



***Pacano Property: Final Forest Conservation Plan No. S-2761**

MJK

Mary Jo Kishter, Senior Planner, Area 3 maryjo.kishter@montgomeryplanning.org, (301) 495.4701

RAW

Richard A. Weaver, Supervisor, Area 3, richard.weaver@montgomeryplanning.org, (301) 495-4544

JAC

John Carter, Chief, Area 3

Staff Report Date: May 30, 2014

Description

***A. Pacano Property**

Final Forest Conservation Plan S-2761

Request for approval of a Final Forest Conservation Plan as part of a Special Exception application to operate a landscape contractor business; located at 28621 Ridge Road (MD 27), approximately 2.5 miles north of its intersection with Kemptown Road (MD 80); 4.50 acres; RDT Zone; Damascus Master Plan; Patuxent River Primary Management Area (PMA).

Staff Recommendation: *Approval with conditions*

Applicant: Jose Pacano, d/b/a Woodstone Group, LLC

Application Filed: October 27, 2009



Summary

- The Application does not propose any new construction and the only disturbance is for the removal of existing impervious surfaces.
- The Application proposes to retain 0.90 acres of existing forest, plant 0.80 acres of additional forest, and create 0.70 acres of native meadow habitat within the stream buffer onsite.
- A request for a variance to remove one (1) specimen tree is included in this Application.

FOREST CONSERVATION PLAN RECOMMENDATION: Approval, subject to the following conditions:

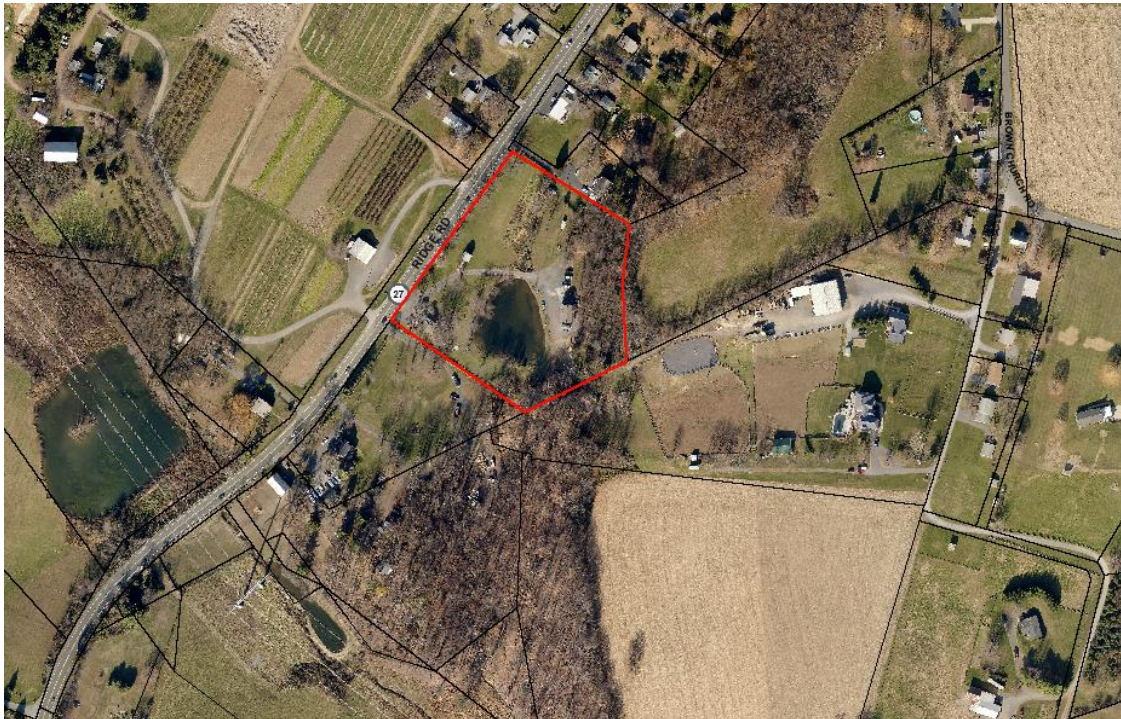
1. Within one month of the date of the M-NCPPC Planning Board hearing for the Special Exception Application S-2761, the Applicant must submit a revised Final Forest Conservation Plan S-2761 to M-NCPPC Staff for review and approval. The revised Final FCP (FFCP) must address the following.
 - a. The FFCP must include a revised Data Table that accurately reflects the forest data.
 - b. The FFCP must accurately note on Sheet 1 that the plan proposes to remove one tree greater than 30 inches in diameter.
2. Within six months of the date of the Board of Appeals Resolution for the Special Exception Application S-2761, the Applicant must comply with the conditions of approval for the Final Forest Conservation Plan S-2761 including:
 - a. The Applicant must plant 0.80 acres of reforestation within the stream buffer as specified on the approved Final Forest Conservation Plan.
 - b. The Applicant must plant 0.70 acres of native meadow vegetation as specified on the approved Final Forest Conservation Plan.
 - c. The Applicant must place a Category I conservation easement over all areas of forest retention, forest planting, and portions of the stream valley buffer as specified on the approved Final Forest Conservation Plan. Conservation easements must be recorded in the Montgomery County land records.
 - d. The Applicant must place a modified Category I conservation easement over all areas of meadow planting as specified on the approved Forest Conservation Plan that allows for annual mowing of the meadow areas. Conservation easements must be recorded in the Montgomery County land records.
 - e. The Applicant must submit financial surety for planting 0.80 acres of forest and creating 0.70 acres of native meadow habitat prior to the start of the maintenance period.
 - f. The Applicant must obtain M-NCPPC approval of a two-year maintenance and management agreement for the forest planting and meadow creation areas.
3. The Applicant must install permanent split rail fencing and signs along the perimeter of the conservation easement where it abuts the gravel parking area in the rear of the Property, as determined by the M-NCPPC forest conservation inspector at the time of forest planting.
4. The Applicant must install permanent forest conservation easement signage along the perimeter of the conservation easement in all areas where permanent fencing is not required, as determined by the M-NCPPC forest conservation inspector at the time of forest planting.
5. The Applicant must comply with all tree protection and tree save measures shown on the approved FFCP. Additional or adjustments to the tree save measures not specified on the FFCP may be required by the M-NCPPC forest conservation inspector.
6. The final sediment control plan, if required by Montgomery County Department of Permitting Services, must be consistent with the final limits of disturbance shown on the approved FFCP.

SITE DESCRIPTION

The subject property is identified as Parcel P233 on Tax Map FY 53, and is located at 28621 Ridge Road (MD 27), approximately 2,160 feet north of its intersection with Kemptown Road (MD 80) in the Damascus Master Plan area ("Subject Property" "Property"). The Property is zoned RDT, and it is 4.50 acres in size. The front of the Property, along MD 27 is developed with a house that is used as an office for the landscape contracting business, a shed, and a gravel parking area. There is a gravel driveway

that leads from the gravel parking area across a stream to a two-story barn, shed, and larger gravel parking area.

The Property drains to the Patuxent River, which is classified by the State of Maryland as Use III-P waters. The entire Property is located within the Patuxent River PMA and approximately ninety percent of the Property is located within the stream valley buffer. A perennial stream enters the Property through an existing culvert under a driveway just beyond the north-central Property line, and flows in a southerly direction, under the on-site gravel driveway, to an existing instream farm pond. The pond discharges at an existing concrete headwall into the natural stream channel that flows off the southeastern corner of the property. The stream and pond bisect the Property. Emergent wetlands line the stream channel, upstream of the pond. The land surrounding the pond and along the stream channel is maintained as a mowed lawn, with a few scattered trees. There is no mapped 100-year floodplain on the Property. The Property contains approximately 0.95 acres of forest, of which 0.90 acres is one contiguous stand that encompasses steep slopes on highly erodible soils, and is located along the eastern Property boundary at the rear of the Property. Approximately 0.05 acres of forest is located along the southern Property boundary, south of the pond. Six large trees were identified outside of the existing forest, including two specimen trees (≥ 30 inches Diameter at Breast Height (DBH)) and four significant trees (≥ 24 inches DBH). Neighboring land uses include single-family residential on large estate lots and unimproved parcels. The Property abuts residential properties and undeveloped land to the north, south and east, and farm land to the west across Ridge Road. An historic property known as “Brown’s Log Tobacco House” borders the Property to the south.



Vicinity Map



Site Aerial View

PROJECT DESCRIPTION

The Final Forest Conservation Plan (FCP) was prepared as part of Special Exception application No. S-2761, to operate a landscape contractor business (Attachment A). While the Planning Board is technically advisory on Board of Appeals applications, the Planning Board must make a finding that the pending special exception application complies with Chapter 22A, the forest conservation law.

The Application does not propose any new construction; however, it does retain some of the existing manmade features within the stream valley buffer and PMA. The Application does not propose to clear any forest but will require the removal of one specimen tree.

ANALYSIS AND FINDINGS

Forest Conservation

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was approved for the Property on August 13, 2009. A Final Forest Conservation Plan has been submitted for review. There is approximately 0.95 acres of existing forest on the property. The forest is an immature, mixed-hardwood forest dominated by early successional species including black cherry (*Prunus serotina*), tree-of-heaven (*Ailanthus altissima*), eastern red cedar (*Juniperus virginiana*), and black locust (*Robinia pseudo-acacia*). Six large trees, including two specimen trees and four significant trees were identified on the Property.

The project does not propose to clear any of the existing forest; however, 0.05 acres of the forest is located on or below the embankment of the existing farm pond and will not be placed into a conservation easement in case of future maintenance requirements that may require disturbance. There is a 0.10 acre forest planting requirement on the Property that will be met onsite within the stream buffer. The Applicant proposes to retain 0.90 acres of existing forest, plant 0.80 acres of additional forest, and create 0.70 acres of native meadow habitat within the stream buffer onsite. These areas as well as the stream and inline pond will be protected in a Category I conservation easement. The additional forest and meadow plantings, in excess of the forest conservation requirements are proposed to offset the existing stream buffer encroachments and proposal to not protect the entire stream buffer in a conservation easement, and comply with the recommendations and goals of the Patuxent River PMA. Split rail fence will be placed along the perimeter of the conservation easement where it abuts the gravel parking area in the rear of the Property and permanent signs will be provided in all other areas to delineate the limits of the conservation easement.

