred use in the Rural Density Transfer Zone. All agricultural operations shall be permitted at any time, including the operation of farm machinery and no agricultural use shall be subject to restriction because it interferes with other uses permitted in the Zone.
- 17) The Adequate Public Facility (“APF”) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of this Planning Board Resolution.
- 18) Record plat to reflect common ingress/egress and utility easements over all shared driveways.

**SITE DESCRIPTION:**

The 81-acre subject property is located at 24250 Halterman Road on the north side of New Hampshire Avenue approximately 4.5 miles south east of Damascus (Figure 1), within the Agricultural Reserve. The Property currently includes a one-family residence, farm buildings, lawn, pasture, and woodlands (Figure 2). There are 21.35 acres of forest on the Property, which is undulating, has several steep slopes and has a 128 foot range in elevation from a low point of 498 feet to a high point of 626 feet above sea level. The site includes a stream flowing south to north with associated floodplains and wetlands. The entire Property is within the Upper Patuxent River Watershed and is zoned Rural Density Transfer (RDT).



**Figure 1**

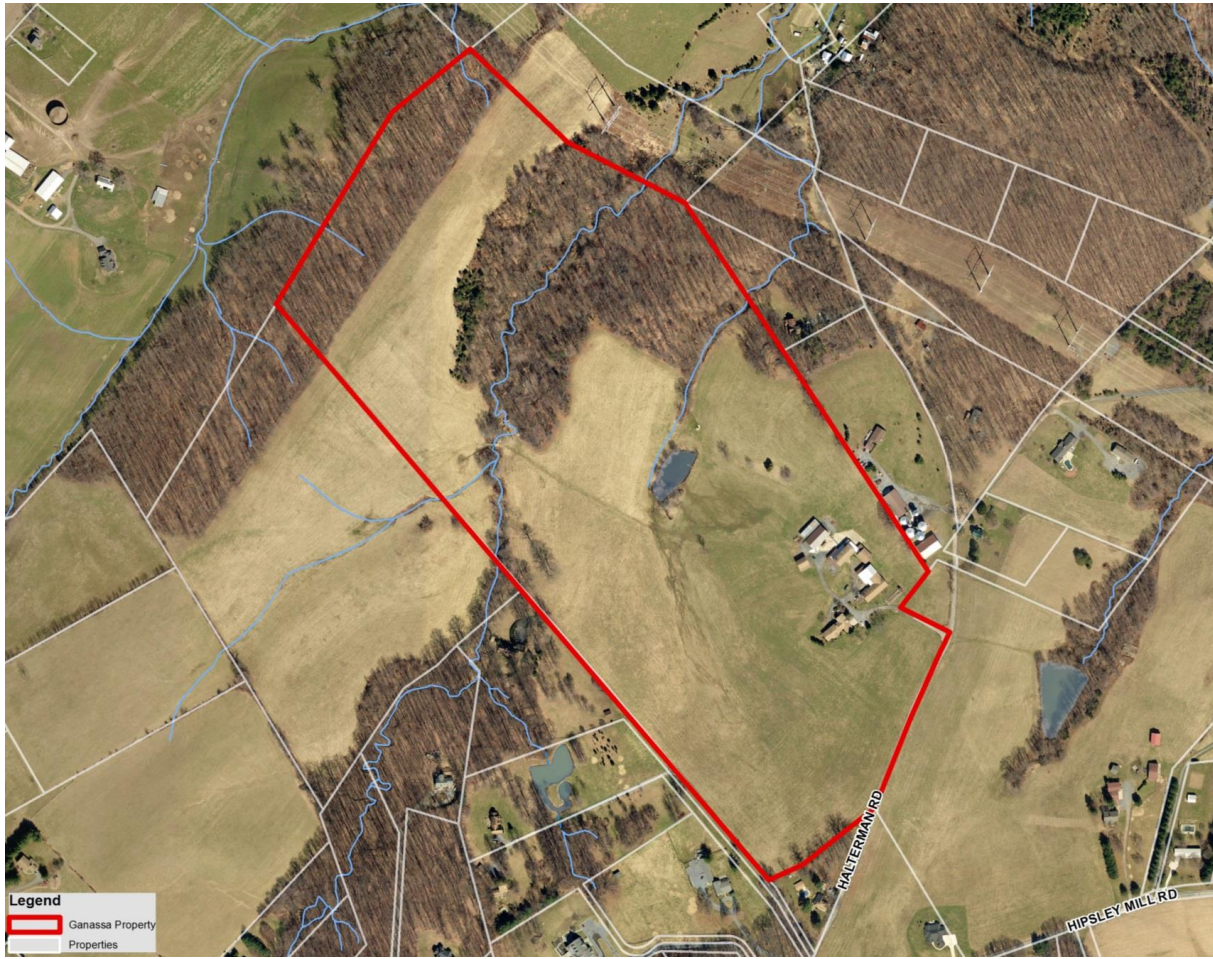


Figure 2

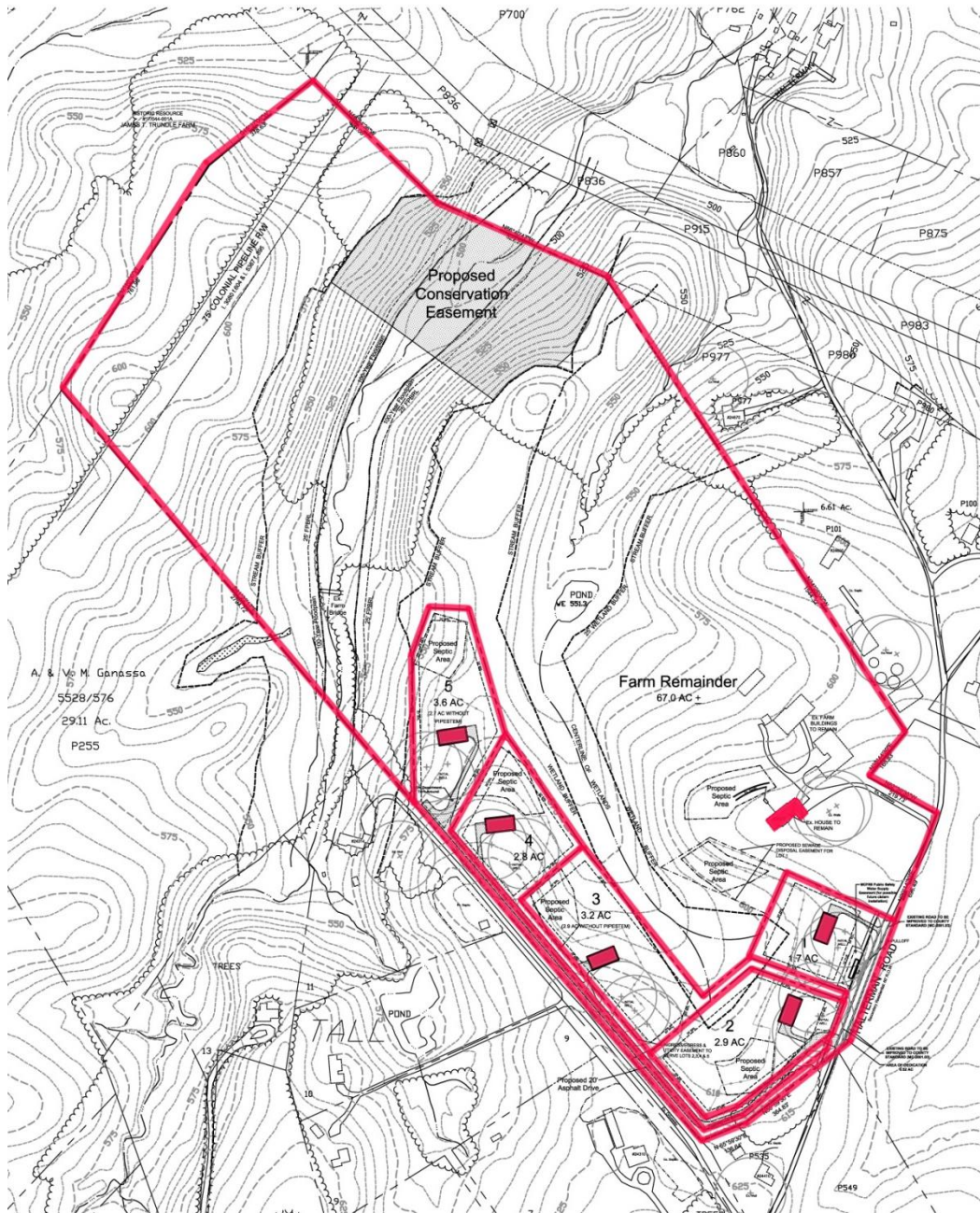


Figure 3

## **PROJECT DESCRIPTION:**

Preliminary Plan No. 120040640 (“Application”) is a request to subdivide the Subject Property into five (5) lots for the construction of five (5) one-family detached residences; the existing house will be located on the farm remainder (Figure 3). Access to the lots will be from Halterman Road. Four of the five lots will share a common driveway. The existing farmhouse and proposed Lot 1 will each have direct driveway access from Halterman Road.

The Applicant and owner of the Property wishes to create five lots, one for each of five children. The farm remainder will include the existing house along with the farm outbuildings. The remainder will be 67.0 acres in size and continue to receive an agricultural assessment. The child lots are identified on the Preliminary Plan as proposed Lots 1-5 and are 1.7, 2.9, 2.9, 2.8 and 2.7 acres, respectively, without the pipe stem acreage. The location of the lots on the Property preserves as much of the contiguous agricultural land for the farm remainder as practical.

## **BRIEF HISTORY**

The 81-acre Property was acquired by the Applicant in 1974. At that time, it was zoned RE-2. Shortly thereafter, it was rezoned to the Rural (5 acre) Zone. In 1981, it was again rezoned to the RDT Zone. This preliminary plan was originally filed in 2004 and requested three (3) market lots and five (5) child lots and was considered by the Planning Board on February 16, 2006. The Application was vigorously contested on the basis of ambiguous language in the Zoning Ordinance pertaining to interpretation of the child lot provision. At the end of the hearing, the Applicant requested a deferral, which was granted.

