



## Kensington Heights Site Plan No. 820140040

---

CM

Crystal Myers, Senior Planner, Area 2 Division, Crystal.Myers@montgomeryplanning.org, 301-495-2192

KA

Khalid Afzal, Planner Supervisor, Area 2 Division, Khalid.Afzal@montgomeryplanning.org, 301-495-4650

GK

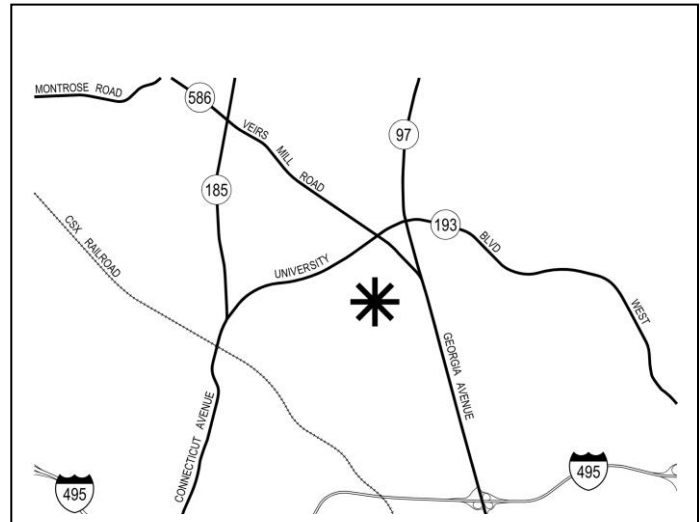
Glenn Kreger, Chief, Area 2 Division, Glenn.Kreger@montgomeryplanning.org, 301-495-4653

Staff Report Date: 04/17/14

---

### Description

- Request for the construction of 11 townhouses and three one-family detached dwelling units;
- Located north of McComas Avenue and east of Melvin Grove Court in the 2012 *Wheaton CBD and Vicinity Sector Plan*;
- 1.81 acres in the RT-8 Zone;
- Applicant: Kensington Heights 2, LLC;
- Submitted date: October 23, 2013.



### Summary

- Staff recommends approval of the Site Plan with conditions.
- The Site Plan approval includes approval of the Final Forest Conservation Plan.
- Staff supports the future pedestrian connection to the adjacent Westfield Wheaton Mall property. Westfield LLC. opposes this connection.

## **Recommendation and Conditions**

Staff recommends approval of Site Plan 820140040, Kensington Heights, for eleven townhouses and three one-family detached units. All site development elements as shown on the Site Plan, Landscape Plan, and Lighting Plan, received electronically by April 3, 2014, are required except as modified by the following conditions:

### **Conformance with Previous Approvals**

1. Development Plan Binding Elements

The Applicant must comply with the binding elements of the Schematic Development Plan approved by the County Council in Local Map Amendment G-879, on October 12, 2010, by Resolution No. 16-1518.

2. Preliminary Plan Conformance

The Applicant must comply with the conditions of approval for Preliminary Plan No. 120110170, as listed in the MCPB Resolution No. 12-96 approved by the Planning Board on March 26, 2013 unless amended by the Planning Board.

3. Final Forest Conservation Plan

- a) Prior to any demolition, clearing, or grading, the Applicant must obtain Staff approval of a Certificate of Compliance Agreement for use of an M-NCPPC-approved off-site forest mitigation bank to satisfy the afforestation requirement.
- b) Limits of disturbance (LOD) shown on the Sediment and Erosion Control Plan must be consistent with the LOD on the Final Forest Conservation Plan.

4. The Applicant must construct the private internal street(s) to applicable Montgomery County tertiary residential street structural standards and must construct all sidewalks, both on and off the Subject Property, to applicable ADA standards.

5. The Planning Board has accepted the conditions of the Montgomery County Department of Permitting Services Right-of-Way Permitting and Plan Review Section in its letter submitted electronically on March 19, 2014; and hereby incorporates them as conditions of this Site Plan approval. Therefore, the Applicant must comply with each of the conditions as set forth in the letter, which may be amended by MCDPS provided that the amendments do not conflict with the other conditions of the Site Plan approval.

6. On-Site Lighting

- a) The lighting distribution and photometric plan must conform to IESNA standards for residential development.
- b) Illumination levels shall not exceed 0.5 footcandles (fc) at any property line abutting public roads and residential properties.
- c) The height of the light poles, including the mounting base, shall not exceed 14'-6".
- d) All on-site, down-light fixtures must be full cut-off fixtures to prevent potential glare or excess illumination on adjacent properties.

7. Landscape Surety

Prior to issuance of the first building permit, the Applicant must enter into a Site Plan Surety and Maintenance Agreement with the Planning Board in a form approved by the M-NCPPC Office of General Counsel that outlines the responsibilities of the Applicant. The Agreement must include a performance bond(s) or other form of surety in accordance with Section 59-D-3.5(d) of the Montgomery County Zoning Ordinance, with the following provisions:

- a) A cost estimate of the materials and facilities, which, upon Staff approval, will establish the initial surety amount.
- b) The cost estimate must include all applicable elements, including, but not limited to plant material, on-site lighting, retaining walls and railings, private roads, paths and associated improvements.
- c) The bond or surety shall be tied to the development program, and completion of plantings and installation of particular materials and facilities covered by the surety will be followed by inspection and release of the surety.

8. The fence on top of the retaining walls along the eastern and western boundaries of the Subject Property must have a transparent design, subject to Staff approval at Certified Site Plan.

9. Development Program

The Applicant must construct the development in accordance with a development program that will be reviewed and approved by Staff prior to the approval of the Certified Site Plan. The development program must include the following items in the phasing schedule:

- a) Clearing and grading must correspond to the construction phasing to minimize soil erosion and must not occur prior to approval of the Sediment Control Plan, and M-NCPPC inspection and approval of all protection devices.
- b) Prior to issuance of the tenth building permit, on-site amenities including, but not limited to, sidewalks, private street lamps, landscaping and trash receptacles must be installed. Street tree planting may wait until the next planting season following street construction.
- c) Prior to issuance of the tenth building permit, the off-site sidewalk of approximately 250 feet along McComas Avenue must be completed.
- d) The development program must provide phasing of stormwater management, sediment and erosion control, and other features.

10. Certified Site Plan

Prior to approval of the Certified Site Plan, the following revisions to the Site Plan must be made and/or information provided subject to Staff Review and approval:

- a) Include the Final Forest Conservation Plan approval, Stormwater Management concept approval, development program, and Site Plan Resolution on the approval or cover sheet.
- b) Add a note stating that "M-NCPPC staff must inspect all protection devices prior to clearing and grading."
- c) Modify the data table to reflect the development standards enumerated in the Planning Board Resolution of approval.
- d) Ensure that all details and the development layout are consistent between the Site Plan and the Landscape Plan.
- e) Adjust front building lines in the townhouse row for lots 82 through 86 to comply with Montgomery County Code Section 59-C-1.7222(b).