Forest Conservation Variance

Section 22A-12(b) (3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or disturbance within the tree’s critical root zone (CRZ) requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that: measure 30 inches or greater, DBH; are part of an historic site or designated with an historic structure; are designated as a national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

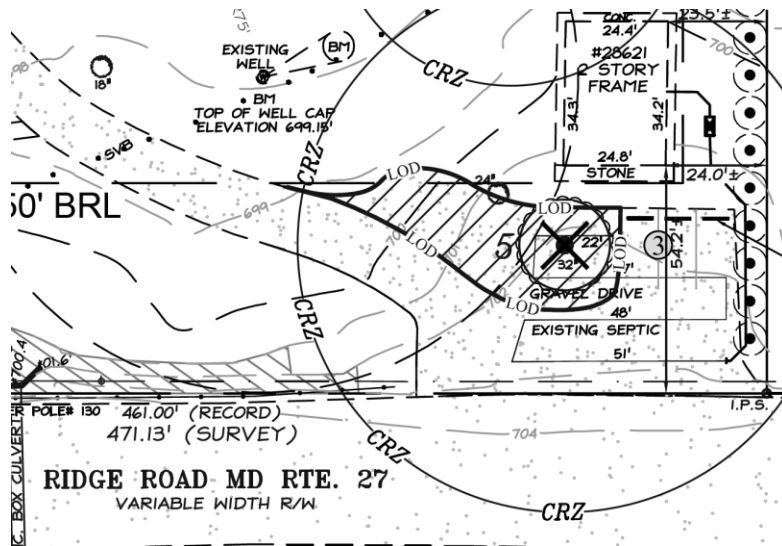
Variance Request - The Applicant submitted a variance request in a letter dated April 9, 2014 (Attachment B). The Applicant proposes to remove one (1) specimen tree that is 30 inches and greater, diameter at breast height (DBH), that is considered high priority for retention under Section 22A-12(b) (3) of the County Forest Conservation Law.

Tree to be removed

Tree Number	Species	DBH Inches	Status
5	Red Maple	42	Poor condition, root compaction. Gravel will be removed from parking area to reduce impervious area and tree may be a hazard to existing office building

Unwarranted Hardship Basis

Per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship, denying the Applicant reasonable and significant use of its property. In this case, the unwarranted hardship is caused by the existing development on the Property, the poor condition of the subject tree, and the goal to minimize impervious surfaces within the Patuxent PMA. The tree is a 42" DBH red maple that is in poor condition and suffering from root compaction due to the existing gravel driveway and parking area that surrounds the tree and covers a large portion its root system. The Applicant proposes to disturb the critical root zone of the tree in order to remove existing but unnecessary impervious area within the parking lot, as recommended in the Patuxent River PMA. This disturbance to the critical root zone initially triggered the variance requirement; however, given the existing condition of the tree, and its proximity to the office building and parking area that will remain, it was determined that this tree poses a hazard and should be removed. The Application does not propose any new construction on the Property and the only disturbance onsite will be for the removal of existing impervious surfaces that are not necessary for the landscape contracting operation to continue. Therefore, Staff concurs that the Applicant has a sufficient unwarranted hardship to justify a variance request.



Tree #5 to be removed – all features are existing; LOD is for removal of existing impervious surface

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. Staff has made the following determinations in the review of the variance request and the proposed forest conservation plan:

Variance Findings - Staff has made the following determination based on the required findings that granting of the requested 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 the removal of the one tree is due to its current poor condition and the potential hazard that results from allowing it to remain. The Applicant proposed disturbance to the CRZ of the tree in order to remove existing, excess impervious area within the parking lot, but the removal of the tree is based on its existing poor health and proximity to the existing house/office building to remain. Therefore, Staff believes that the granting of this variance is not a special privilege that would be denied to other applicants.

2. *Is not based on conditions or circumstances which are the result of the actions by the applicant.*

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon the existing poor condition of the tree and the existing site conditions.

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 existing conditions and not as 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.*

The variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen tree being removed is not located within a stream buffer; however it is located within the transition area of the Patuxent River PMA. The Application proposes 0.80 acres of forest planting within the stream buffer which will ultimately replace any water quality benefits lost by the removal of this tree. Therefore, Staff concurs that the project will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provision - There is one (1) tree proposed for removal in this variance request. This tree is in poor condition and is a potential hazard to the nearby home/office and parking area. Staff does not typically recommend mitigation for trees in poor condition or hazards; however, it should be noted that the 0.70 acres of forest planting proposed within the stream buffer onsite is in excess of that required by the forest conservation law and will ultimately mitigate any benefits lost by the removal of this tree.

County Arborist's Recommendation on the Variance - In accordance with Montgomery County Code Section 22A-21(c), the Planning Department 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 on April 17, 2014. On April 23, 2014, the County Arborist issued a letter stating that she would not provide a recommendation pertaining to the variance request because the Application was submitted before October 1, 2009 (Attachment C).

Variance Recommendation - Staff recommends that the variance be granted.

CONCLUSION

The Final Forest Conservation Plan meets all applicable requirements of Chapter 22A of the County Code. Therefore, Staff recommends that the Planning Board approve the Final Forest Conservation Plan with the conditions cited in this Staff report. The variance approval is included in the Planning Board's approval of the Final Forest Conservation Plan.

Attachments

Attachment A – Final Forest Conservation Plan

Attachment B – Applicant's Variance Request dated April 9, 2014

Attachment C - County Arborist Letter dated April 23, 2014

O:\AREA_3\REGULATORY PLANNING\Pacano\Environmental\REV PR_S2761_DRAFT Staff Report_FCP_05202014.docx

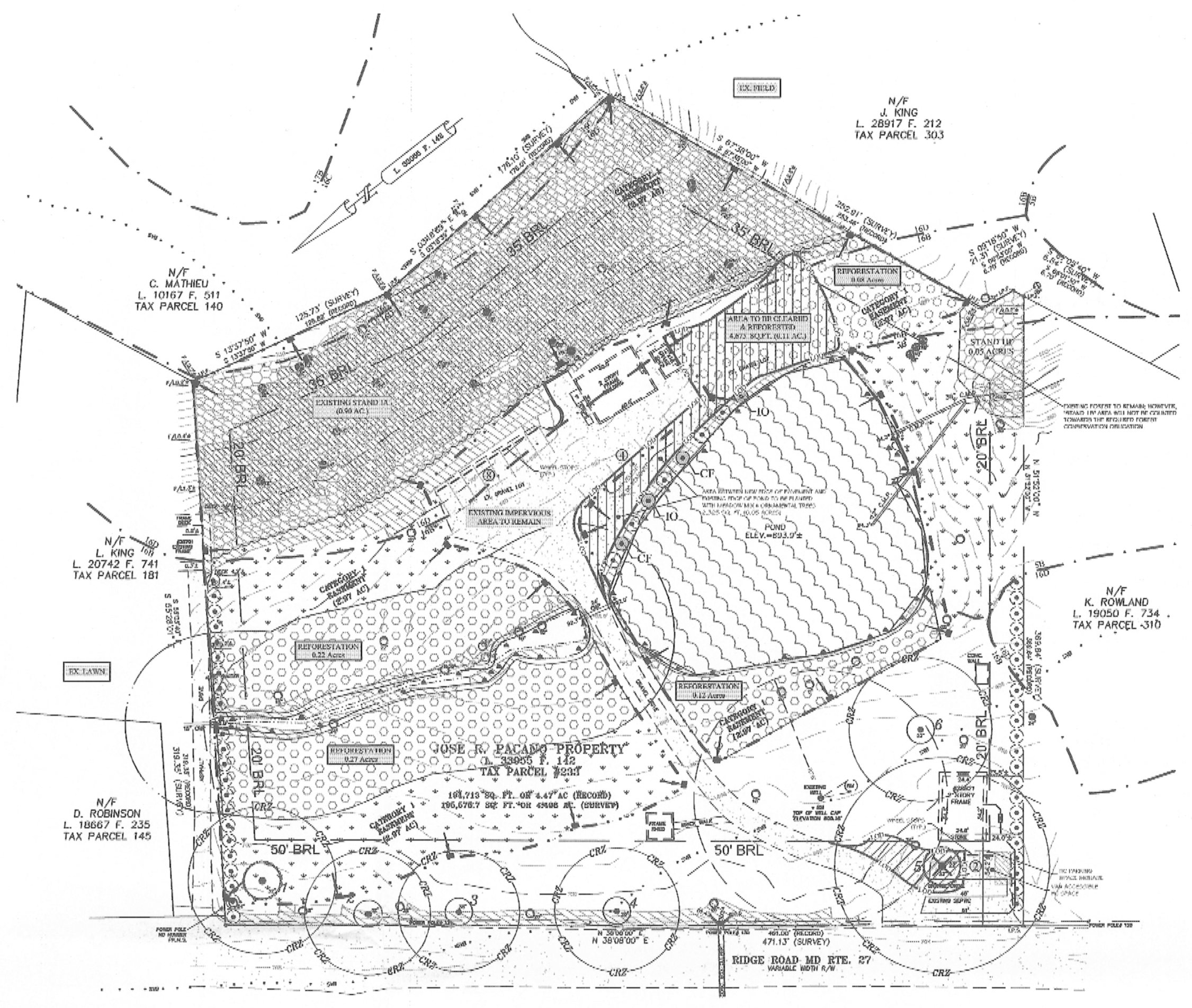
Sequence of Events for Property Owners Required to Comply With Forest Conservation and/or Tree-Save Plans

- Pre-Construction**
- An on-site pre-construction meeting is required after the limits of disturbance have been staked and flagged, but before any clearing or grading begins. The property owner should contact the Montgomery County Planning Department inspection staff before construction to verify the limits of disturbance and discuss tree protection and tree care measures. The developer's representative, construction superintendent, ISA certified arborist or Maryland-licensed tree expert that will implement the tree protection measures, forest conservation inspector, and Department of Permitting Services (DPS) sediment control inspector should attend this pre-construction meeting.
 - No clearing or grading shall begin before stress-reduction measures have been implemented. Appropriate measures may include, but are not limited to:
 - Root pruning
 - Crown reduction or pruning
 - Watering
 - Fertilizing
 - Vertical mulching
 - Root aeration matting
 Measures not specified on the forest conservation plan may be required as determined by the forest conservation inspector in coordination with the arborist.
 - A Maryland-licensed tree expert or an International Society of Arboriculture-certified arborist must perform all stress reduction measures. Documentation of stress reduction measures must be either observed by the forest conservation inspector or sent to the inspector at 8787 Georgia Avenue, Silver Spring, MD 20910. The forest conservation inspector will determine the exact method to convey the stress reductions measures during the pre-construction meeting.
 - Temporary tree protection devices shall be installed per the Forest Conservation Plan/Tree Save Plan and prior to any construction activities. Tree protection fencing locations should be staked prior to the pre-construction meeting. The forest conservation inspector, in coordination with the DPS sediment control inspector, may make field adjustments to increase the survivability of trees and forest shown as saved on the approved plan. Temporary tree protection devices may include:
 - Chain link fence (four feet high)
 - Super silt fence with wire strung between support poles (minimum 4 feet high) with high visibility flagging.
 - 1/4 gauge 2 inch x 4 inch welded wire fencing supported by steel T-bar posts (minimum 4 feet high) with high visibility flagging.
 - Temporary protection devices shall be maintained and installed by the contractor for the duration of construction project and must not be altered without prior approval from the forest conservation inspector. No equipment, trucks, materials, or debris may be stored within the tree protection fence areas during the entire construction project. No vehicle or equipment access to the fenced area will be permitted. Tree protection shall not be removed without prior approval of forest conservation inspector.
 - Forest retention area signs shall be installed as required by the forest conservation inspector, or as shown on the approved plan.