In 2007, The County Council appointed an Ad Hoc Agricultural Advisory Working Group to review various issues in the Agricultural Reserve, including abuse of the child lot provisions. The consensus of the Working Group was that the child lot exception be continued in accordance with previous practice, with some tightening of the provisions to prevent abuse of the exception. The Planning Board demurred with the recommendations of the Working Group and instructed Staff to attempt to negotiate a Zoning Text Amendment (ZTA) that was unambiguous, more restrictive, fair, and acceptable to the agricultural community. After several attempts, a new ZTA was enacted in late 2010. The new language imposed limits on the number and size of child lots, mandated that their number be proportional to the size of the farm, and imposed restrictions with penalties on the issuance of building permits and the transfer of lots. Prior to the new ZTA being enacted, the Ganassa Application was essentially in limbo, and unable to move forward.

Sec. 59-C-9.41.1.(f)(3) states:

*“A child lot is permitted on a tract of land of any size with a preliminary plan application filed, but not approved, before October 1, 2010 and must satisfy all of the provisions of Section 59-C-9.41.1, except it may be approved with a density of one lot for every 25 acres plus one additional lot for each child lot.”*

The Ganassa Preliminary Plan qualifies under this grandfathering sub-section. Absent this language, the Property would have been eligible for three (3) market lots and two (2) child lots. The current Preliminary Plan is for five (5) child lots and has eliminated the market lots. The Application meets all of the other provisions of Section 59-C-9.41.1.

## **ANALYSIS AND FINDINGS**

### **COUNTYWIDE PARK TRAIL PLAN**

An area of approximately 4.52 acres on the north edge of the Property is severed from the main part of the Property by a Colonial Gas pipeline right-of-way. This area, together with a similar area on the adjacent property to the southwest, is identified by the MNCPPC - Countywide Park Trails Plan as a desirable linkage between the Seneca Creek Watershed and the Patuxent Watershed. At some point in the future, a connection will be needed to complete the Great Seneca Greenway and the trail to the Patuxent River, and Parks staff may approach the applicant to discuss a fee simple transaction, or, in the alternative, a regional trail easement north of, and parallel to, the pipeline right-of-way. The trail will ultimately run from the Potomac River to the Patuxent River through both State and M-NCPPC parkland. Much of it is completed but the area north of Route 108 still needs a public trail connection.