## Project Description

### Vicinity

The Subject Site is located on the north side of McComas Avenue east of Melvin Grove Court. North of the Subject Site is Westfield Wheaton Mall, to the east is a small cluster of one-family detached houses and townhouses zoned RT-8, and to the west and south are R-60 zoned single-family detached houses. The Wheaton Metro Station is approximately one mile to the northeast at the intersection of Georgia Avenue and Reedie Drive.

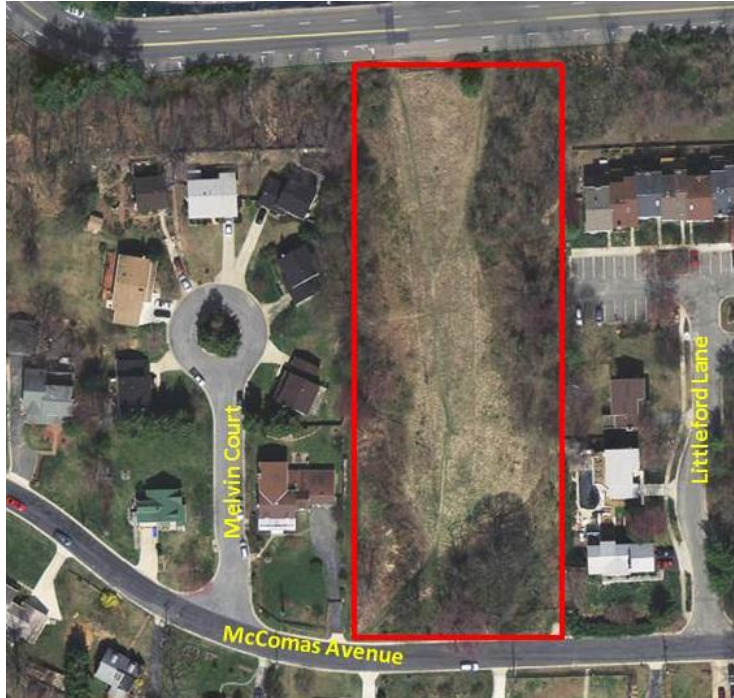
**Figure 1: Vicinity Map**



## Site Description

The Subject Site is identified as Part of Lot 16 in the Kensington Heights subdivision. It is approximately 1.8 acres and zoned RT-8. It contains a man-made mound created by the dirt and debris deposited on this site during construction of the Westfield Wheaton Mall (it was previously owned by the Mall's owners). The top of the mound is at level with the Mall's ring road and makes parts of the site 18' higher than the adjacent residential properties. The Subject Site is vacant but contains an informal pedestrian path from McComas Avenue to the Westfield Wheaton Mall property.

**Figure 2: Site Map**



## Previous Approvals

### Development Plan

On October 12, 2010, the Montgomery County Council rezoned the Subject Site from R-60 to RT-8. The approved Schematic Development Plan allows for up to 14 single-family detached and townhouse dwelling units and contains four binding elements which are listed on page 12 of the report (Resolution 16-1518).

### Preliminary Plan

On July 26, 2012, the Planning Board approved with conditions Preliminary Plan No. 120110170 (Resolution 12-96) for up to 11 townhouse lots and three single-family detached dwelling lots. On March 26, 2013, the Planning Board amended Conditions No. 3 and No. 5 of the approved Preliminary Plan through a corrective resolution (Attachment A) to require the Applicant to pay a fee-in-lieu, prior to the issuance of building permits, if the sidewalk on the McComas Avenue frontage of the site is not constructed by the Applicant (Condition No. 3); and to require a sidewalk only on one side of the internal private road rather than on both sides (Condition No. 5). These modifications were part of the hearing and approval of the Preliminary Plan, but were inadvertently omitted from the original Planning Board Resolution.

## **Proposal**

The Applicant is proposing to develop the Subject Site with three single-family detached houses and 11 townhouses along a private road off of McComas Avenue. The project will include a 5-foot sidewalk off-site along McComas Avenue between Melvin Grove Court and Littleford Lane, and a 5-foot sidewalk along the eastern portion of the project's internal private road. The Site Plan shows that there will be retaining walls along the western and eastern boundaries of the Subject Site.

One of the three single-family detached dwellings will have frontage on McComas Avenue; all other units will have frontage on the internal private road. The proposed townhouses will be set back at least 30 feet from the single-family dwelling lots neighboring the site's eastern and western boundaries. The stormwater management concept includes using dry wells and microbioretention to meet the required stormwater management environmental site design goals.



Figure 3: Site Plan



## Project Analysis

### Community Concerns

#### Melvin Grove Court Community Concerns

On November 20, 2013, Staff met with Mr. John Jenkins and Mr. James Schmidt, owners of lots 48 and 49 on Melvin Grove Court which abut the western boundary of the Subject Site. They also represent lot 47 whose owner, Mr. Christopher Baker, was unable to make the meeting. Mr. Jenkins and Mr. Schmidt expressed concern over the height of the proposed five-and-one-half feet high retaining wall along all three properties to the west.

In response, the Applicant reduced the height of the proposed retaining wall to be no more than four feet at its highest point (Figure 4). In compliance with County code requirements, parts of the wall will be topped with a fence/railing no more than approximately three feet tall. At its highest, the wall, including the fence/railing will be approximately seven feet. As a comparison, the average residential privacy fence is up to six feet. To make sure that the proposed retaining wall/fence does not become too tall and looming over the adjacent properties, Staff recommends that the fence/railing be transparent (e.g. metal railing). Staff finds that the height of the proposed retaining wall with a transparent fence/railing is reasonable. The retaining wall is needed due to the topography of the site and to contain and manage all stormwater runoff on-site, which will rectify the existing condition of stormwater runoff flowing to the neighboring properties.

#### Westfield Wheaton Mall Concerns

On December 4, 2013, Staff met with Mr. Jim Agliata of Westfield Wheaton Mall to discuss Mr. Agliata's concerns about the sixth condition on the approved Preliminary Plan:

*The Applicant must provide a pedestrian connection between McComas Avenue and the Wheaton Mall property via the internal sidewalk, as shown on the Preliminary Plan.*

The approved Preliminary Plan shows a future pedestrian path connecting the proposed sidewalk on the Subject Site to the Mall's Ring Road. This was done with the idea that a future redevelopment of the Mall property along the Ring Road should provide a safe pedestrian path between McComas Avenue and the Mall property. Many area residents currently cut through the site and walk up the mound to go to the Mall, the Metro or other destinations in downtown Wheaton.