- Long-term protection devices will be installed per the Forest Conservation Plan/Tree Save Plan and attached details. Installation will occur at the appropriate time during the construction project. Refer to the plan drawing for long-term protection measures to be installed.
- During Construction**
- Periodic inspections by the forest conservation inspector will occur during the construction project. Corrections and repairs to all tree protection devices, as determined by the forest conservation inspector, must be made within the timeframe established by the inspector.
- Post-Construction**
- After construction is completed, an inspection shall be requested. Corrective measures may include:
 - Removal and replacement of dead and dying trees
 - Pruning of dead or declining limbs
 - Soil aeration
 - Fertilization
 - Watering
 - Wound repair
 - Clean up of retention areas
 - After inspection and completion of corrective measures have been undertaken, all temporary protection devices shall be removed from the site. Removal of tree protection devices that also operate for erosion and sediment control must be coordinated with both the Department of Permitting Services and the forest conservation inspector. No additional grading, sodding, or burial may take place after the tree protection fencing is removed.
- INSPECTIONS**
- All field inspections must be requested by the applicant. Inspections must be conducted as follows:
- Tree Save Plans and Forest Conservation Plans without Planting Requirements**
- After the limits of disturbance have been staked and flagged, but before any clearing or grading begins.
 - After necessary stress reduction measures have been completed and protection measures have been installed, but before any clearing and grading begin.
 - After completion of all construction activities, but before removal of tree protection fencing, to determine the level of compliance with the provision of the forest conservation.
- Additional Requirements for Plans with Planting Requirements**
- 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.

FINAL FOREST CONSERVATION PLAN

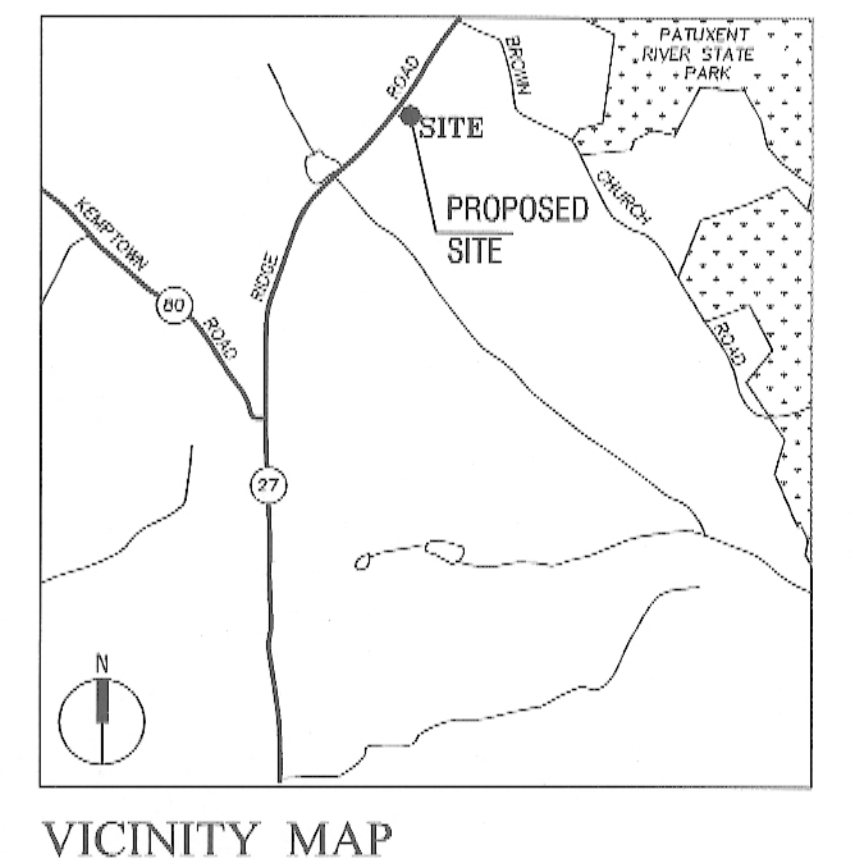
28621 RIDGE ROAD
DAMASCUS, MD



SITE PLAN

SCALE 1" = 60'

NOTE: THIS SITE IS LOCATED WITHIN THE PATUXENT RIVER PRIMARY MANAGEMENT AREA



VICINITY MAP
SCALE: 1"=2000'

SHEET INDEX :

- COVER SHEET
- FINAL FOREST CONSERVATION PLAN
- NOTES AND DETAILS

FOREST CONSERVATION WORKSHEET
28621 Ridge Road, Mt. Airy, MD
5-Aug-07

NET TRACT AREA:		
A. Total tract area ...	4.50	
B. Land dedication acres (parks, county facility, etc.) ...	0.00	
C. Land dedication for roads or utilities (not being constructed by this plan) ...	0.00	
D. Area to remain in commercial agricultural production/use ...	0.00	
E. Other deductions (specify) ...	0.00	
F. Net Tract Area ...	4.50	

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

ARA	MDR	IDA	HDR	MFD	CIA
1	0	0	0	0	0

G. Afforestation Threshold ... 20% x F = 0.90
H. Conservation Threshold ... 50% x F = 2.25

EXISTING FOREST COVER:

I. Existing forest cover ...	0.95
J. Area of forest above afforestation threshold ...	0.05
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 ...	0.05
O. Total area of forest to be retained ...	0.90

PLANTING REQUIREMENTS:

P. Reforestation for clearing above conservation threshold ...	0.00
Q. Reforestation for clearing below conservation threshold ...	0.10
R. Credit for retention above conservation threshold ...	0.00
S. Total reforestation required ...	0.10
T. Total afforestation required ...	0.00
U. Credit for landscaping (may not exceed 20% of "S") ...	0.00
V. Total reforestation and afforestation required ...	0.10

MANAGEMENT / INSPECTION SCHEDULE FOR INVASIVES IN TYPE I EASEMENTS

STEP 1 -	DURING THE PLANTS DORMANT SEASON AND BEFORE THE GROWING SEASON BEGINS (APPROX. DEC.-FEB.), INDIVIDUAL PLANTS ARE TO BE PULLED/CUT AND REMOVED FROM THE SITE. AN INITIAL TREATMENT OF TRICLOPYR GARLON 4 MIXED AT 2% WITH WATER SHOULD BE SPRAYED DIRECTLY ON THE CUT STUMP IMMEDIATELY AFTER CUTTING TO ENSURE ROOTKILL. A DYE SHOULD BE MIXED IN TO THE HERBICIDE SO AS TO MARK STUMPS HERBICIDE WAS APPLIED.
STEP 2 -	REPEAT STEP 1 IN JULY - AUGUST BEFORE FRUITS MATURE. CAREFULLY REMOVE DEBRIS WITHOUT ENDANGERING NATIVE VEGETATION.
STEP 3 -	IN SEPTEMBER, THIS AREA SHOULD BE MONITORED TO VERIFY THAT MINIMUM DENSITIES ARE BEING MAINTAINED AND THAT SEEDLINGS HAVEN'T BEEN DAMAGED. REMAINING INVASIVE PLANTS THAT HAVEN'T RESPONDED TO THE HERBICIDES SHOULD BE FLAGGED AT THIS TIME.
STEP 4 -	IN MID TO LATE OCTOBER THOSE PLANTS FLAGGED SHOULD BE TREATED WITH TRICLOPYR. THIS WILL HELP TO FURTHER REDUCE THE POPULATION.
STEP 5 -	EVEN WITH THE COMPLETE REMOVAL AND ROOTKILL OF INVASIVES, SUBSTANTIAL SEEDLING REGENERATION OCCURS. DUE TO A PERSISTENT SOIL SEED BANK, REINVESTMENT IS A CONTINUAL POSSIBILITY. TO COMBAT THIS IT IS NECESSARY TO REPEAT STEPS 2-4 FOR A TOTAL OF THREE YEARS.
STEP 6 -	REFOREST CLEARED AREAS WITH SPECIFIED REFORESTATION PLANTINGS (REFER TO REFORESTATION SCHEDULES - THIS SHEET)

STATE BILL 666 - NO NET LOSS OF FORESTRY POLICY - FOREST CONSERVATION NOTE:

The plan does not propose to remove:

- Any tree greater than 30 inches in diameter at breast height (dbh)
- Any tree with a dbh equal to or greater than 75% of the current state champion.
- Trees that are part of a historic site or associated with a historic structure,
- Any tree designated as the county champion tree,
- Any tree shrub or plant identified on the list of rare, threatened and endangered list of the U.S. Fish and Wildlife Service or the Maryland Department of Natural Resources.

The critical root zone of all trees greater than 30" are shown on this plan. All critical root zones are outside of the proposed limits of disturbance.

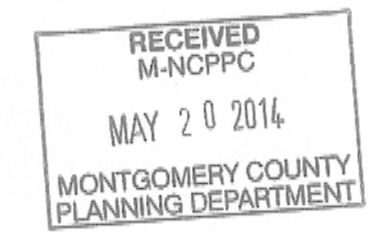
PRE-PLANTING CONSIDERATIONS

A. In areas with substantial growth on invasive groundcover species, measures shall be taken to remove and control invasives. The infested area should be mown prior to commencement of planting. Necessary weed control measure should be determined during the pre-planting inspection, including, but not limited to mulching, periodic mowing around the reforestation plantings, and fabric coverings. The use of chemical weed controls will be limited to extreme cases, and only with prior written approval by MNCPPC staff. Where period mowing will occur as a weed control measure, the typical tree planting distribution pattern should be modified so as to allow access by moving equipment without damage to plantings.

B. A soils analysis will be conducted prior to commencement of reforestation on land where extensive agricultural use has occurred in the past. Test pits will be dug in areas of undisturbed soil to determine if a grappan layer is present. If Fragipan is present, it should be pierced by auguring and planting. Holes should be dug to twice the normal diameter for the material planted.

C. Soils should be treated by incorporating natural mulch within the top 12 inches or leaf mold compost are preferred.

D. If fill material is used at the planting site, it should be clean fill with 12 inches of native soil. Stockpiling of native top soils must be done in such a way that the height of the pile does not damage the seed bank.



Forest Conservation Data Table

Number of Acres	
Tract	4.5
Remaining Agricultural Use	-
Road & Utility ROWs ¹	-
Total Existing Forest	0.9
Forest Retention	0.9
Forest Cleared	0.1

Land Use & Thresholds²

Land Use Category	ARA	ARA, MDR, IDA, HDR, MDP, or CIA
Conservation Threshold	50%	percent
Afforestation Threshold	20%	percent

Total Channel Length (ft.)
Stream(s): 225

Average Buffer Width (ft.)³
50

Acres of Forest in	Retained	Cleared	Planted
	0.04	-	-
100-Year Floodplain	-	-	-
Stream Buffers	-	-	0.49
Priority Areas	0.90	-	0.49

¹ Only Road or Utility ROWs not to be improved as part of development application.
² Information from FC Land Use Categories & Thresholds document.
³ Measured from stream edge to buffer edge.