### **MASTER PLAN**

The Agricultural and Rural Open Space (AROS) Master Plan establishes agriculture as the preferred use for land in the Rural Density Transfer (RDT) zone. The configuration of lots in the RDT zone should promote the continued use of the property for agricultural purposes. For this Application, a 67.0-acre agricultural operation will be maintained on the farm remainder. This contrasts with the 36.0 acres proposed in the 2004 Application. The five child lots are the minimum size necessary to incorporate a dwelling unit, well and septic area, and pipe stems for four of the lots. The lots are generally separated from the main farm parcel by a conservation easement along a wetland swale, and minimize fragmentation of the agricultural land. The Preliminary Plan conforms to the recommendations for preservation of agricultural uses included in the Agricultural and Rural Open Space Master Plan.

### **SUBDIVISION REGULATIONS AND ZONING ORDINANCE**

At one dwelling unit per 25 acres, the maximum yield from this 81.72 acre Property would be three (3) dwelling units. Under the provisions of Section 59-C-9.41.1.(a)(3), two child lots are allowed on a tract of land of at least 70 acres, for a total of five (5) dwelling units. Under the provisions of Section 59-C-9.41.1.(f)(3), the applicant is entitled to apply for three (3) market units plus five (5) child lots.

*“A child lot is permitted on a tract of land of any size with a preliminary plan application filed, but not approved, before October 1, 2010 and must satisfy all of the provisions of Section 59-C-9.41.1, except it may be approved with a density of one lot for every 25 acres plus one additional lot for each child lot.”*

The applicant has elected to apply for five (5) child lots with no market units. The size, width, shape, and orientation of the proposed lots are appropriate for the location of the subdivision. All five lots are three (3) acres or less, discounting the acreage of the pipe stems, and the minimum area necessary for approval of well and septic. An off-site septic easement on the farm remainder serves to minimize the area of Lot 1.

In the future, the applicant could apply for two (2) new market lots, or three (3) including the existing farmhouse. Locating two (2) additional market lots would be difficult because of the many constraints posed by the Property. They would conceivably be lots with excessively long pipe stems or require a



waiver of frontage. Alternatively, the Applicant could participate in the BLT (Building Lot Termination) to provide equity for the farm.

## **ADEQUATE PUBLIC FACILITIES REVIEW (APF)**

### **TRANSPORTATION**

The application will generate an increase of 4.75 peak hour morning trips and an increase of 5.5 peak hour evening trips. Accordingly, the application is exempt from both TPAR and LATR requirements.

Access to the lots will be from Halterman Road and four of the five lots will share a common driveway. The existing farmhouse and proposed Lot 1 will each have direct driveway access from Halterman Road. Dedication of 0.52 acres is proposed for future widening of Halterman Road

### **ENVIRONMENT**

#### Environmental Guidelines

All forest and stream buffers on this Property will be protected by conservation easements. The property is entirely within the Patuxent River Watershed and the Patuxent River Primary Management Area (PMA). The Environmental Guidelines for Development state that requests for lots for children of the property owner in rural zones do not subject a farm to Primary Management Area (PMA) requirements. In any case, the Application does not exceed the 10% maximum impervious level, nor disturb any environmental buffers.

#### Forest Conservation

The Applicant has submitted a declaration of intent to use the remnant farm as agriculture. This enables them to remove that acreage from forest conservation requirements. There is no forest on the net tract area of the Property and therefore the Applicant is not proposing any forest removal. A 2.89-acre afforestation requirement for the net tract area is being met by recording an easement on 5.78 acres of the forest on the farm remainder (Attachment C).

#### Tree Variance

Section 22A-12(b) (3) of the County Code requires applicants to identify certain trees, shrubs, plants, and specific areas as priority for retention and protection ("Protected Trees"). This section requires protected trees be left in an undisturbed condition unless the applicant obtains a variance in accordance with Chapter 22A-21 of the County code. More specifically the vegetation to remain undisturbed includes:

- A. *Trees, shrubs, or plants determined to be rare, threatened, or endangered under:*
  - (1) *The federal Endangered Species Act of 1973,*
  - (2) *The Maryland Nongame and Endangered Species Conservation Act, Natural Resources Article, §§10-2A-01—10-2A-09, Annotated Code of Maryland, and*
  - (3) *COMAR 08.03.08;*
- B. *Trees that:*
  - (1) *Are part of an historic site,*
  - (2) *Are associated with an historic structure, or*

- (3) *Have been designated by the State or the Department as a national, State, or county champion tree; and*
- C. *Any tree having a diameter measured at 4.5 feet above the ground of:*
  - (1) *30 inches or more, or*
  - (2) *75 percent or more of the diameter, measured at 4.5 feet above the ground, of the current State champion tree of that species as designated by the Department of Natural Resources.*

**Unwarranted Hardship Basis**

There are four (4) Protected Trees in the area proposed for development that will be impacted, but not removed. Staff has reviewed the Applicant’s justification and based on the existing conditions, finds that there would be an unwarranted hardship if a variance were not approved. The limits of disturbance required for the proposed homes cannot be altered to completely avoid impacts to the critical root zones. Staff and the applicant worked together to minimize impacts and preserve trees.

**Variance Findings**

The Planning Board must make findings that the Applicant has met all requirements of Chapter 22A-21 before granting a variance. Staff has made the following determination on the variance:

- 1. Will not confer on the Applicant a special privilege that would be denied to other applicants;

Granting the variance will not confer a special privilege on the Applicant as potential impacts to trees is due to clustering the lots and providing a common use driveway, in order to preserve the farm. The trees are located off-site and their critical root zones extend over the property line. Granting a variance request to allow land disturbance within an unavoidable planned road area is not unique to this Applicant.

- 2. Is not based on conditions or circumstances that are the result of the actions by the Applicant;

The Applicant has prepared and submitted plans which meet all applicable master plan and forest conservation requirements. The requested variance is based upon existing site conditions, including minimizing fragmentation of agricultural land, the number and locations of the large trees, and the optimal location of the proposed lots to meet AROS Master Plan requirements.