Mr. Agliata fears that whenever Westfield Wheaton Mall redevelops, it will be required to complete the pedestrian connection on the Mall property (Figure 4). He disagrees with having a pedestrian connection to the Mall in this location because of the area's steep topography and the safety and subsequent liability concerns with creating this connection. He argues that the Sector Plan did not envision a pedestrian path in this location. Westfield also sent a letter in opposition to this recommendation which is attached as Attachment F at the end of this report. The letter further points out that the fifth general note on the Schematic Development Plan for the project states:

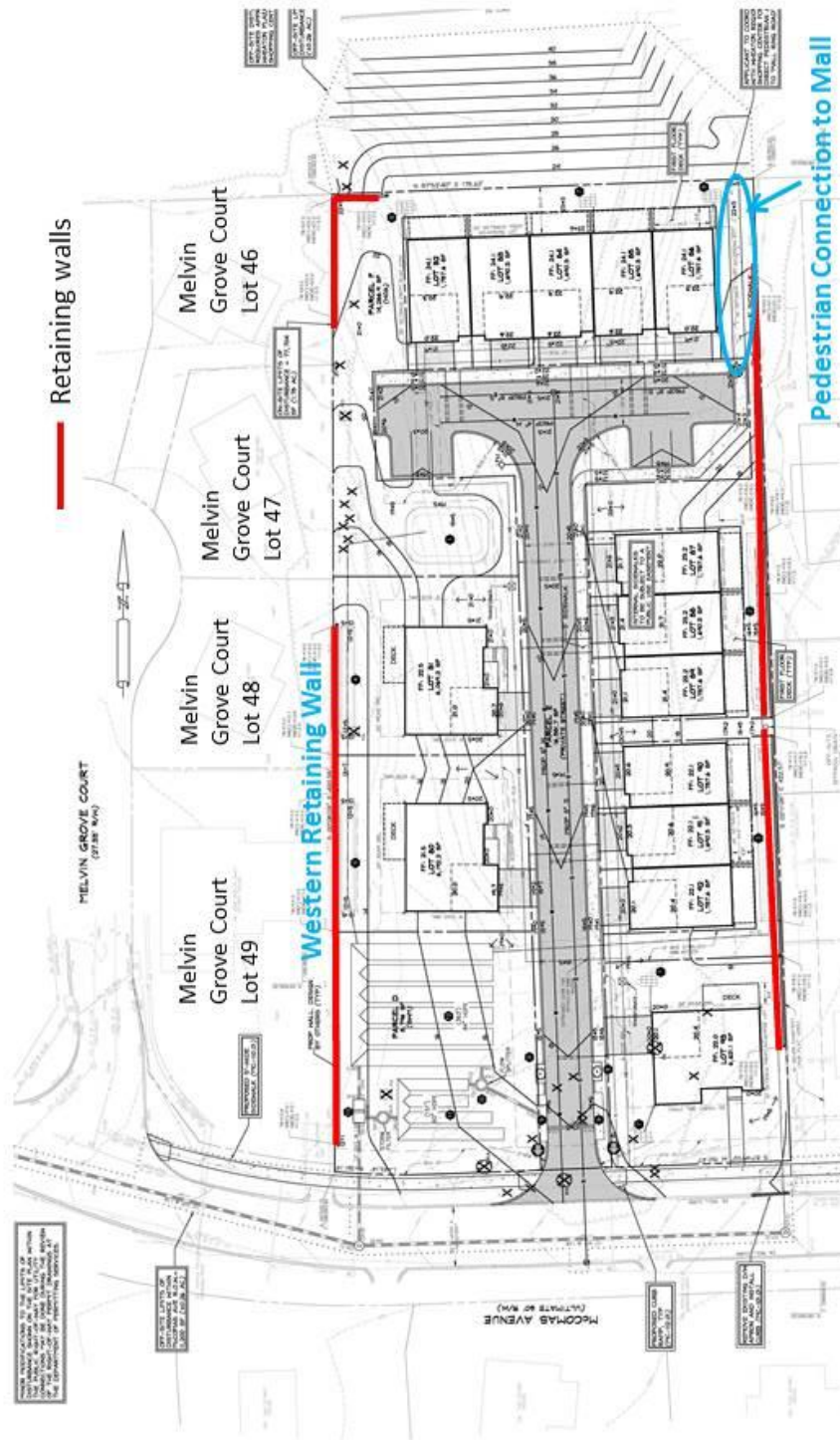
*No pedestrian sidewalk access to Wheaton Plaza is being provided or proposed per the direction of the community.*

This note was added in response to the People's Counsel and local residents' concern that a pedestrian connection to Westfield Wheaton Mall site would bring crime to the residential area south of the Mall.



The existing informal path on the Subject Site shows that there is a demand for a pedestrian connection to the Westfield Wheaton Mall property in this location. Although the Sector Plan does not specifically recommend a pedestrian connection on the Subject Site, it discusses the green buffer between the Mall's Ring Road and the adjoining residential community to the south (which includes the Subject Site). It states on page 53, "Also consider additional shared use path connections through the buffer to the neighboring community." Despite the note in the Schematic Development Plan, quoted above, the Planning Board included the recommendation for this connection in its approval of the Preliminary Plan for the Subject Site. Therefore, Staff recommends that the Applicant provide the proposed pedestrian connection as shown on the approved Preliminary Plan. In the future, the Planning Board can decide whether or not Westfield Wheaton Mall should provide this connection.

### Figure 4: Areas of Community Concerns



## **Master Plan**

The Site is within the 2012 Approved and Adopted *Wheaton CBD and Vicinity Sector Plan*. The Planning Board determined that the project's Preliminary Plan 120110170 is in substantial conformance with the 1990 Approved and Adopted *Wheaton Central Business District and Vicinity Sector Plan*. The County Council also determined that the Schematic Development Plan G-879 is in substantial conformance with the 1990 Approved and Adopted *Wheaton Central Business District and Vicinity Sector Plan*. Since these plans were approved, the 1990 *Wheaton Central Business District and Vicinity Sector Plan* has been replaced with the 2012 *Wheaton CBD and Vicinity Sector Plan*.

The 2012 Sector Plan has no specific guidance or discussion of the Subject Site. The Subject Site is within the residential areas surrounding the Plan's mixed-use districts in the core (page 42, the districts). On page 58, the Sector Plan recommends protecting the existing neighborhoods. The proposed development is consistent with the Sector Plan's guidance for this area.

## **Transportation**

### Transportation Adequate Public Facilities Test

The Planning Board approved the adequate public facilities test for this project under Preliminary Plan No. 120110170 on September 19, 2012.

For the Local Area Transportation Review (LATR), the proposed residential development will generate eight peak-hour trips within the weekday morning peak-period (6:30 to 9:30 a.m.) and 12 peak-hour trips within the evening peak-period (4:00 to 7:00 p.m.). A traffic study was not required to satisfy the LATR test because the proposed land use generates fewer than 30 peak-hour trips within the weekday morning and evening peak periods.