THE MARYLAND-NATIONAL PARK AND PLANNING COMMISSION
Forest Conservation Plan Submitted for Planning Board Approval
Plan No. S-2761
Signature: *Jose Roberto Pacano* Date: 5/21/14

INSPECTION SCHEDULE - SEQUENCE FOR SITE DEVELOPMENT

M-NCPPC APPROVAL SIGNATURE	DATE	TASK PERFORMED
		PRE-CONSTRUCTION MEASURES IN PLACE BEFORE CLEARING & GRADING
		POST CONSTRUCTION PROTECTION PRIOR TO PLANTING (REFORESTATION)
		AFTER REFORESTATION - BEGINNING OF THE 2 YEAR MAINTENANCE PERIOD
		AFTER 2 YEAR MAINTENANCE MUST MEET SUBMITTABLE NAME

NOTES:
1. Each inspection described above shall be made promptly after receipt of written notice from Developer, and all reasonable efforts shall be made by M-NCPPC to conduct the inspection and inform Developer of the results within ten (10) working days of the date of notice.
2. The sequence of retention and reforestation events by Planning Board endorsement shall be as specified in the "Trees Technical Manual."

DEVELOPER'S CERTIFICATE

The Undersigned agrees to execute all the features of the Approved Final Forest Conservation Plan No. S-2761 including financial bonding, forest planting, maintenance, and all other applicable agreements.

Developer's Name: *Jose Roberto Pacano*
Contact Person or Owner: JOSE ROBERTO PACANO
Address: 28621 Ridge Road, Mt. Airy, MD. 21771-4438
Phone: (301) 252 - 3055
eMail:
Signature:

Klebasko Environmental, LLC
8373 Piney Orchard Parkway, Suite 207
Odenton, Maryland 21113
(410) 672-5990 (office)
(410) 672-5993 (fax)

FOREST CONSERVATION PLAN PREPARED BY:
Michael J. Klebasko 5/16/14
MICHAEL J. KLEBASKO DATE:
OF KLEBASKO ENVIRONMENTAL, LLC
(QUALIFIED PROFESSIONAL PER COMAR 08.19.06.01)

REV#	DATE

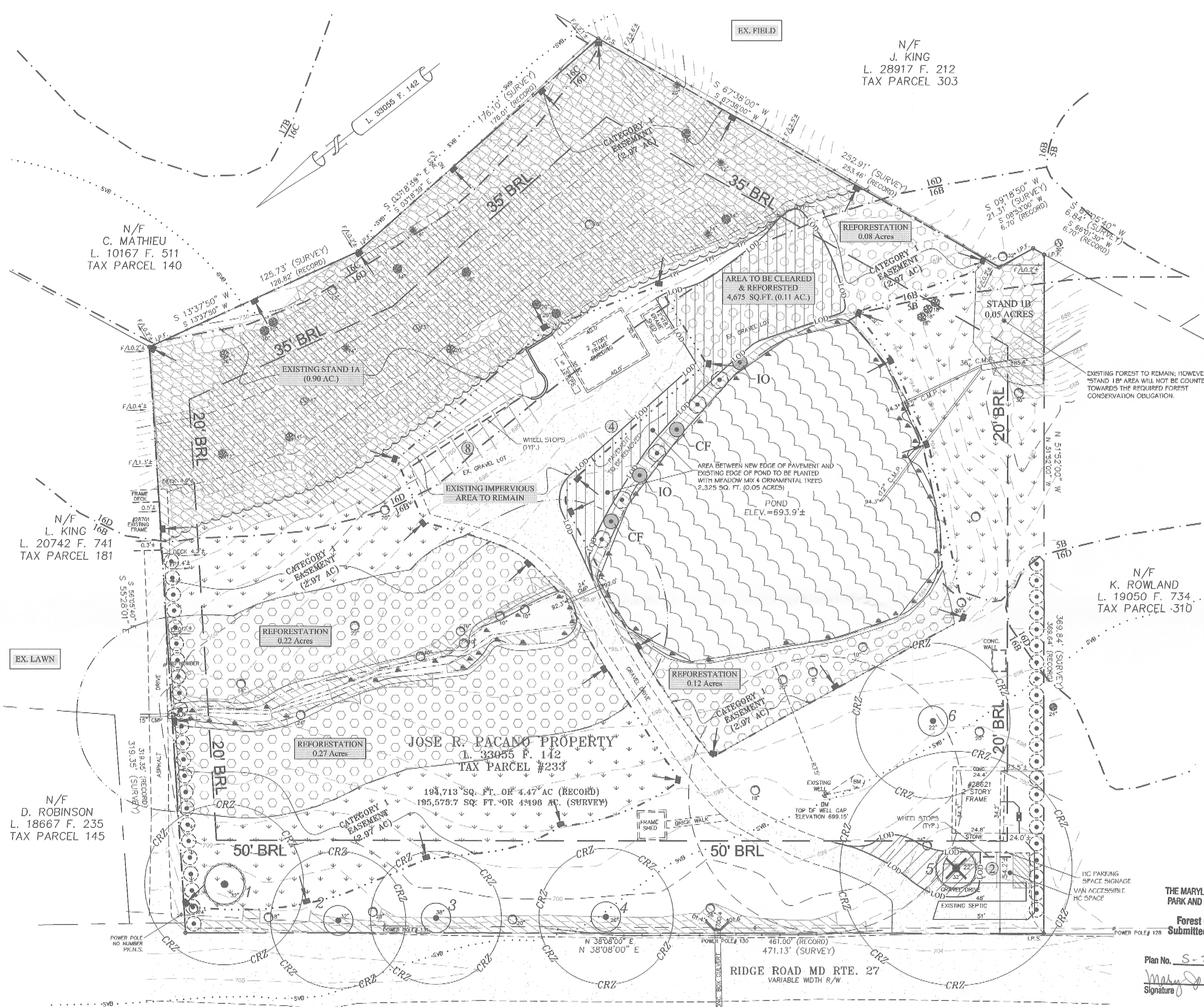
OWNER / DEVELOPER
JOSE ROBERTO PACANO
28621 Ridge Road,
MT. Airy, MD. 21771-4438
Phone: (301) 252 - 3055

RAZTEC ASSOCIATES, INC.
civil engineers & planners
3280 Urbana Pike
Jlansville, Maryland 21754
Tel (301) 775-4394
Fax (301) 831-8978
email: raztecengr@comcast.net

SEAL

COVER SHEET
28621 RIDGE ROAD, DAMASCUS
MONTGOMERY COUNTY, MARYLAND
ZONE: RDT
TAX MAP: FY53
12th ELECTION DISTRICT

SCALE
1" = 60'
CHECKED BY:
MR
DRAWN BY:
SL
DATE
NOVEMBER, 2013
SHEET NUMBER
1 of 3



N/F
J. KING
L. 28917 F. 212
TAX PARCEL 303

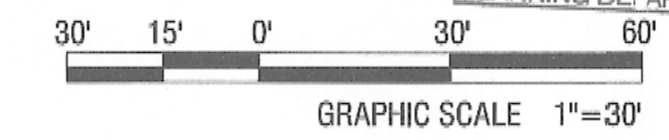
N/F
C. MATHIEU
L. 10167 F. 511
TAX PARCEL 140

N/F
L. KING
L. 20742 F. 741
TAX PARCEL 181

N/F
D. ROBINSON
L. 18667 F. 235
TAX PARCEL 145

JOSE R. PACANO PROPERTY
L. 33055 F. 142
TAX PARCEL #233

TOTAL SITE AREA = 4.50 ACRES		
	AREA (AC.)	PERCENT OF TOTAL AREA (%)
EXISTING IMPERVIOUS AREA	0.57	12.67
PROPOSED IMPERVIOUS AREA	0.39	8.64



RECEIVED
M-NCPPC
MAY 20 2014
MONTGOMERY COUNTY
PLANNING DEPARTMENT

FOREST CONSERVATION SIGNAGE
THIS SYMBOL REPRESENTS A LOCATION FOR FOREST CONSERVATION EASEMENT SIGN WITH FACING DIRECTION INDICATED BY ARROW.

ON-SITE SIGNIFICANT/SPECIMEN TREE LIST

ID	COMMON NAME	SPECIES NAME	DBH	CONDITION
1@	Box Elder	Acer negundo	30	Good
2#	Box Elder	Acer negundo	26	Poor-Power line pruning
3#	Box Elder	Acer negundo	24	Fair-Power line pruning
4#	Box Elder	Acer negundo	75	Fair-Power line pruning
5@	Red Maple	Acer rubrum	42	Poor-root compaction
6#	Silver Maple	Acer saacharinum	28	Good

LIST OF ORNAMENTAL TREES /LOCATED TO THE EAST OF EXISTING POND

COMMON NAME	SPECIES NAME	Count	Symbol
Dogwood, Flowering	Cornus florida	2	CF
Holly, American	Ilex opaca	2	IO

REFORESTATION/AFFORESTATION PLANTING SCHEDULE

BOTANICAL NAME	COMMON NAME	SHRUB QUANTITY (18"±-24" TL)	TOTAL 1" CAL. STOCK	TOTAL 1" CAL. STOCK EQUIVALENCY
Acer rubrum	Red Maple	33	33	33
Liriodendron tulipifera	Tulip Poplar	33	33	33
Quercus rubrum	Red Oak	33	33	33
Platanus occidentalis	Sycamore	33	33	33
Cornus florida	Dogwood	30	30	30
TOTAL		160	160	160

REFORESTATION CREDIT AREAS

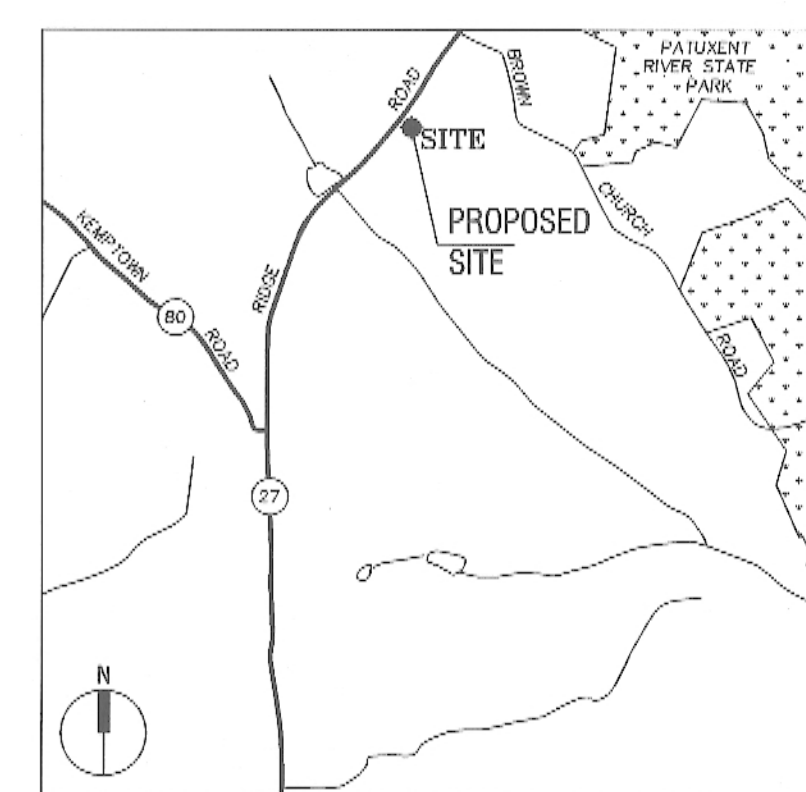
REFORESTATION CREDIT AREAS	0.80 Ac.	0.80 Ac.
TOTAL REFORESTATION ACRES = 0.80 Ac.		