- 3. Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.

The requested variance is a result of the proposed development and not a result of land or building use on a neighboring property.

- 4. Will not violate State water quality standards or cause measurable degradation in water quality.

No protected trees will be removed. Their contribution toward maintaining water quality will not be lost and this variance will not violate any water quality standards.

**Mitigation for Trees Subject to the Variance Provisions**

The four trees proposed for impact in this variance request will be protected during the development process. Each tree is expected to survive due to minimal impacts, and no mitigation is recommended.

**County Arborist’s Recommendation on the Variance**

In accordance with Montgomery County Code Section 22A-21(c), Staff is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was forwarded to the County Arborist. Staff received a response and recommendation on June 28, 2013. (Attachment B).

Staff recommends that the variance be granted and finds that the Forest Conservation Plan meets all applicable requirements of Chapter 22A of the County Code.

**STORMWATER MANAGEMENT**

A Stormwater Management Concept Plan has been accepted by the MCDPS Stormwater Management Section on March 8, 2011. The concept design will satisfy the water quality, quantity and recharge requirements to maintain appropriate water quality standards.

**WATER AND SEWER**

All of the lots, including the farm remainder, are approved by MCDPS for standard septic systems and private wells.

**CONCLUSION:**

- The Preliminary Plan is in substantial conformance with the Agricultural and Rural Open Space Functional Master Plan.
- The lots conform to RDT zoning standards and Section 59-C-9.41.1. of the Zoning Ordinance. Density calculations are based on the relevant provisions of Division 59-C-9.41.1, which allows child lots to exceed the base zone density of the Rural Density Transfer (RDT) Zone.
- The Applicant has demonstrated the availability of sufficient Transfer Development Rights (TDRs) remaining on the Property to support the requested lots.
- The Preliminary Plan complies with applicable Subdivision Requirements under Section 50-35A(a)(8).
- The Preliminary Plan complies with the Forest Conservation Law.

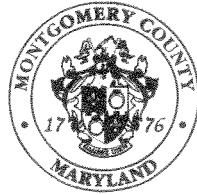
Staff recommends approval of the Preliminary Plan, subject to compliance with the conditions stipulated in the Staff Report.

**ATTACHMENTS:**

- Table 1 - Preliminary Plan Data Table
- Attachment A – Agency Correspondence
- Attachment B – Letter from County Arborist
- Attachment C – Preliminary Forest Conservation Plan **Updated**

TABLE 1. Preliminary Plan Data Table

<b>PLAN DATA</b>	<b>Zoning Ordinance Requirements</b>	<b>Proposed for Approval on Preliminary Plan</b>
Minimum Lot Area	40,000 s.f.	Must meet min.
Maximum Lot Area	3 acres	May not exceed maximum
Lot Width	125 ft.	Must meet min.
Lot Frontage	25 ft.	Must meet min.
Building Setbacks		
Front	50 ft. Min.	Must meet min.
Side	20 ft. Min.	Must meet min.
Rear	35 ft. Min.	Must meet min.
Building Height	50 ft. Max.	May not exceed maximum
Max DUs	3 as per base zone	5 child lots
MPDUs	Not required	0
TDRs	5 must be available	5 available



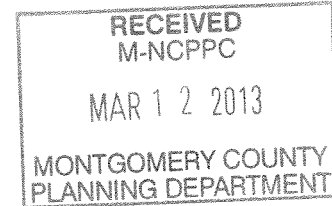
## DEPARTMENT OF TRANSPORTATION

Isiah Leggett  
County Executive

Arthur Holmes, Jr.  
Director

March 6, 2013

Mr. Callum Murray, Supervisor  
Area 3 Planning Division  
The Maryland-National Capital  
Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760



RE: Preliminary Plan No. 12004064R  
Ganassa Property

*Callum*  
Dear Mr. Murray:

We have completed our review of the preliminary plan dated November 6, 2012. This plan was reviewed by the Development Review Committee at its meeting on December 17, 2012. After further inspection of the site, we have amended our previous comments for this project. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Department of Permitting Services in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. Necessary dedication for future widening of Halterman Road as required by the Montgomery County Planning Board.
2. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
3. Wells and septic systems cannot be located within the right of way nor slope or drainage easements.
4. Prior to the Department of Permitting Services' approval of the record plat, the applicant will need to submit an updated Sight Distances Evaluation certification form, for the existing ("farm remainder") driveway, which indicates improvements have been completed (under permit) to achieve a minimum of one hundred fifty (150) feet of sight distance in each direction. Such improvements may include removal of the existing wall(s) and/or side slope grading at the entrance on Halterman Road.
5. Record plat to reflect a reciprocal ingress, egress, and public utilities easement to serve the lots accessed by the private common driveway.

**Division of Traffic Engineering and Operations**

100 Edison Park Drive, 4th Floor • Gaithersburg, Maryland 20878  
Main Office 240-777-2190 • TTY 240-777-6013 • FAX 240-777-2080  
trafficops@montgomerycountymd.gov

Mr. Callum Murray  
 Preliminary Plan No. 12004064R  
 March 6, 2012  
 Page 2

6. Private common driveways and private streets shall be determined through the subdivision process as part of the Planning Board's approval of a preliminary plan. The composition, typical section, horizontal alignment, profile, and drainage characteristics of private common driveways and private streets, beyond the public right-of-way, shall be approved by the Planning Board during their review of the preliminary plan.
7. We did not receive the downstream storm drain capacity and impact analyses in our packet. However, after reviewing the Drainage Area Map on the Stormwater Management Concept Plan (with respect to the limits of existing County maintenance on Halterman Road), we have decided no further analysis is needed for this project.
8. The owner will be required to furnish this office with a recorded covenant whereby said owner agrees to pay a prorata share for the future construction or reconstruction of Halterman Road, whether built as a Montgomery County project or by private developer under permit, prior to DPS approval of the record plat. The deed reference for this document is to be provided on the record plat.
9. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Mr. David Adams, our Development Review Area Engineer for this project at david.adams@montgomerycountymd.gov or (240) 777-2197.