For Policy Area Review, the Preliminary Plan was filed and approved before the County Council approved the new Transportation Policy Area Review (TPAR) test in November 2012. The previous Policy Area Mobility Review (PAMR) test, which this project was subject to, required mitigation of one (10% of the 12) new peak-hour trip generated by the proposed development. In lieu of paying \$11,300 to the Montgomery County Department of Transportation, the Applicant will use that payment to construct a sidewalk off-site along the McComas Avenue between the northern property line and approximately 250 feet west to the intersection with Melvin Grove Court.

## **Environment**

### Environmental Guidelines

Staff approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD #420072910) on August 31, 2007 and recertified it on January 8, 2010. The Subject Site contains no forest, streams, wetlands, or environmental buffers. However, it contains significant areas of man-made steep slopes due to previous use of the property as a stockpile site. It is located in both Rock Creek and Sligo Creek watersheds; both are Use I watersheds. The proposed project is in compliance with the *Environmental Guidelines*.

### Unsafe Land

The Subject Site was used as a stockpile area during an expansion of Westfield Wheaton Mall and has unknown amounts of fill. It is graded running north-south, from the Mall site, sloping steeply to the south, east and west. Parts of the site are 18' higher than adjacent properties (Figure 5). The Applicant is working with the Department of Permitting Services, Building Construction Division, and has filed an Earthwork Plan. All existing fill will be removed and no structures will be built on existing fill. Any new fill will be engineered soil and all cuts will be down to virgin soil.

### **Site Plan Findings**

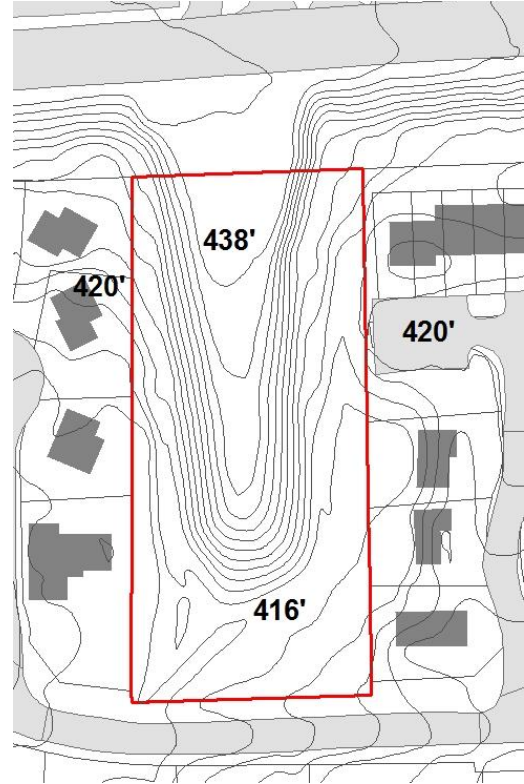
Section 59-D-3.4. (c) of the Zoning Ordinance states that the Planning Board, in reaching its decision, must require that:

- (1) *The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan;*

The proposed Site Plan conforms to all the non-illustrative elements of the approved Schematic Development Plan and all the binding elements described in County Council Resolution No. 16-1518 approving Local Map Amendment G-879, approved on October 12, 2010, rezoning the Subject Site from R-60 to RT-8. The resolution contains the following four binding elements:

1. *Vehicular access to this site shall be limited to McComas Avenue.*  
The only vehicular access to the Subject Site is on McComas Avenue.
2. *Building coverage shall not exceed 25% of the gross tract area.*  
The Site Plan will be limited to 22.4% building coverage.
3. *The maximum number of dwelling units shall be 14. The final number of dwelling units will be established at site plan review.*  
The Site Plan is proposing 14 dwelling units.
4. *Any units that have frontage on McComas Avenue shall be one-family detached homes.*  
Only Lot 93 has frontage on McComas Avenue. It is proposed as a one-family detached unit.

**Figure 5: Site's Existing Topography**



- (2) *The Site Plan meets all of the requirements of the zone in which it is located and where applicable conforms to an urban renewal plan approved under Chapter 56.*

The proposed residential uses are allowed in the RT-8 Zone. The proposed Site Plan, with the staff's recommended conditions of approval, meets all the requirements of the RT-8 Zone as shown by the data analysis table in this report.

#### Zoning

The proposed Site Plan is in compliance with Zoning Ordinance *Section 59-C-1.75., Procedure for application and approval*, which requires all developments in the RT-8 Zone to submit and receive approval of a Site Plan in accordance with Section 59-D-3. The following table shows the Site Plan's conformance to the development standards of the RT-8 Zone:

**Table 1: Applicable Development Standards –RT-8 Zone**

<b>Development Standards</b>	<b>Required</b>	<b>Provided</b>
<b>Minimum Tract Area: (59-C-1.731a)</b>	20,000 sq. ft.	78,762 sq. ft. (1.81ac.)
<b>Maximum Density of Development (County Council Resolution 16-1518)<sup>1</sup></b>	14 DUs	14 DUs
<b>Maximum Building Height (townhouses) (59-C-1.733)</b>	35'	35'
<b>Minimum Building Setbacks (townhouses) (59-C-1.732)</b>		
From any detached dwelling lot or land classified in a one-family, detached, residential zone.	30'	30'
From an adjoining lot:		
(1)Side (end unit)	10'	10'
(2)Rear	20'	20'
<b>Lot Area and Width<sup>2</sup> : (single-family detached units) (59-C-1.32)</b>		
Minimum Lot Area	6,000 sq. ft.	6,069 sq. ft.
Minimum Lot Width at Street Line	25'	25'
Minimum Width at Front Building Line	60'	60'
<b>Maximum Building Height (single-family detached units)<sup>2</sup> (59-C-1.327)</b>		
To Highest Point	35'	35'
To Mean Height	30'	30'

Development Standards	Required	Provided
<b>Minimum Building Setbacks (single- family detached units)<sup>2</sup> (59-C-1.323)</b>		
From a street line:	25'	25' <sup>3</sup>
From an adjoining lot:		
(1) Side:	8' one side, 18 ft. sum of both sides	8' one side, 18' sum of both sides
(2) Rear:	20'	20'
<b>Coverage and Green Area (59-C-1.734)</b>		
Maximum Building Coverage (County Council Resolution 16-1518)	25% <sup>4</sup>	22.4% (17,638 sq. ft.)
Minimum Green Area (59-C-1.734)(b))	50%	53% (41,796 sq. ft.)
<b>Parking (59-E-3.7)</b>	28 spaces (2 spaces/DU)	34 spaces

<sup>1</sup> County Council Resolution 16-1518, adopting Local Map Amendment G-879, limits density to a maximum of 14 dwelling units (11 townhouses and 3 one-family detached units), which is consistent with the RT-8 Zone's maximum density of development of 8 units per acre listed in 59-C-1.731(b).

<sup>2</sup> Pursuant to 59-C-1.71(a), one-family detached dwelling units in the RT-8 Zone are subject to the R-60 Zone development standards.

<sup>3</sup> For lot 93 only; no other lots on the Subject Property have frontage on a public street.