SHRUBS PROVIDED AT A RATE OF 1/3 OF THE AMOUNT OF TREES.
NOTE: 1" STOCK CREDIT AT 200 PER ACRE. STOCK PLANTED IN RANDOM DISTRIBUTION PATTERN IN RELATION TO EXISTING STOCK & SAPLINGS (SEE DETAIL)

SCHEDULE FOR MEADOW MIX MEADOW AREA - 0.70 ACRES

SUPPLIER	Name of Mix/Mix Content	Seeding Rate
Ernst Conservation Seeds	MD Mountain UPL Meadow Mix: 54% Little Bluestem (Schizanthyrium scoparium) 10% Virginia Wildrye (Elymus virginicus) 10% Indiangras (Sorghastrum nutans) 5% Big Bluestem (Andropogon gerardii) 5% Purpletop (Tridens flavus) 5% Green Headed (Rudbeckia lasinista) 5% Partridge Pea (Chamaecrista fasciculata) 3% Wild Senna (Senna hebecarpa) 2% Wild Bergamot (Monarda fistulosa) 1% White (Silver Rod) Goldenrod (Solidago bicolor) 1% Cullver's Root (Veronicastrum virginicum) 1% Common Milkweed (Asclepias syriaca)	15 lbs per acre x 0.70 Acres

TOTAL AMOUNT OF SEED REQUIRED - 10.5 lbs



VICINITY MAP
SCALE: 1"=200'

SITE LEGEND

- PROPOSED BOUNDARY
- EXISTING STRUCTURES
- EXISTING PAVEMENT
- EXISTING CONTOUR
- EXISTING INDEX CONTOUR
- EXISTING SEWER LINE
- EXISTING WATER LINE
- POWER POLE
- SEPTIC TANK
- WETLANDS
- WELL
- EXISTING FOREST STAND
- STREAM VALLEY BUFFER
- MAPPED SOIL TYPE
- SIGNIFICANT TREE
- SPECIMEN TREE
- CRITICAL ROOT ZONE
- EXISTING TREE LINE
- REFORESTATION AREA
- MEADOW AREA
- IMPERVIOUS AREA TO BE REMOVED
- IMPERVIOUS AREA TO BE REMOVED AND REFORESTED
- STBEP SLOPES (15% - 25%)
- STBEP SLOPES ≥25%
- CATEGORY I FOREST CONSERVATION EASEMENT
- LIMITS OF DISTURBANCE
- TREE PROTECTION FENCE
- TREE TO BE REMOVED

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Forest Conservation Plan
Submitted for Planning Board Approval

Plan No. S-27101
Signature: Mary Jo Vinkhwa
Date: 5/21/14

DEVELOPER'S CERTIFICATE
The Undersigned agrees to execute all the features of the Approved Final Forest Conservation Plan No. S-27101 including, financial bonding, forest planting, maintenance, and all other applicable agreements.
Developer's Name: JOSE ROBERTO PACANO
Contact Person or Owner: JOSE ROBERTO PACANO
Address: 28621 Ridge Road, MT. Airy, MD. 21771-4438
Phone: (301) 252-3055
eMail:
Signature:

Klebasko Environmental, LLC
8737 Pincy Orchard Parkway, Suite 207
Odenton, Maryland 21113
(410) 672-5990 (office)
(410) 672-5993 (fax)
FOREST CONSERVATION PLAN PREPARED BY:
MICHAEL J. KLEBASKO DATE 5/16/14
OF KLEBASKO ENVIRONMENTAL, LLC
(QUALIFIED PROFESSIONAL PER COMAR 08.19.06.01)

REV#	DATE

OWNER / DEVELOPER
JOSE ROBERTO PACANO
28621 Ridge Road,
MT. Airy, MD. 21771-4438
Phone: (301) 252 - 3055

RAZTEC ASSOCIATES, INC.
civil engineers & planners
3280 Urbana Pike
Ijamsville, Maryland 21754
Tel (301) 775-4394
Fax (301) 831-8978
email:raztecengr@comcast.net

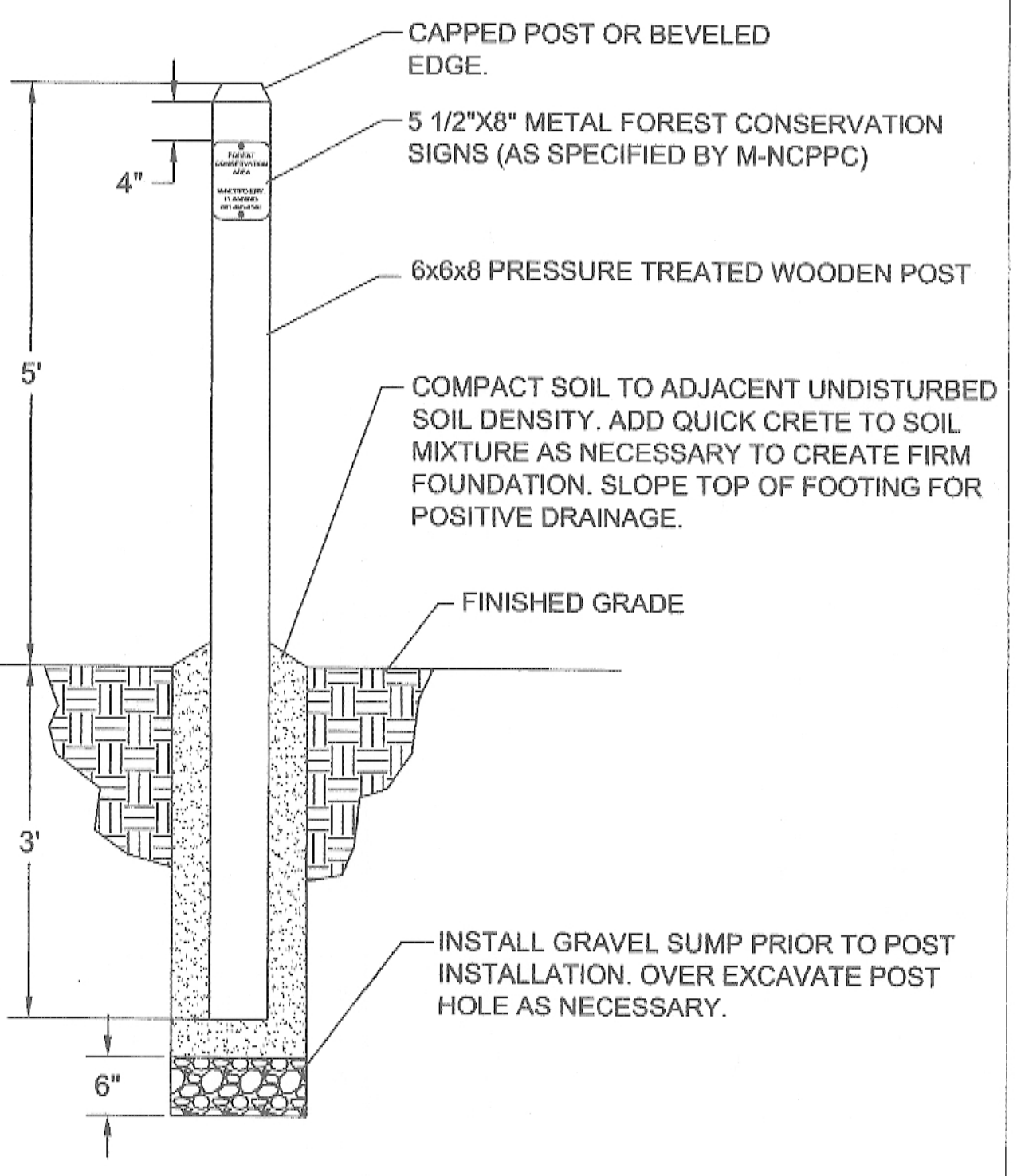
SEAL

FINAL FOREST CONSERVATION PLAN
28621 RIDGE ROAD, DAMASCUS
MONTGOMERY COUNTY, MARYLAND
ZONE: RDT
TAX MAP: FY53
12th ELECTION DISTRICT

SCALE
1" = 30'
CHECKED BY:
MR
DRAWN BY:
SL

DATE
NOVEMBER, 2013
SHEET NUMBER
2 of 3

PERMANENT FOREST CONSERVATION EASEMENT SIGNAGE



NOTE:
ALL WOOD SHALL BE PRESSURE TREATED SOUTHERN YELLOW PINE OR CEDAR.

ALL FASTENERS SHALL BE STAINLESS STEEL 1/2" IN LENGTH.

ALL POSTS TO BE INSTALLED ALONG FOREST CONSERVATION EASEMENT LINE AS SPECIFIED PER APPROVED FINAL FOREST CONSERVATION PLAN OR M-NCPPC FIELD INSPECTOR'S INSTRUCTIONS.

MONTGOMERY COUNTY PLANNING DEPT. JULY 2008

TASKS	MONTHS											
	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
TRANSPLANT OF 2" DBH OR GREATER												
PLANTING SEEDINGS, SHIPS												
MINIMUM MONITORING		*					*				*	
FERTILIZER (IF NEEDED)												
WATER												
PRUNING												

KEY

- * ACTIVITIES DURING THESE MONTHS ARE DEPENDANT UPON GROUND CONDITIONS
- GREATLY RECOMMENDED
- RECOMMENDED WITH ADDITIONAL CARE
- RECOMMENDED
- DEPENDANT UPON SITE CONDITIONS
- DEPENDANT UPON SITE CONDITIONS WEEKLY WATERING IS GREATLY RECOMMENDED FROM MAY THROUGH OCTOBER UNLESS WEEKLY RAINFALL EQUALS 1"

NOTE:
The planting and care of trees is most successful when coordinated with the local climatic conditions. This calendar summarizes some of the recommended time frames for basic reforestation and stress reduction activities.

SOURCE: Adapted from Maryland State FOREST CONSERVATION MANUAL

TREE PLANTING AND MAINTENANCE CALENDAR

PLANTING PROCEDURES FOR AFFORESTATION, REFORESTATION AREAS (LANDSCAPE AND SHEDDING STOCK)

All tree planting for woodland replacement, Afforestation will be completed within 6 months of the completion of final grading provided that it can be done within the specified planting window. An additional 6 months may be necessary in order to plant during the planting window.

Prior to the issuance of any permits the contractor responsible for soil preparation, site preparation, tree planting and tree maintenance must be identified

- Planting window for landscape stock - March 1st - December 30th. No planting will occur while the ground is frozen.
- Species List - Based on the native forest of the Montgomery County Area. (See *Reforestation Plants Lists")
- Landscape stock 1" caliper.
- Spacing and Quantity - See "Reforestation Plant Lists"
- Layout - For landscape stock see "Planting Layout" detail.
- Each landscape tree should be mulched with 2"-3" of composted shredded hardwood mulch unless they are in a planting bed where mulch will be spread throughout.