Sincerely,



Gregory M. Leck, Manager  
 Development Review Team

m:/correspondence/FY13/Traffic/Active/12004064R, Ganassa Property, MCDOT plan review comments ltr.doc

Enclosure

cc: Vera Ganassa  
 Joshua Maisel; Benning & Associates  
 Ki Kim; M-NCPPC Area 3  
 Catherine Conlon; M-NCPPC DARC  
 Preliminary Plan folder  
 Preliminary Plan letters notebook

cc-e: Sam Farhadi; MCDPS RWPR  
 Marie LaBaw; MCFRS  
 David Adams; MCDOT DTEO



## DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

Diane R. Schwartz Jones  
Director

March 8, 2012

Mr. Patrick Perry  
Benning & Associates, Inc.  
8933 Shady Grove Court  
Gaithersburg, MD 20877

Re: Stormwater Management **CONCEPT** Request  
for Revised Ganassa Property  
Preliminary Plan #: 1-200440640  
SM File #: 211529  
Tract Size/Zone: 81.7/RDT  
Total Concept Area: 7.7ac  
Lots/Block: 5 Proposed  
Parcel(s): 31  
Watershed: Upper Patuxent River

Dear Mr. Perry:

Based on a review by the Department of Permitting Services Review Staff, the **revised** stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept proposes to meet required stormwater management goals via the use of the disconnection of rooftop and non rooftop runoff credits.

The following **item(s)/condition(s)** will need to be addressed **during/prior to** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.

This list may not be all-inclusive and may change based on available information at the time.

Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 **is not required**.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Thomas Weadon at 240-777-6309.

Sincerely,



Richard R. Brush, Manager  
Water Resources Section  
Division of Land Development Services

RRB: tla CN 211529

cc: C. Conlon  
SM File # 211529

ESD Acres:	7.7ac
STRUCTURAL Acres:	N/A
WAIVED Acres:	N/A





DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

Diane R. Schwartz Jones  
Director

MEMORANDUM

December 13, 2012

TO: Cathy Conlon, Development Review,  
Maryland National Capital Park and Planning Commission

FROM: Diane R. Jones, Director  
Department of Permitting Services

SUBJECT: Status of Preliminary Plan: #1-04064,

Ganassa Property, Lots 1-5 plus  
remainder

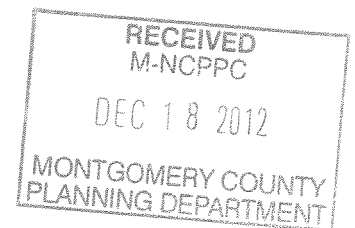
This is to notify you that the Well & Septic Section of MCDPS approved the plan received in this office on December 12, 2012.

Approved with the following reservations:

1. The record plat must be at the same scale as the preliminary plan, or submit an enlargement of the plat to match the preliminary plan.
2. The septic easement for Lot 1 must be recorded as a separate instrument.

If you have any questions, contact Gene von Gunten at (240) 777-6319.

cc: Surveyor  
File





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**FIRE MARSHAL COMMENTS**

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**DATE:** 18-Apr-13  
**TO:** Joshua Maisel - benninglandplan@aol.com  
Benning and Associates  
**FROM:** Marie LaBaw  
**RE:** Ganassa Property  
120040640

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**PLAN APPROVED**

1. Review based only upon information contained on the plan submitted **18-Apr-13** .Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.



## DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett  
County Executive

Robert G. Hoyt  
Director

June 28, 2013

Françoise Carrier, Chair  
Montgomery County Planning Board  
Maryland National Capital Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

RE: Ganassa Property, DAIC 120040640, NRI/FSD application accepted 11/2/2011

Dear Ms. Carrier:

The County Attorney's Office has advised that Montgomery County Code Section 22A-12(b)(3) applies to any application required under Chapter 22A submitted after October 1, 2009. Accordingly, given that the application for the above referenced request was submitted after that date and must comply with Chapter 22A, and the Montgomery County Planning Department ("Planning Department") has completed all review required under applicable law, I am providing the following recommendation pertaining to this request for a variance.

Section 22A-21(d) of the Forest Conservation Law states that a variance must not be granted if granting the request:

1. Will confer on the applicant a special privilege that would be denied to other applicants;
2. Is based on conditions or circumstances which are the result of the actions by the applicant;
3. Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or
4. Will violate State water quality standards or cause measurable degradation in water quality.

Applying the above conditions to the plan submitted by the applicant, I make the following findings as the result of my review:

1. The granting of a variance in this case would not confer a special privilege on this applicant that would be denied other applicants as long as the same criteria are applied in each case. Therefore, the variance can be granted under this criterion.
2. Based on a discussion on March 19, 2010 between representatives of the County, the Planning Department, and the Maryland Department of Natural Resources Forest Service, the disturbance of trees, or other vegetation, as a result of development activity is not, in and of itself, interpreted as a condition or circumstance that is the result of the actions by the applicant. Therefore, the variance can be granted under this criterion, as long as appropriate mitigation is provided for the resources disturbed.

Françoise Carrier  
June 28, 2013  
Page 2

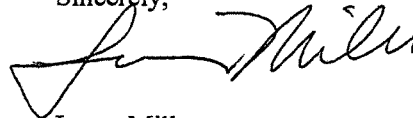
3. The disturbance of trees, or other vegetation, by the applicant does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. Therefore, the variance can be granted under this criterion.
4. The disturbance of trees, or other vegetation, by the applicant will not result in a violation of State water quality standards or cause measurable degradation in water quality. Therefore, the variance can be granted under this criterion.

Therefore, I recommend a finding by the Planning Board that this applicant qualifies for a variance conditioned upon the applicant mitigating for the loss of resources due to removal or disturbance to trees, and other vegetation, subject to the law based on the limits of disturbance (LOD) recommended during the review by the Planning Department. In the case of removal, the entire area of the critical root zone (CRZ) should be included in mitigation calculations regardless of the location of the CRZ (i.e., even that portion of the CRZ located on an adjacent property). When trees are disturbed, any area within the CRZ where the roots are severed, compacted, etc., such that the roots are not functioning as they were before the disturbance must be mitigated. Exceptions should not be allowed for trees in poor or hazardous condition because the loss of CRZ eliminates the future potential of the area to support a tree or provide stormwater management. Tree protection techniques implemented according to industry standards, such as trimming branches or installing temporary mulch mats to limit soil compaction during construction without permanently reducing the critical root zone, are acceptable mitigation to limit disturbance. Techniques such as root pruning should be used to improve survival rates of impacted trees but they should not be considered mitigation for the permanent loss of critical root zone. I recommend requiring mitigation based on the number of square feet of the critical root zone lost or disturbed. The mitigation can be met using any currently acceptable method under Chapter 22A of the Montgomery County Code.