<sup>4</sup> County Council Resolution 16-1518, adopting Local Map Amendment G-879, limits building coverage to 25%, which is more stringent than the maximum building coverage set by 59-C-1.734(a).

### Row Design

Section 59-C-1.722(b) states that "[t]hree continuous, attached townhouses is the maximum number permitted with the same front building line. The variations in building line must be at least 2 feet."

As depicted on the Site Plan, the row of five townhouses on lots 82 through 86 share the same front building line. To comply with Section 59-C-1.7222(b), the front building line of this row must be varied by at least two feet to ensure that no more than three continuous townhomes share the same front building line. As conditioned above, the Applicant must reflect this variation on the Certified Site Plan, subject to Staff review and approval.



#### Urban Renewal Plan

The Subject Site is not within an Urban Renewal area.

- (3) *The locations of building and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient;*

#### Building and Structures

The Site Plan shows the proposed townhouses are placed away from the single-family houses on the adjacent properties. The townhouses are setback over 30 feet from single-family lots. And lot 93, the only lot fronting on McComas Avenue, complies with the fourth binding element on the project's Schematic Development Plan by proposing a one-family detached dwelling. Staff finds the locations of the building and structures to be adequate, safe, and efficient.

#### Open Space

The RT-8 Zone does not have an open space requirement. However, the two parcels proposed for stormwater management use will serve as a green buffer between the Subject Site and the Melvin Grove Court houses west of the site.

#### Landscaping & Lighting

The proposed Landscaping Plan shows that a mix of shrubs, shade trees, and ornamental trees will be planted throughout the site. They are mainly located around the western and southern border of the Subject Site. Staff finds the proposed landscaping to be adequate, safe, and efficient.

The proposed Lighting Plan shows traditional residential street lamps throughout the property. The illumination levels along the boundaries except McComas Avenue are at zero foot candles (fc). The illumination levels along McComas Avenue are no higher than 0.3 fc. All proposed lighting fixtures will be full cut-off to prevent excessive glare from spilling into adjacent properties. The landscaping and lighting on the Subject Site are adequate, safe, and efficient.

#### Recreation Facilities

The Site Plan is proposing less than 25 residential units. Therefore, it is not required to meet the recreation facilities adequacy test.

#### Pedestrian and Vehicular Circulation

##### *On-Site Vehicular Circulation*

Internal circulation will be adequate with two internal private roads: 1) a north-south road from McComas Avenue; and 2) an east-west driveway that terminates in hammerheads at its eastern and western termini.

##### *Sector-Planned Roadway and Bikeway*

McComas Avenue is a secondary residential street with a 60-foot wide right-of-way that is not listed in the 2012 *Wheaton CBD and Vicinity Sector Plan*. The Sector Plan recommends a signed shared roadway (on road bikeway), PB-7, along McComas Avenue.

#### *Public Transit Service*

The Subject Site is located approximately half-a-mile from the nearest bus stop located at the intersection of Georgia Avenue (MD-97) and Windham Lane. Ride-On routes 7, 8, 9, 31, 34, 37, 38, and 48 and Metrobus routes C2, C4, Q1, Q2, Q4, Q6, Y5, Y7, Y8, and Y9 operate along this segment of Georgia Avenue. The Wheaton Metrorail Station is located approximately one mile away from the Subject Site. The public transit in the area is adequate to serve the Subject Site.

#### *Pedestrian Facilities*

Sidewalks do not exist along the Subject Site's frontage on McComas Avenue, and there are very few sidewalks in the surrounding neighborhood. A four-foot wide sidewalk exists along McComas Avenue with an eight-foot wide tree panel, approximately 800 feet east of the Subject Site. There are sidewalks along nearby Littleford Lane and Torrance Drive.

The Applicant is proposing the following pedestrian facilities pursuant to approved Preliminary Plan No.120110170:

1. A five-foot wide sidewalk along the site's McComas Avenue frontage, continuing off-site approximately 250 feet west to the intersection with Melvin Grove Court. The off-site sidewalk will be within the public right-of-way.
2. A five-foot wide sidewalk along the east side of the north-south internal private street.
3. A five-foot wide sidewalk extension between the internal sidewalk and the northern property line.
4. Handicapped ramps at the new five-foot sidewalk and crosswalk across the internal private street at the intersection with McComas Avenue.
5. At-grade crosswalks connecting the sidewalks across all driveways of the internal private street.

Staff finds the pedestrian and vehicular circulation to be adequate, safe, and efficient.

*(4) Each structure and use is compatible with other uses and other site plans, and with existing and proposed adjacent development; and*

The proposed single-family units and townhouses on the Subject Site are compatible with the neighboring residential uses in the area. The property on the east side of the Subject Site is occupied by a similar RT-8 community of one-family detached houses and townhouses. Behind the Subject Site to the north is the Westfield Wheaton Mall property, and to the west and south are R-60 houses.

In locations along the Subject Site's boundaries where the townhouses are closest to neighboring single-family dwelling lots the townhouses are set back more than the 30' required by the RT-8 Zone. The townhouses along the east side of the project, lots 92 through 87 are approximately 35 feet from the single-family lots on Littleford Lane and the townhouse on lot 82 is approximately 33 feet from the neighboring Melvin Grove Court lot on its western boundary.

The retaining walls proposed on the Subject Site will be compatible with the houses that abut the Site's eastern and western boundaries. As discussed earlier, at its highest point the western boundary retaining wall will be approximately four feet, and with a fence/railing it will be no more than seven feet high. The fence will have a transparent design in order to reduce its impact. The retaining wall by the northwest corner of the Subject Site, near Melvin Grove Court lot 46, will be no more than one-and-a-half feet high and will not require fencing. The eastern retaining wall will be approximately three feet at its highest, and with a fence/rail no more than six feet. As stated earlier, a residential privacy fence is allowed up to six feet so the height of the retaining wall and fence/rail will be similar to the height of a typical residential fence.

- (5) The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resources protection, and any other applicable law.*

#### Forest Conservation

The development application is subject to the Chapter 22A of the County (Forest Conservation Law). The Final Forest Conservation Plan (FFCP) submitted with the Site Plan is consistent with the Preliminary Forest Conservation Plan (PFCP). There is no forest on-site and the 0.35-acre forest conservation requirement will be met off-site (Attachment E). Approval of the PFCP included approval of a variance for the removal of two trees identified as a high priority for retention or protection. As a part of the approval, the Planning Board required the Applicant to plant six, 3" caliper trees. The FFCP includes the required mitigation plantings.

#### Stormwater Management

As stated in the September 1, 2011 approval letter from the Department of Permitting Services, the stormwater management concept for the Subject Site is acceptable for water resources protection.

### **Conclusion**

Staff recommends approval of Site Plan 820140040 with conditions. The location of the building and structures, vehicular and pedestrian circulation, open space, landscaping and lighting are adequate safe, and efficient. The proposed development with the conditions set upon its approval is compatible with the neighboring residential uses in the area. Furthermore, the development meets all of the applicable requirements of Chapter 22A, forest conservation, and Chapter 19, water resource protection requirements.