SITE PREPARATION (EXPOSED AND NEWLY GRADED SOILS)

- Contractor is to perform soil tests in proposed planting areas prior to site preparation, to identify potential nutrient and pH deficiencies.
- Soils shall be free of contaminants (oil products, concentrated soluble salts, ferrous iron, soluble aluminum and soluble manganese).
- Apply soil amendments, if specified, prior to tilling, discing, raking, final grading, etc. Soil amendments are to be determined by the University of Maryland Cooperative Extension service and/or a qualified Ecologist based on soil test results.
- Flat areas and slopes up to 3:1 shall be loose and finable to a depth of at least 6 inches. The top layer of soil shall be loosened by raking, discing or other acceptable means before seeding.
- Herbicide applications for the control of invasive species after planting will be done as part of the maintenance agreement

PLANT INSTALLATION METHODS

- Auger planting method is preferred for level areas, as it creates better soil porosity by drilling a hole much larger than the root system and producing tilled backfill, see "Method for Auger Tree Planting" detail.
- Hand digging is acceptable in situations where the auger cannot be applied (slopes, wet areas, confined spaces, etc.) See "Planting Methods" detail.

PLANT CRITERIA FOR AFFORESTATION AREAS

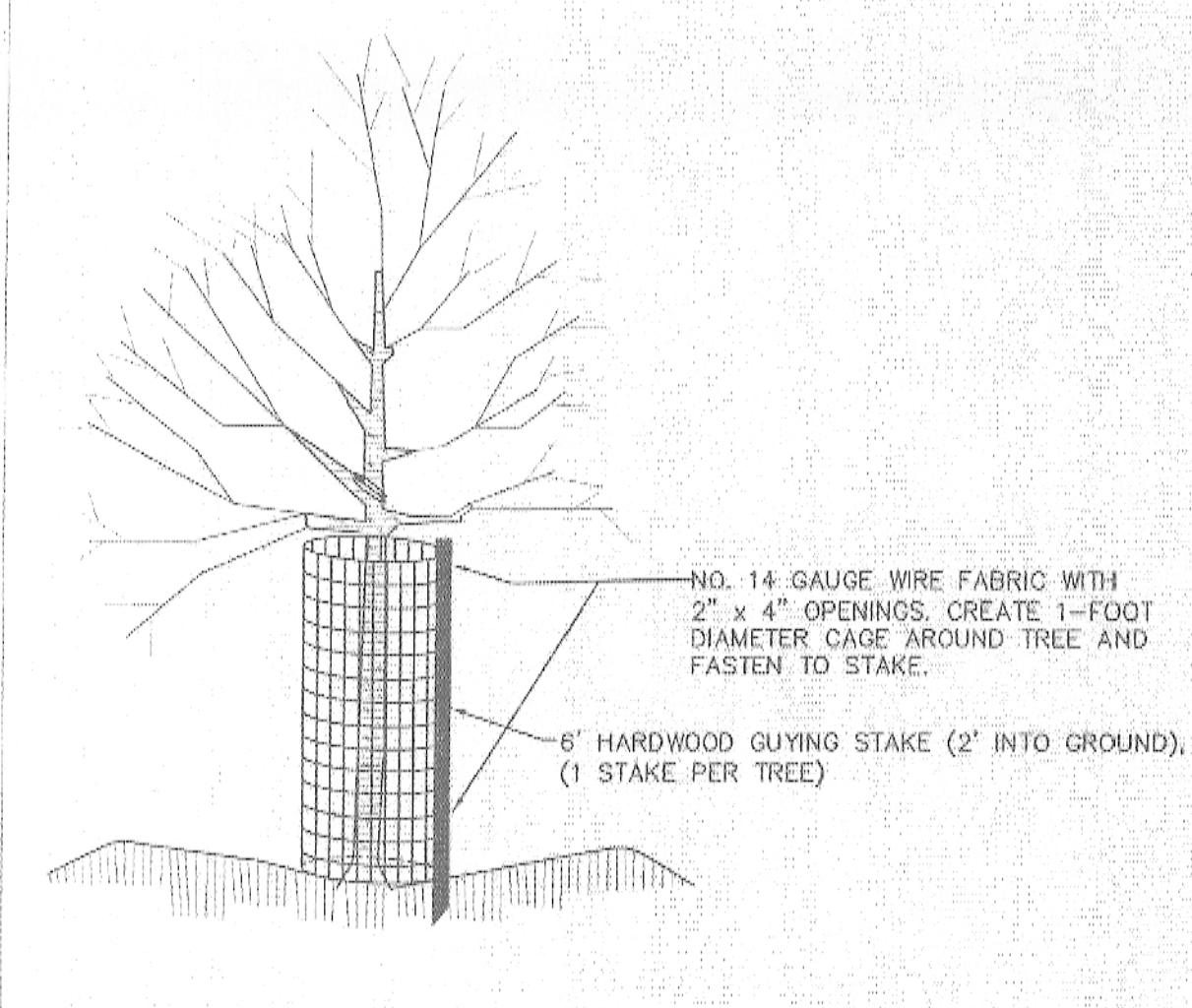
- Plants supplied shall conform in all respects to the current edition of the American Standard for Nursery Stock (ANSI Z60.1). They shall be nursery grown in accordance with good horticultural practice and grown under climatic conditions similar to those in the locality of the project. Plant names shall be given in the edition of Standard Plant Names, American Joint committee on Horticultural Nomenclature.
- Prior to planting, protect plants at all times from the sun and drying winds. Plants that cannot be planted immediately shall be kept in the shade, and kept well watered. Plants shall not remain unplanted for more than three (3) calendar days unless adequate irrigation and protection from the elements is provided on site.
- Plants shall not be bound with wire or rope at any time so as to damage the bark or break branches or twigs.
- Plants shall be sound, vigorous, and healthy. They shall be free of disease and insect pests and shall have healthy, well developed root systems. Trunks and branches shall be free of cuts and abrasions over one inch (1") in any dimensions.
- Container-grown plants shall not have roots that encircle the rootball.
- All plants shall be certified pest-free by the Department of Agriculture of the State of origin.

AFFORESTATION MANAGEMENT PLAN & MAINTENANCE PLAN

- The Contractor implementing the reforestation plan is subject to a binding maintenance agreement for the length of 2 years. IPM practices will be employed as needed to control diseases, insects and weeds. The contractor is responsible for the following:
 - Field check the planting area according to the following schedule:
 - Year 1: 3 times (March - April), (July - August), (October - November)
 - Year 2: Twice annually (April - May), September - October.
 Field Data Forms (Condition check sheets) will be sent to the client after each visit.
 - Watering is dependent of rainfall. The amount and frequency will vary. Plants will be watered as needed during years 1-2, depending on rainfall, time of season, and installation timing.
 - Control of invasive species will be achieved by annually mulching individual trees with composted wood chips or shredded hardwood mulch, re-flagging them as needed and spot applications of herbicide "Round-Up" applied directly to target species competing with reforestation plants. Be careful not to spray herbicide onto or inside the critical root zone of desirable plants.
 - Fertilizing within the first 2 years of maintenance period may not be necessary and will be based on the soil test results and the UMCP Ext. Service Recommendations.
 - Pest control is to be accomplished by identifying insect and disease, problems and applying appropriate integrated pest management practices as needed.
 - Perimeter fencing and Signage will be removed after two years based on the planting date upon sale occupancy dwelling.
 - The Warranty service obligations are such that at the end of the 2 year maintenance period, at 33 shrubs per acre plant survivability must be above 75% and at (200) 1" caliper trees per acre, survivability must be 75%. The applicant will be charged with a mitigation fee to restock the area and it will be levied based on the square footage of the affected area.
- LONG TERM PROTECTION
 - Protection of forest areas, as established through the forest conservation process, relies upon adherence to protection and maintenance standards during construction and preservation of these areas as undisturbed open space after construction to ensure their long-term survival. In order to provide for identification of these measures and ensure that they are carried out, refer to this Forest Conservation Plan.
- NOTES TO INCLUDE WITH ALL PLANS
 - Property owners shall be notified by the Developer or Contractor of any Woodland Conservation Areas (Tree Save Areas, Reforestation Areas, Afforestation Areas, or Selective Clearing Areas) located on their lot or parcel of land and the property the owner/developer or owners representative shall notify the purchaser of the property of any Woodland Conservation Areas.
 - All appropriate bonds will be posted with M-NCPPC prior to the issuance of any permits. These bonds will be retained as surety by M-NCPPC until all required activities have been satisfied.

STATE BILL 666 - NO NET LOSS OF FORESTRY POLICY - FOREST CONSERVATION NOTE:

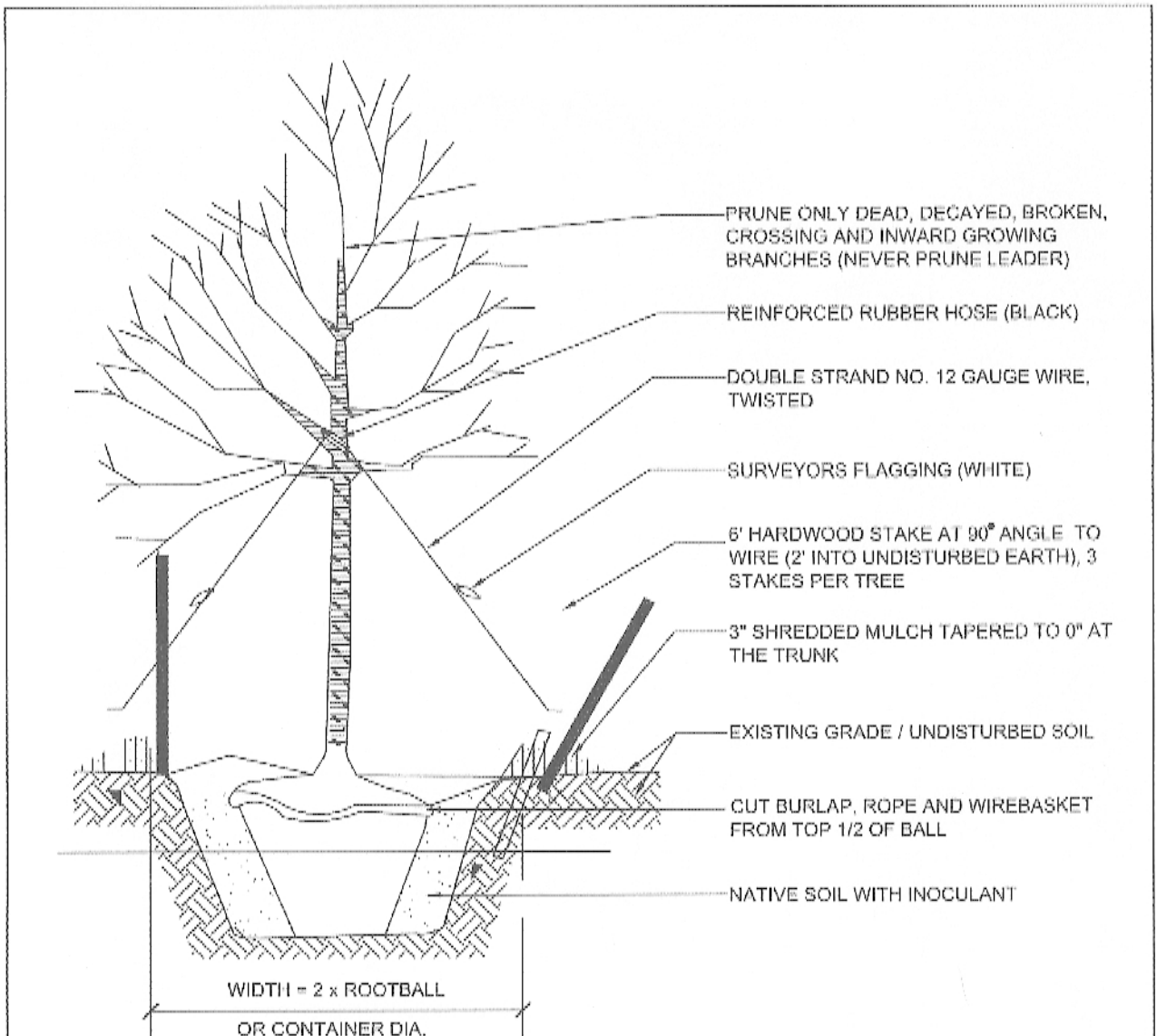
- The plan does not propose to remove:
- Any tree greater than 30 inches in diameter at breast height (dbh)
 - Any tree with a dbh equal to or greater than 75% of the current state champion.
 - Trees that are part of a historic site or associated with a historic structure.
 - Any tree designated as the county champion tree.
 - Any tree shrub or plant identified on the list of rare, threatened and endangered list of the U.S. Fish and Wildlife Service or the Maryland Department of Natural Resources.
- The critical root zone of all trees greater than 30" are shown on this plan. All critical root zones are outside of the proposed limits of disturbance.