In the event that revisions to the LOD are approved by the Planning Department, the mitigation requirements outlined above should apply to the removal or disturbance to the CRZ of all trees subject to the law as a result of the revised LOD.

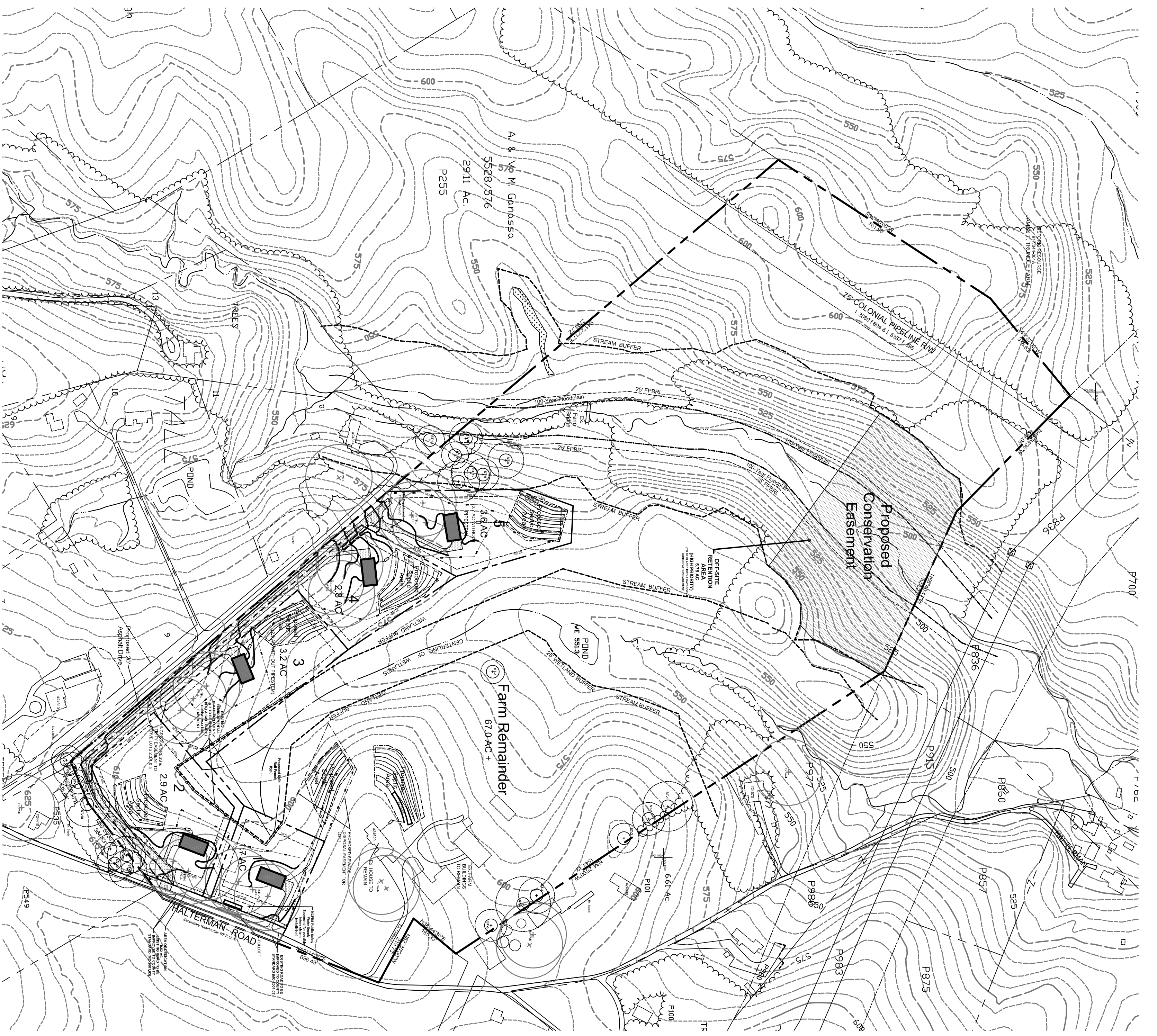
If you have any questions, please do not hesitate to contact me directly.

Sincerely,

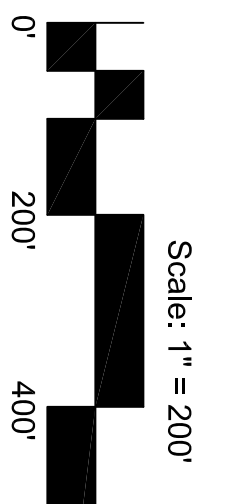


Laura Miller  
County Arborist

cc: Robert Hoyt, Director  
Walter Wilson, Associate County Attorney  
Mark Pfefferle, Chief



Source of Topography:  
M-NCPS&PC Sheets 234NW06, 234NW07, 235NW06 & 235NW07



ACREAGE OF TRACT REMAINING IN FOREST	ACREAGE OF ROAD AND UTILITY ROW, EXISTING FOREST	ACREAGE OF FOREST CLEARED	ACREAGE OF OFF-SITE RETENTION	LAND USE CATEGORY	CONSERVATION THRESHOLD	AFR FORESTATION THRESHOLD	FOREST WITHIN WETLANDS TO BE RETAINED	FOREST WITHIN WETLANDS TO BE CLEARED	FOREST WITHIN FLOODPLAIN TO BE RETAINED	FOREST WITHIN FLOODPLAIN TO BE CLEARED	FOREST WITHIN STREAM BUFFER TO BE RETAINED	FOREST WITHIN STREAM BUFFER TO BE CLEARED	FOREST WITHIN PROXIMITY AREAS TO BE RETAINED	FOREST WITHIN PROXIMITY AREAS TO BE CLEARED	STREAM BUFFER AVERAGE WIDTH
81.72 ac	66.80	0.29 ac	0.0 ac	RESIDENTIAL	29% = 32.2 AC	20% = 23.8 AC	0.0 ac	0.0 ac	1.68 ac	0.0 ac	0.0 ac	0.0 ac	0.0 ac	0.0 ac	20'