### **Appendices:**

- Attachment A: Preliminary Plan Corrected Resolution
- Attachment B: DPS Stormwater Management Concept Approval
- Attachment C: Fire Marshal Approval Letter
- Attachment D: DPS Right-of-Way Section Approval E-mail
- Attachment E: Final Forest Conservation Plan
- Attachment F: Westfield Group Opposition Letter



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

Agenda Date: 3/14/13  
Agenda Item No. 1 (A)

**MAR 26 2013**

**MEMORANDUM**

TO: Montgomery County Planning Board

FROM: Rose Krasnow, Interim Planning Director *RK*

VIA: Glenn Kreger, Area 2 Chief *GK*  
Khalid Afzal, Area 2 Supervisor *KA*  
Patrick Butler, Area 2 Senior Planner *PB*

DATE: March 4, 2013

Re: Correction of Resolution for Preliminary Plan No. 120110170, MCPB  
No. 12-96, Kensington Heights

---

Attached, please find a redlined version of the Resolution for Preliminary Plan No. 120110170 Kensington Heights. The Resolution was mailed out to all parties of record on July 26, 2012.

This correction is to address modifications to Condition No. 3 and No. 5 that occurred on the record at the public hearing. These modifications were inadvertently omitted from the final draft of the resolution prior to mailing. The correction of these mistakes will ensure consistency with the intended conditions of approval.

No. 3 should have been modified to read:

3. The Applicant must construct a five-foot wide sidewalk along the McComas Avenue frontage and extend the sidewalk off-site to the intersection of McComas Avenue with Melvin Grove Court and the intersection of McComas Avenue with Littleford Lane prior to issuance of a building permit. All sidewalk improvements are to be located within the public right-of-way (ROW). If the sidewalk is constructed by the County prior to issuance of a building permit for the proposed development, the Applicant must pay a fee-in-lieu to the Annual Sidewalk Program (CIP No. 506747) for the sidewalk improvements listed above.

No. 5 should have been modified to read:

5. The Applicant must provide a five-foot sidewalk along ~~both sides~~ the east side of the north-south internal private street, as shown on the Preliminary Plan.

cc: David Lieb, Associate General Counsel



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

**MAR 26 2013**

MCPB No. 12-96  
Preliminary Plan No. 120110170  
Kensington Heights  
Date of Hearing: July 19, 2012

**CORRECTED RESOLUTION**

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is authorized to review preliminary plan Applications; and

WHEREAS, on February 3, 2011, Kensington Heights 2, LLC ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 14 lots on 1.81 acres of land in the RT-8 Zone, located on the north side of McComas Avenue approximately 60 feet east of the intersection of Melvin Grove Court and McComas Avenue ("Subject Property"), in the Wheaton CBD and Vicinity Sector Plan ("Sector Plan") area; and

WHEREAS, Applicant's preliminary plan Application was designated Preliminary Plan No. 120110170, Kensington Heights ("Preliminary Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated July 6, 2012, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and


WHEREAS, on July 19, 2012 the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing the Planning Board voted to approve the Application, subject to certain conditions, by the vote certified below.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 120110170 to create 14 lots on the Subject Property, subject to

---

Approved as to  
Legal Sufficiency:

8/8/12   
MNCPPC Legal Department  
www.montgomeryplanningboard.org Phone: 301.495.4605 Fax: 301.495.1320  
E-Mail: mcp-chair@mncppc-mc.org



the following conditions:<sup>1</sup>

1. This Preliminary Plan is limited to fourteen (14) lots for a maximum of three (3) single-family detached dwelling units, and a maximum of eleven (11) single-family attached townhouse units.
2. The Applicant must dedicate, and the record plat must reflect, a 60-foot right-of-way (measured from the opposite right-of-way line) for McComas Avenue.
3. The Applicant must construct a five-foot wide sidewalk along the McComas Avenue frontage and extend the sidewalk off-site to the intersection of McComas Avenue with Melvin Grove Court and the intersection of McComas Avenue with Littleford Lane prior to issuance of a building permit. All sidewalk improvements are to be located within the public right-of-way (ROW). If the sidewalk is constructed by the County prior to issuance of a building permit for the proposed development, the Applicant must pay a fee-in-lieu to the Annual Sidewalk Program (CIP No. 506747) for the sidewalk improvements listed above.
4. The Applicant must satisfy the Policy Area Mobility Review (PAMR) test by mitigating one new peak-hour trip. The Applicant has the option of paying \$11,300 to MCDOT in lieu of providing an off-site transportation improvement. The PAMR payment could be applied toward the construction of the off-site sidewalk extension required above.
5. The Applicant must provide a five-foot sidewalk along ~~both sides~~ the east side of the north-south internal private street, as shown on the Preliminary Plan.
6. The Applicant must provide a pedestrian connection between McComas Avenue and the Wheaton Mall property via the internal sidewalk, as shown on the Preliminary Plan.
7. The Applicant must provide handicapped ramps at the crosswalk across the internal private street at the intersection with McComas Avenue.
8. The Applicant must provide at-grade crossings of the sidewalks across all driveways of the internal private street.
9. The Applicant must file a Final Forest Conservation Plan concurrently with the Site Plan.
10. The Final Forest Conservation Plan must include mitigation plantings for variance trees removed.
11. The Final Forest Conservation Plan must include detailed and specific tree protection measures for off-site trees affected by development.
12. The Applicant must demonstrate compliance with Section 50-32(b) of the Subdivision Regulations, to the Department of Permitting Services, prior to Planning Board approval of the Site Plan.
13. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated April 13, 2012 and does

---

<sup>1</sup> For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

14. The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated September 1, 2011, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Stormwater Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
15. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
16. The record plat must reflect a permanent public use and access easement over all private streets and adjacent parallel sidewalks.
17. The record plat must reflect all areas under Homeowners Association ownership and specifically identify stormwater management parcels.
18. No clearing, grading, or recording of plats prior to Certified Site Plan approval.
19. Final approval of the number and location of buildings, dwelling units, on-site parking, site circulation, and sidewalks will be determined at Site Plan.
20. In the event that a subsequent Site Plan approval substantially modifies the subdivision shown on the approved Preliminary Plan with respect to lot configuration or right-of-way location, width, or alignment, the Applicant must obtain approval of a Preliminary Plan amendment prior to certification of the Site Plan.
21. The Applicant must comply with the Binding Elements of the Schematic Development Plan approved by the County Council in Local Map Amendment G-879.
22. 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, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of site plan review. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for this lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
23. The Adequate Public Facility review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.
24. All necessary easements must be shown on the record plat.

BE IT FURTHER RESOLVED, that, having considered the recommendations and findings of its Staff as presented at the Hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified

herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

*1. The Preliminary Plan substantially conforms to the Sector Plan.*

There is no specific recommendation or comment in the Sector Plan for this site other than the general retention and preservation of the existing residential neighborhoods. The *Wheaton CBD and Vicinity Sector Plan* was amended in 2011, and the 2011 Sector Plan confirmed RT-8 zoning for the site.