- NOTES:**
- HEIGHT OF CAGE SHALL BE 4- FEET (MIN.)
 - CAGE SHALL BE FASTENED TO STAKE WITH TWO (MIN.) 11-INCH RELEASABLE CABLE TIES (ONE AT TOP AND ONE 6" (MIN.) ABOVE THE GROUND.
 - DO NOT DAMAGE TREE DURING INSTALLATION.
 - SUBSTITUTIONS MUST BE APPROVED BY FOREST ECOLOGIST.
 - CAGES TO BE REMOVED AT DIRECTION OF FOREST ECOLOGIST.

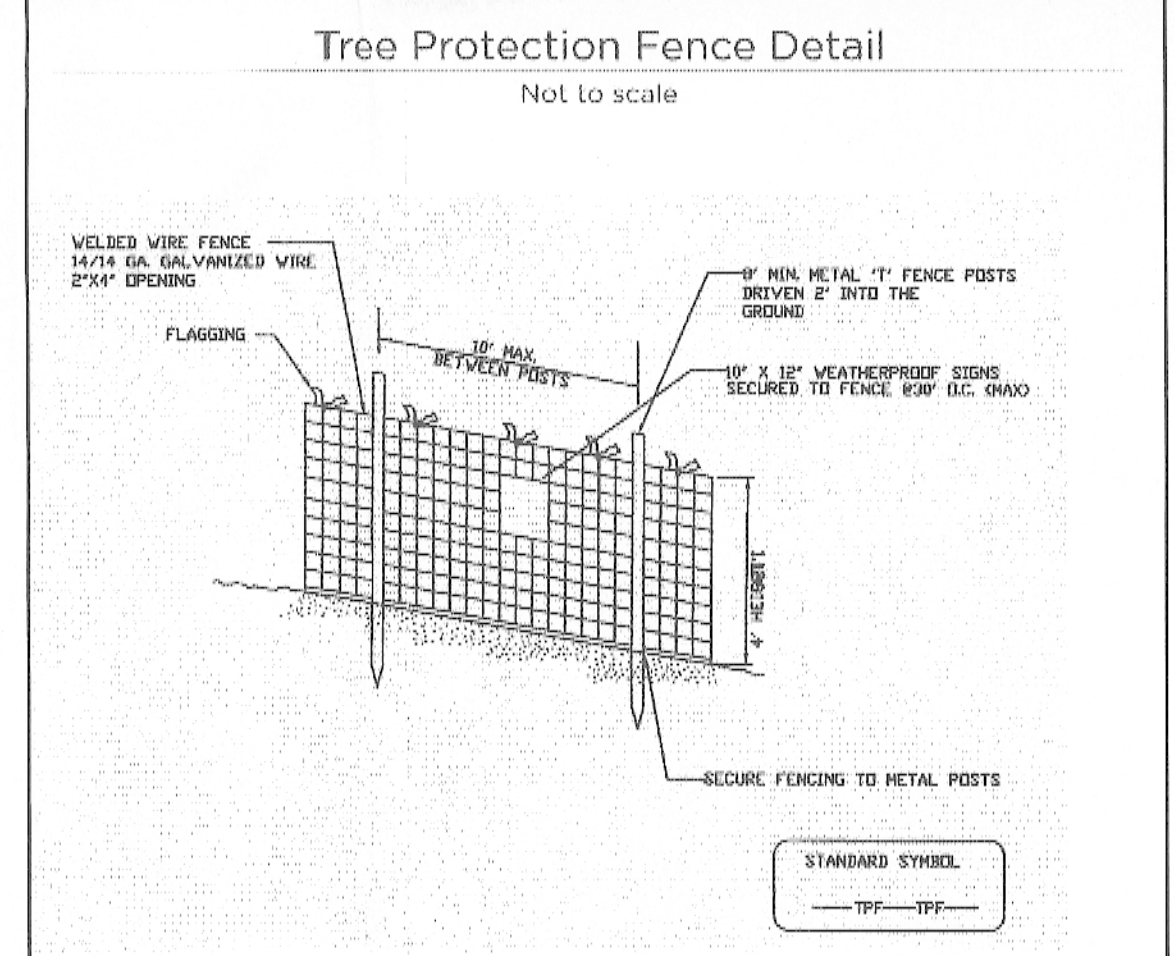
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Department of Park and Planning, Montgomery County, Maryland

PARK PLANNING & DEVELOPMENT DIVISION	DATE APPROVED	REVISION	DATE	STANDARD NO.
3800 BRIGHT AVENUE BETHESDA, MD 20814	CHEF ENGINEER			
DIRECTOR OF PARKS				



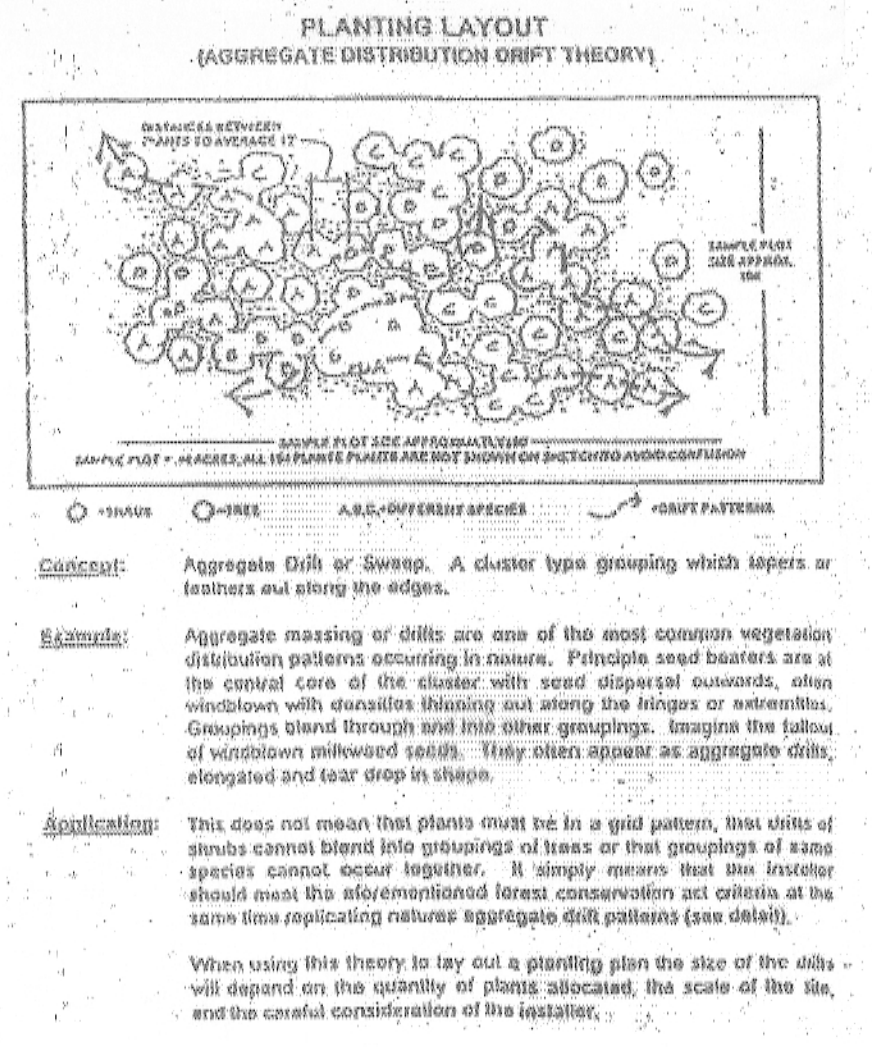
- NOTES:**
- STAKES AND WIRES MUST BE REMOVED NO LATER THAN 12 MONTHS AFTER PLANTING.
 - PLANTING HOLE SHALL BE DUG BY A BACKHOE OR OTHER MACHINE AND FINISHED BY HAND.
 - IF SURROUNDING SOIL IS COMPACTED AS DETERMINED BY M-NCPPC PLANNING DEPT INSPECTOR OR PARKS DEPT FOREST ECOLOGIST, AN AREA UP TO 3 TIMES THE DIA. OF THE ROOT MASS SHALL BE EXCAVATED OR ROTOTILLED TO A 1" DEPTH AND THE SOIL SHALL BE AMENDED.
 - DO NOT DAMAGE OR CUT LEADER.
 - ROOT FLAIR EVEN WITH LEVEL OF UNDISTURBED GROUND.

DECIDUOUS PLANTS - (2 1/2" Caliper or Larger)
The Maryland-National Capital Park and Planning Commission
Montgomery County Department of Parks



- NOTES:**
- Practice may be combined with sediment control fencing.
 - Location and limits of fencing should be coordinated in field with arborist.
 - Boundaries of protection area should be staked prior to installing protective device.
 - Root damage should be avoided.
 - Protection signage is required.
 - Fencing shall be maintained throughout construction.

Montgomery County Planning Department • M-NCPPC
MontgomeryPlanning.org



DEVELOPER'S CERTIFICATE

The Undersigned agrees to execute all the features of the Approved Final Forest Conservation Plan No. S-2701 including, financial bonding, forest planning, maintenance, and all other applicable agreements.