PRELIMINARY FOREST CONSERVATION PLAN

LEGEND:	EXISTING HOUSE	PROPOSED HOMESTE	PROPOSED SEPTIC	EX./PROPOSED WELL SITE	ENVIRONMENTAL BUFFER	FOREST / TREE COVER	WETLANDS	100-YEAR FLOODPLAIN	PROPOSED CONSERVATION EASEMENT	INGRESS/EGRESS/Well & Septic Easement	SIGNIFICANT / SPECIMEN TREE	CRITICAL ROOT ZONE	AREA OF DEDICATION NOT TO BE IMPROVED	SPLIT RAIL FENCE	LIMITS OF DISTURBANCE	PROPOSED DRIVEWAY	PROPOSED INGRESS/EGRESS EASEMENT
Existing House	Proposed Homeste	Proposed Septic	EX./Proposed Well Site	Environmental Buffer	Forest / Tree Cover	Wetlands	100-year Floodplain	Proposed Conservation Easement	Ingress/Egress/Well & Septic Easement	Significant/ Specimen Tree	Critical Root Zone	Area of Dedication not to be Improved	Split Rail Fence	Limits of Disturbance	Proposed Driveway	Proposed Ingress/Egress Easement	

NET TRACT AREA:	FORREST CONSERVATION WORKSHEET
NET TRACT AREA: Ganassa Property	
A. Total tract area ...	81.72
B. Land dedication acres (easements, county facility, etc.) ...	0.00
C. Land dedication for roads or utilities (not being constructed by this plan) ...	0.25
D. Land to remain in commercial agricultural production/usage ...	67.20
E. Other dedications (specify) ...	14.47*
F. Net Tract Area ...	14.47*

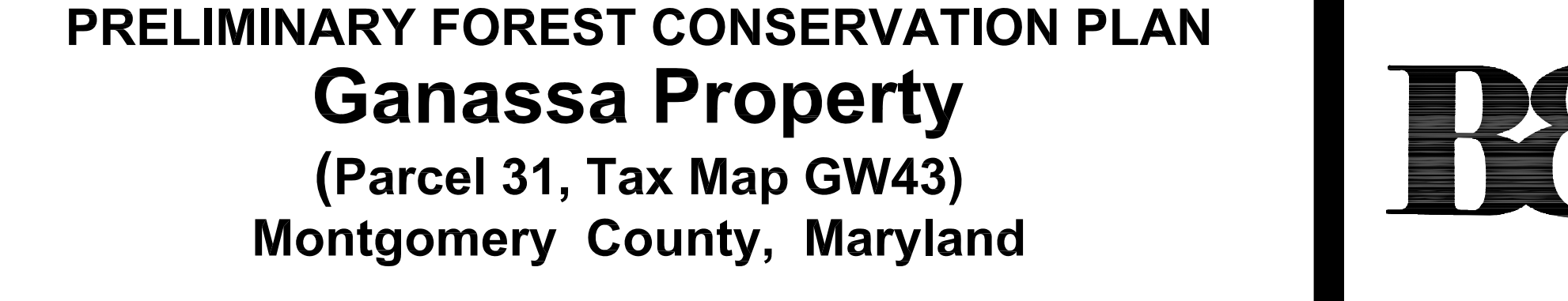
LAND USE CATEGORY:	FROM TRACTS TECHNICAL MANUAL				
Input the number "1" under the appropriate land use, limit to only one entry.					
AREA	MDR	IDA	HDR	MPD	QA
0.00	1.00	0.00	0.00	0.00	0.00
G. Afforestation Threshold ...	0.20 x F =	2.89			
H. Conservation Threshold ...	0.25 x F =	3.62			
EXISTING FOREST COVER:					
I. Existing forest cover ...	0.00				
J. Forest above conservation threshold ...	0.00				
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 ...	0.00				
PLANTING REQUIREMENTS:					
P. Replantation for clearing above conservation threshold ...	0.00				
Q. Replantation for clearing below conservation threshold ...	0.00				
R. Credit for retention above conservation threshold ...	0.00				
S. Total reforestation required ...	2.89				
T. Total afforestation required ...	2.89				
U. Credit for landscaping (may not exceed 20% of 'S') ...	0.00				
V. Total reforestation and afforestation required ...	2.89				

**NET TRACT AREA INCLUDES:**  
 LOTS 1-5- 14.20 ACRES  
 R.O.W. TO BE IMPROVED- 0.27 ACRES  
 TOTAL- 14.47 ACRES

**NOTE:**  
 2.89 ACRE AFFORESTATION REQUIREMENT TO BE MET BY OFF-SITE RETENTION AT 2:1 FOR A TOTAL RETENTION AREA OF 5.78 ACRES

TREE NUMBER	BOTANICAL NAME (COMMON NAME)	SIZE (DBH)	TREE CONNECTION	COMMENTS	STATUS
ST-1	Quercus rubra	Northern Red Oak	50"	Flour	To Retain
ST-2	Quercus rubra	Northern Red Oak	33"	Moderate Flour	To Retain
ST-3	Quercus phellos	Pink Oak	30"	Flour/Heavy	To Retain
ST-4	Quercus alba	White Oak	30"	Flour/Heavy	To Retain
ST-5	Quercus alba	White Oak	50"	Flour/Heavy	To Retain
ST-6	Quercus prinus	Chickadee Oak	30"	Moderate	To Retain
ST-7	Quercus prinus	Pink Oak	24"	Moderate	To Retain
ST-8	Ulmus floridulus	Tulip Poplar	30"	Moderate Flour	To Retain
ST-9	Ulmus floridulus	Tulip Poplar	32"	Moderate Flour	To Retain
ST-10	Ulmus floridulus	Tulip Poplar	33"	Moderate Flour	To Retain
ST-11	Ulmus floridulus	Tulip Poplar	27"	Moderate	To Retain
ST-12	Ulmus floridulus	Tulip Poplar	30"	Dead	OT-18a
ST-13	Ulmus floridulus	Tulip Poplar	32"	Flour	To Retain
ST-14	Ulmus floridulus	Tulip Poplar	42"	Good	OT-18a
ST-15	Prunus serotina	Black Cherry	30"	Flour	OT-18a, variance needed for ingress
ST-16	Prunus serotina	Black Cherry	34"	Moderate	OT-18a, variance needed for ingress
ST-17	Prunus serotina	Black Cherry	24"	Flour	OT-18a, variance needed for ingress
ST-18	Quercus rubra	Red Oak	42"	Heavy	OT-18a, variance needed for ingress
ST-19	Ulmus floridulus	Tulip Poplar	30"	Good	OT-18a
ST-20	Ulmus floridulus	Tulip Poplar	30"	Moderate Flour	OT-18a
ST-21	Quercus velutina	Black Oak	30"	Moderate	OT-18a, variance needed for ingress
ST-22	Quercus alba	White Oak	30"	Dead	OT-18a