One of the general goals of the Sector Plan's zoning recommendations is to protect existing residential neighborhoods (page 31, Planning Board Draft as modified by the Council Resolution of Approval). On page 33, it further states that the "heights and densities decrease closer to the single-family residential communities surrounding Wheaton's commercial areas and no change in zoning is recommended for the developed low-density stable residential communities that surround the more dense central areas."

The proposed Preliminary Plan meets all standards and requirements of the RT-8 Zone confirmed by the Sector Plan, and it preserves the existing residential neighborhood near the dense central area of the Sector Plan by allowing for the development of the vacant parcel into a mix of single-family attached townhomes and single-family detached units. Therefore, the Planning Board finds the proposed Preliminary Plan is in substantial conformance with the goals and objectives of the 2011 *Wheaton CBD and Vicinity Sector Plan*.

*2. Public facilities will be adequate to support and service the area of the approved subdivision.*

Site Location and Vehicular Site Access Point

The site is located on McComas Avenue between Littleford Lane and Melvin Grove Court within an existing residential neighborhood, adjacent to the Westfield Wheaton Mall. The proposed development would create a private street from McComas Avenue, which terminates in two hammerheads.

On-Site Circulation

Internal circulation will be adequate with a two-way private street with driveways for both the single family detached and townhouse units.

Public Transit Service

The site is located approximately a half-mile from the nearest bus stop located at the intersection of Georgia Avenue (MD-97) and Windham Lane, and approximately one-mile from the Wheaton Metrorail Station.

#### Sector-Planned Roadway and Bikeway

McComas Avenue is not designated as a master planned roadway in the 2011 *Wheaton CBD and Vicinity Sector Plan*. It is a secondary residential street, with a 60-foot wide ROW. The Sector Plan recommends a signed shared roadway (on road bikeway), PB-7, along McComas Avenue.

#### Pedestrian Facilities

There are very few sidewalks in the surrounding neighborhood. Along the north-side of McComas Avenue, there is a four-foot wide sidewalk with an eight-foot wide tree panel that is approximately 800 feet east of the site. There are also sidewalks along sections of Littleford Lane and Torrance Drive, which are both in close proximity to the site.

Sidewalks do not exist along this section of McComas Avenue fronting the site. As described in the conditions above, the Applicant must provide a sidewalk along their frontage of McComas Avenue to Melvin Grove Court to the west and Littleford Lane to the east.

#### Local Area Transportation Review (LATR)

The proposed residential development will generate eight AM peak-hour trips within the peak-period (6:30 to 9:30 a.m.) and twelve PM peak-hour trips within the peak-period (4:00 to 7:00 p.m.). The table below illustrates the trips generated by the proposed land use:

Land Use	No. of Units	Peak-Hour Trips	
		5 (AM)	9 (PM)
Townhouse Units	11		
Single-Family Detached Units	3	3	3
Total	14	8	12

The proposed lots do not generate 30 or more vehicle trips during the morning or evening peak-hours. Therefore, the Application is not subject to LATR review.

#### Policy Area Mobility Review (PAMR)

The PAMR test requires the applicant to mitigate one (10% of the 12) new peak-hour trip generated by the proposed residential development within the weekday AM and PM peak-periods. To satisfy the PAMR test, the Applicant could contribute \$11,300 per PAMR trip for a total of \$11,300 toward transportation infrastructure improvements

within the greater Kensington/Wheaton Policy Area or could apply the required payment toward the offsite extension of the sidewalk.

#### Other Public Facilities

Other public facilities and services are available and will be adequate to serve the proposed development. The property will be served by public water and sewer systems. The Application has been reviewed by the Montgomery County Fire and Rescue Service who have determined that the Property has appropriate access for fire and rescue vehicles. Other public facilities such as schools, police stations, firehouses and health services are currently operating within the standards set by the Growth Policy resolution currently in effect. The Applicant is not required to make a School Facilities Payment. Electrical, gas, and telecommunications services are available to serve the Property.

Therefore, based on the analysis above and with the conditions of approval, the Planning Board finds public facilities are adequate to support and service the area of the Preliminary Plan.

3. *The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision.*

#### Lot Frontage on a Private Street

Section 50-29(a)(2) of the Subdivision Regulations requires "that individually recorded lots shall abut on a street or road which has been dedicated to public use or which has acquired the status of a public road."

In the case of this subdivision, the proposed streets on which 13 of the 14 lots front meet the minimum standards necessary to make the finding that they have the status of a public road. The private roads will be constructed to the minimum public road structural standards, have a 20-foot pavement width with adequate turning radii at intersections where needed for emergency access, have an appropriate paving cross-section elsewhere for private vehicles, and have an appropriate circulation and turnaround pattern. The private roads will be placed within an easement that ensures they remain fully accessible to the public. The 14<sup>th</sup> lot fronts on a public street.

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50-29(a) of the Subdivision Regulations, and Chapter 59, the Zoning Ordinance. The Planning Board finds that the size, shape, width, and area of the lots are appropriate for the location of the subdivision.

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.*

#### Environmental Guidelines

Staff approved a Natural Resource Inventory/Forest Stand Delineation (NRI/FSD), #420072910, on August 31, 2007, and recertified on January 8, 2010. As stated previously, the 1.81-acre Subject Property contains no forest, streams, wetlands, or environmental buffers. However, the site contains significant areas of man-made steep slopes due to previous use of the property as a stockpile site. The property is located in both Rock Creek and Sligo Creek watersheds; both are Use I watersheds. The proposed project is in compliance with the *Environmental Guidelines*.

#### Unsafe Land

Section 50-32(b) of the Subdivision Regulations reads:

"The board must restrict the subdivision of any land which it finds to be unsafe for development because of possible flooding or erosive stream action, soils with structural limitations, unstabilized slope or fill, or similar environmental or topographical conditions."

As stated above, the Subject Property was used as a stockpile area during an expansion of the Westfield Wheaton Mall and has unknown amounts of fill. The Subject Property is graded as a plateau running north-south, sloping steeply from the Mall site, to the south, east and west. Parts of the site are 18' higher than adjacent properties. The Applicant is proposing to remove up to 14' of fill from the site, so that the finished topography more closely matches the surrounding properties. In order to ensure the stability of the site, the Applicant must work with the Department of Permitting Services to develop a plan for fill removal prior to site plan approval.

#### Forest Conservation

This property is subject to the Montgomery County Forest Conservation Law (Chapter 22A of the County Code) and a Preliminary Forest Conservation Plan ("PFCP") has been submitted for Planning Board approval. There are 0.00-acres of forest on-site and all forest conservation requirements will be met off-site.