Developer's Name: JOSE ROBERTO PACANO

Contact Person or Owner: JOSE ROBERTO PACANO
Address: 28621 Ridge Road, MT. Airy, MD. 21771-4438
Phone: (301) 252 - 3055
eMail: _____

Signature: [Signature]

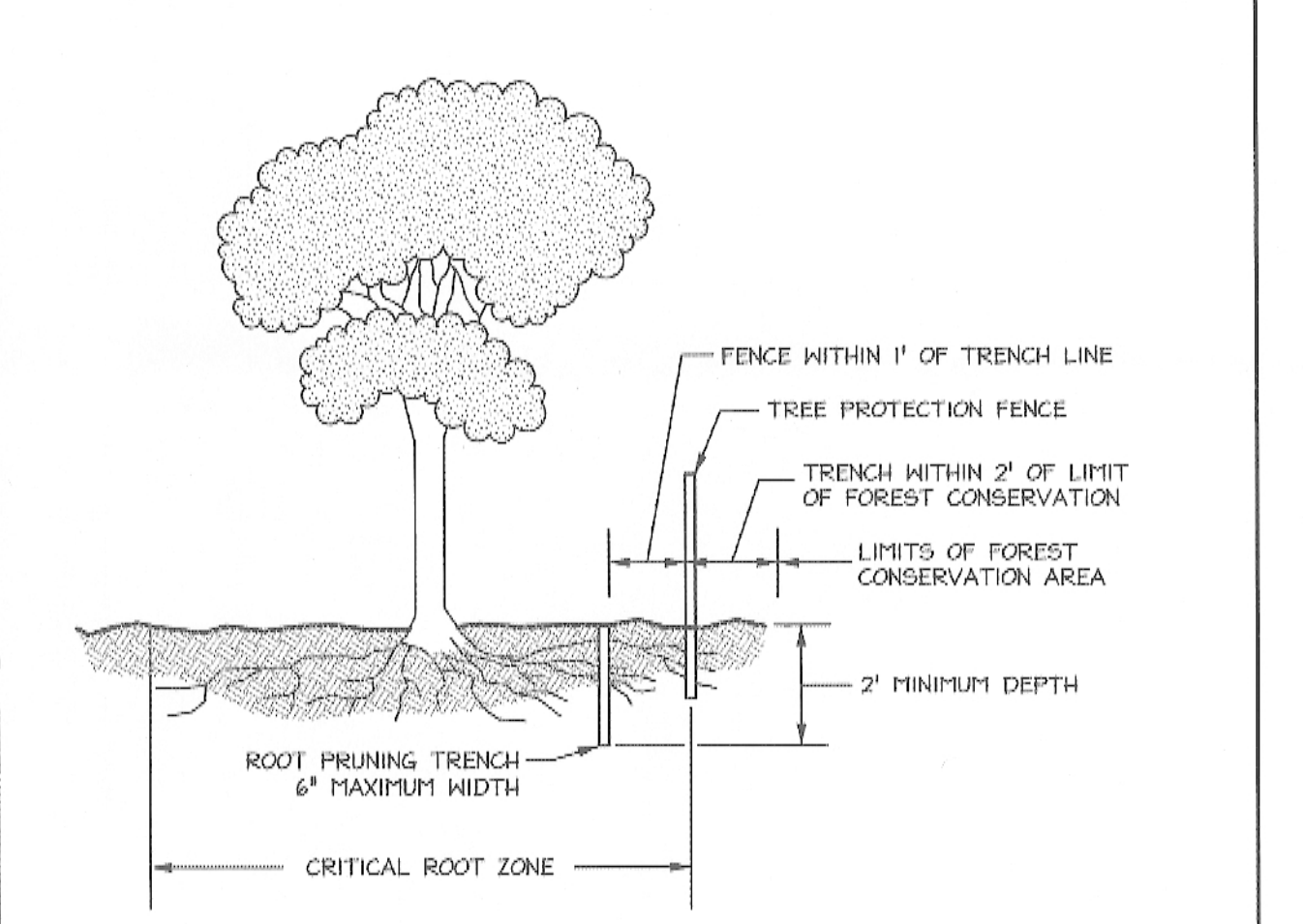
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Forest Conservation Plan
Submitted for Planning Board Approval

Plan No. S-2701

Signature: [Signature] Date: 5/21/14

DETAIL - ROOT PRUNING



- NOTES:**
- Retention Areas to be established as part of the forest conservation plan review process.
 - Boundaries of Retention Areas to be staked, flagged and/or fenced prior to trenching.
 - Exact location of trench should be identified.
 - Trench should be immediately backfilled with soil removed or organic soil.
 - Roots should be cleanly cut using vibratory knife or other acceptable equipment.

Source: Adapted from Steve Clark & Associates/ACRT, Inc. and Forest Conservation Manual, 1991.

Klebasko Environmental, LLC

8373 Pincy Orchard Parkway, Suite 207
Odenton, Maryland 21113
(410) 672-5990 (office)
(410) 672-5993 (fax)

FOREST CONSERVATION PLAN PREPARED BY:
Michael J. Klebasko 5/16/14
MICHAEL J. KLEBASKO DATE
OF KLEBASKO ENVIRONMENTAL, LLC
(QUALIFIED PROFESSIONAL PER
COMAR 08.19.06.01)

REV#	DATE

OWNER / DEVELOPER

JOSE ROBERTO PACANO
28621 Ridge Road,
MT. Airy, MD. 21771-4438
Phone: (301) 252 - 3055

RAZTEC ASSOCIATES, INC.
civil engineers & planners

3280 Urbana Pike
Ijamsville, Maryland 21754

Tel (301) 775-4394
Fax (301) 831-8978
email: raztecengr@comcast.net

SEAL

FOREST CONSERVATION NOTES & DETAILS

28621 RIDGE ROAD, DAMASCUS
MONTGOMERY COUNTY, MARYLAND

ZONE: RDT
TAX MAP: FY53

12th ELECTION DISTRICT

SCALE
N/A

CHECKED BY:
MR

DRAWN BY:
SL

DATE
NOVEMBER, 2013

SHEET NUMBER
3 of 3

April 9, 2014

Forest Conservation Program Manager
Environmental Planning Section
Maryland National Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Jose Pacano, d/b/a Woodstone Group, LLC
Petition for a Special Exception for a Landscape Contractor Business
Variance Request
Case No. S2761

On behalf of our client, Jose Pacano, d/b/a Woodstone Group, LLC, we are requesting a variance from Section 5-1607(c)(2)(III) of the Natural Resources Article of the Maryland Annotated Code. This section states:

5-1607(c) (2) The following trees, shrubs, plants and specific areas shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the state or local authority, that the applicant qualifies for a variance under Section 5-1611 of this subsection.

- (III) Trees having a diameter measured 4.5 feet above the ground of*
- (1) 30 inches, or*
 - (2) 75 % of the diameter measured 4.5' above the ground, of the current state champion tree of that species as designated by the Department.*

Section 5-1611 of the Natural Resources Article of the Maryland Annotated Code grants authority to Montgomery County (the local authority) to approve variances from these requirements, “where owing to special features of a site or other circumstances, implementation of this subtitle would result in unwarranted hardship to an applicant.” And Section 22A-21, entitled “Variance”, of the Montgomery County Code establishes the criteria to grant a variance.

The subject property, 2861 Ridge Road, Mt. Airy, Maryland, is located on Md. Route 27

(Ridge Road) approximately ½ mile north of the intersection of Md. Route 80 (Kempton Road) and Md. Route 27, in Mt. Airy, Montgomery County, Maryland. The property contains 4.5 acres, with a mature .90 acre forest in the rear, a small home in the front right-hand corner of the property, and a stream that runs through the center of the property. A pond has been formed in the middle of the property, surrounded by gently rolling, open land. There is a 30' x 40' barn behind the pond and in front of the forest, which has been used for many years as the base for a landscape contracting business, and the applicant seeks to obtain a special exception to allow him to continue using the property for that purpose. The home in the front right hand corner has been used as an office for this business, and is no longer used as a residence. The neighborhood surrounding the property contains a smattering of large lot single family homes and farms.

The applicant is requesting a variance to remove one tree that measures 30" or greater in diameter at breast height (dbh). In particular, the applicant would like to remove the following tree:

Tree #5 – Red Maple, 42", **poor condition, root compaction.**

Section 22A-21 (b) lists the criteria for the granting of the variance requested herein. The following narrative explains how the requested variance is justified under the set of circumstances described above.

1. Describe the special conditions peculiar to the property which would cause the unwarranted hardship:

The property has been used as a landscape contracting business for over 10 years. It was being used as such when the applicant purchased the property in 2006. The applicant has made no changes to the property, but will be reforesting much of the property when the special exception is granted.

Removal of Tree #5

The home located in the front right hand corner of the property, where Tree #5 is located, has been used as the office for the landscaping business, and was used for that purpose when the applicant purchased the property. The previous owner installed gravel in the area in front of the home, creating five parking spaces and surrounding the tree with gravel and impacting the critical root zone of the tree. The tree is diseased and dying, and is located approximately 20 feet from the front of the home. A large part of the tree overhangs the home, and if the tree falls it will damage the home.

2. Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas:

Not granting this variance would cause undue hardship on the applicant because based on the existing zoning and subdivision requirements only limited areas are available to build on the property. Indeed, because the property is located in the Patuxent River Management Area, nothing can be built within 100' of the stream that runs through the property, and the home in the front right corner of the property is located in the only area of the property that can be built on. This home is placed in danger by the tree, which is diseased and dying, and the owner should be allowed to remove it so that it no longer endangers the home. Granting the variance will remove the danger to the only home on the property.

3. Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance:

The variance will not violate state water quality standards or cause measurable degradation in water quality. The tree is located outside the 100' stream buffer on the property, and after the tree is removed, the applicant intends to remove a large portion of the gravel surrounding the tree and plant grass in this area. This will improve the water quality on the site.

4. Provide any other information appropriate to support the request:

As mentioned above, the tree is diseased and dying. There is currently gravel surrounding its roots, and after it has been removed the applicant intends to remove a large portion of the gravel, so that the five parking spaces in front of the home are reduced to three. This will improve the quality of any water runoff on the site.

The Applicant believes that the information set forth above is adequate to justify the requested variance to remove one of the six significant/specimen trees on the subject property. Furthermore, the Applicant's request for a variance complies with the "minimum criteria" of Section 22A-21 (d) for the following reasons:

1. This Applicant will receive no special privileges or benefits by the granting of the requested variance that would not be available to any other applicant.
2. The variance request is not based on conditions or circumstances which result from the actions of the applicant. The applicant did not create the existing site conditions, including the random location of the specimen trees, the placement of gravel under the tree in question, or the diseased condition of the tree.
3. The variance is not based on a condition relating to the land or building use, either permitted or nonconforming on a neighboring property. All of the conditions discussed above exist on 28621 Ridge Road, Mt. Airy, Md.
4. Loss of the requested tree will not violate State water quality standards or cause measurable degradation in water quality.

If you have any further questions or concerns, please do not hesitate to contact me.

Sincerely,

David C. Gardner
Attorney for the Applicant



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Robert G. Hoyt
Director

April 23, 2014

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

RE: Pacano, S-2761, NRI/FSD application accepted on 5/27/2009

Dear Ms. Carrier:

Based on a review by the Montgomery Planning Department, the application for the above referenced request is required to comply with Chapter 22A of the Montgomery County Code. As stated in a letter to Royce Hanson from Bob Hoyt, dated October 27, 2009, the County Attorney's Office has advised me that the specific provisions pertaining to certain trees in the Maryland Forest Conservation Act, and therefore any subsequent changes to the County Code based on those provisions, do not apply to any application that was submitted before October 1, 2009. Since this application was submitted before this date, I will not provide a recommendation pertaining to the approval of this request for a variance.

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

Sincerely,

Laura Miller
County Arborist

cc: Mary Jo Kishter, Senior Planner