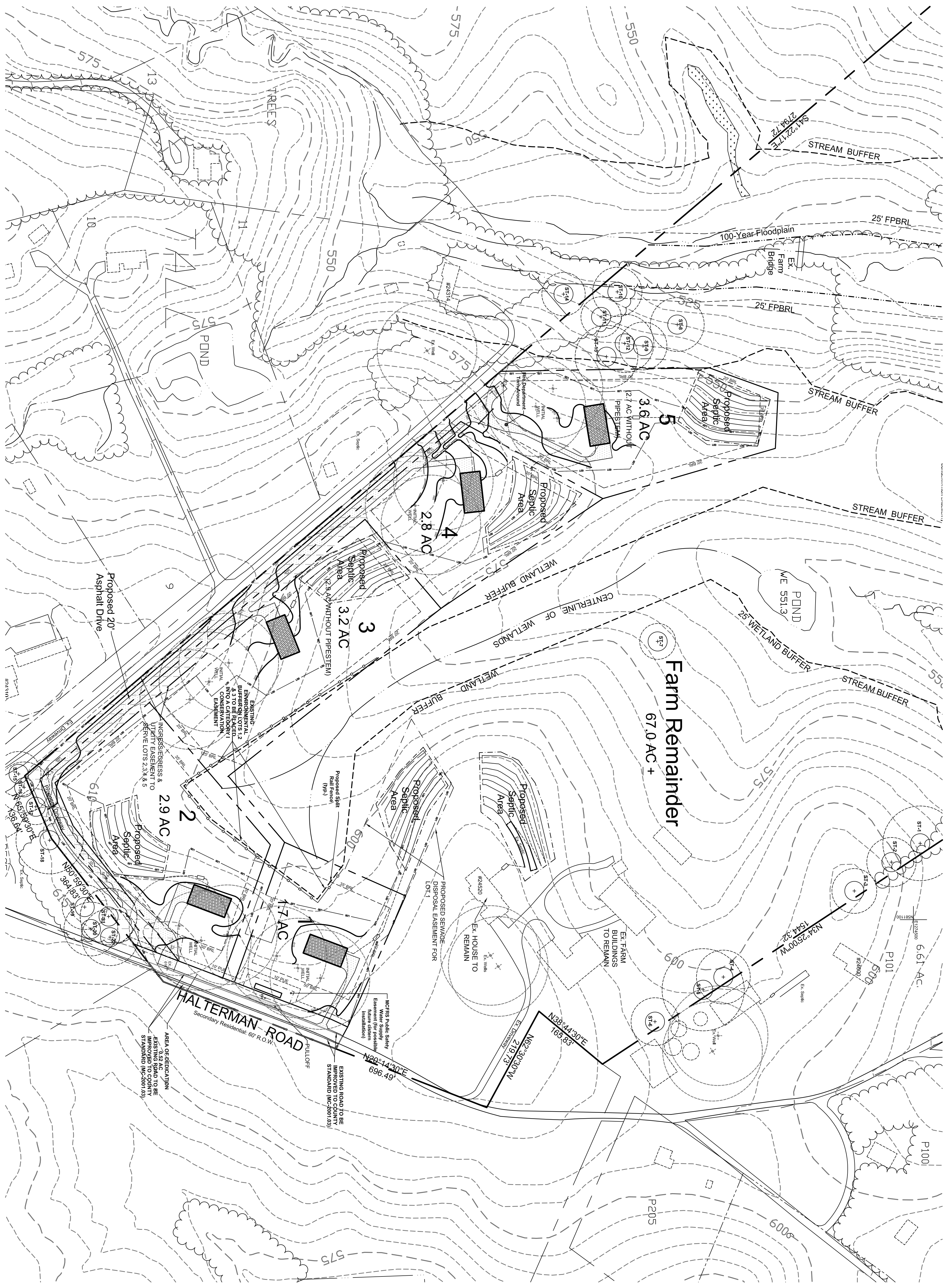
PREPARED FOR:  
**Vera Ganassa**  
 24520 Halterman Road  
 Laytonsville, MD 20882  
 301-253-6507

**PRELIMINARY FOREST CONSERVATION PLAN**  
**Ganassa Property**  
 (Parcel 31, Tax Map GW43)  
 Montgomery County, Maryland

**B&A**  
 Benning & Associates, Inc.  
 Land Planning Consultants  
 8933 Shady Grove Court  
 Gaithersburg, MD 20877  
 (301)948-0240

**date:** 11/6/2012  
**scale:** 1" = 200'

Sheet 1 of 2  
 Revisions  
 1.26.2013  
 6.19.2013  
 6.26.2013



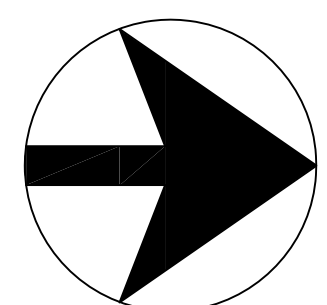
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Benning & Associates, Inc.  
 Land Planning Consultants  
 8933 Shady Grove Court  
 Gaithersburg, MD 20877  
 (301)948-0240

date: 11/6/2012

scale: 1" = 100'



Sheet 2 of 2
Revisions
1.28.2013
6.19.2013
6.26.2013