#### Variance

The Applicant is requesting a variance for removal of two specimen trees (variance tree V-1), a 39-inch diameter black tupelo and (variance tree V-2), a 31-inch tulip poplar. Both stand near the right-of-way of McComas Avenue, and will be impacted by the grading and stormwater management facilities that are both necessary for development of the site.

#### *Forest Conservation Variance*

Section 22A-12(b) (3) of Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees,



*Unwarranted Hardship*

In this case, an unwarranted hardship is caused by the need to remove the existing fill on the Subject Property in order to develop it safely and suitably. Removing the fill results in the need to remove all existing trees onsite. This includes the two trees that are considered high priority for retention. The Planning Board finds that the Applicant has a sufficient unwarranted hardship to further consider a variance.

*Variance Findings*

The Planning Board 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.*

The Planning Board finds that removal of variance trees V-1 and V-2 is due to the removal of fill and placement of stormwater management facilities. The process of regrading the property will disturb the entire site, regardless of the proposed development program. Granting the variance will not confer a special privilege on the Applicant 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 Planning Board finds that the variance is a result of the large amounts of fill on the Subject Property that were placed there through previous redevelopment on the Westfield Wheaton Mall property, rather than on conditions or circumstances which are the result of actions by the Applicant.

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

The Planning Board finds that variance trees V-1 and V-2 are impacted by the required grading and stormwater management facilities. There are no conditions relating to land or building use, either permitted or nonconforming, on a neighboring property that have played a role in the need for this variance.

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

The Planning Board finds that granting the variance will not violate State water quality standards or cause measurable degradation in water quality. Removal of variance trees V-1 and V-2 will be compensated for by allowing the installation of

stormwater management treatments where none currently exist. None of the trees proposed for removal are within any environmental buffers, as there is none on site.

*Mitigation for Trees Subject to the Variance Provisions*

The proposed variance for the removal of two trees must be mitigated by additional plantings on the Final Forest Conservation Plan. Mitigation should be at a rate that approximates the form and function of the trees removed. Therefore, the Planning board is requiring the replacement to occur at a ratio of approximately 1" DBH for every 4" DBH removed, using trees that are a minimum of 3" DBH, which is consistent with mitigation required on previously approved plans. The Planning Board therefore requires the addition of six (6) native canopy trees with a minimum size of 3" DBH.

Therefore, based on the analysis above the Planning Board finds the Preliminary Forest Conservation Plan meets the Environmental Guidelines and Forest Conservation Law. The variance approval is incorporated into the Planning Board's approval of the Preliminary Forest Conservation Plan.

5. *All storm water management requirements shall be met as provided in Chapter 19, article II, title "storm water management", Section 19-20 through 19-35.*

This finding is based in part upon the determination by MCDPS that the Stormwater Management Concept Plan meets applicable standards. The MCDPS Stormwater Management Section approved the stormwater management concept for the project on September 1, 2011. The stormwater management concept includes the use of dry wells, micro-bioretenment, and non-rooftop disconnect. Additional treatment is provided by the use of Filterra(s) and a volume based StormFilter. Due to existing storm drain capacity and downstream flooding concerns in the Town of Kensington overbank (10 year control) and extreme flood protection (100 year control) are required.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months (5 years) from its initiation date (as defined in Montgomery County Code Section 50-35(h)), and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; and

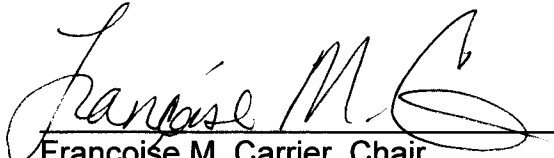
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAR 26 2013 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

\* \* \* \* \*

**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Anderson, seconded by Commissioner Presley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor at its regular meeting held on Thursday, March 14, 2013, in Silver Spring, Maryland.

  
Françoise M. Carrier, Chair  
Montgomery County Planning Board



## Attachment B

## DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

Carla Reid  
Director

September 1, 2011

Eric B. Tidd, P.E.  
CAS Engineering  
108 W. Ridgeville Boulevard, Suite 101  
Mount Airy, MD 21771

Re: Stormwater Management **CONCEPT** Request  
for Kensington Heights/Residence at McComas  
Preliminary Plan #: 120110170  
SM File #: 234250  
Tract Size/Zone: 1.806 Ac./RT-8  
Total Concept Area: 1.806 Ac.  
Lots/Block: PT 16/E  
Watershed: Lower Rock Creek

Dear Mr. Tibb:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept proposes to meet required stormwater management goals via ESD to the MEP with the use of dry wells, micro-bioretenention, and non-rooftop disconnect. Additional treatment is provided by the use of Filterra(s) and a volume based StormFilter. Due to existing storm drain capacity and down stream flooding concerns in the Town of Kensington overbank (10 year control) and extreme flood protection (100 year control) are required.

The following **items** will need to be addressed **during** 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.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
5. It is recommended that the micro-bioretenention on lots 80 & 81, and those behind the town houses on lots 87-92 be planted in a grass to provide ease of maintenance since these are located behind the units and two are on private lots.
6. Micro-bioretenention #1 should be planted with a mixture of trees, shrubs and herbaceous plants. Refer to bioretention standard and specification for planting requirements.
7. All stormwater structures not on private lots should be on a stormwater parcel and must stormwater easements and covenants. The proposed retaining wall can not be in the easement.

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 David Kuykendall at 240-777-6332.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Brush', is written over the word 'Sincerely,'.

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

RRB: tla CN234250 Kensington Heights McComas.DWK

cc: C. Conlon  
SM File # 234250

ESD Acres:	1.286
STRUCTURAL Acres:	0.52
WAIVED Acres:	0.0



---

---

**FIRE MARSHAL COMMENTS**

---

---

**DATE:** 05-Mar-14  
**TO:** Eric Tidd - eric@casengineering.com  
CAS Engineering  
**FROM:** Marie LaBaw  
**RE:** Kensington Heights (McComas Ave)  
120110170 820140040

---

**PLAN APPROVED**

1. Review based only upon information contained on the plan submitted **05-Mar-14**. 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.

**\*\*\* Site plan approval \*\*\***



## **DPS-ROW CONDITIONS OF APPROVAL      Attachment D**

### **8-20140040 Kensington Heights**

Contact: Sam Farhadi at 240 777-6333

We approve site plan file "07-SITE-820140040-003.pdf V6" subject to the followings to be conditions of the certified site plan to be done prior to ROW permit stage:

- Private open space covenant;
- Slope/drainage easement;
- Investigate and re-route the proposed storm drain out of pavement;
- Private streets to be built to tertiary roadway structural standards;
- Handicap ramps on all plans should match the site plan file above.

GENERAL NOTES

- 1) WATER CATEGORY - 1 SEWER CATEGORY - 1
- 2) BOUNDARY INFORMATION BASED ON A SURVEY PERFORMED BY CAS ENGINEERING, DATED APRIL, 2007.
- 3) TWO-FOOT CONTOUR DATA BASED ON A SURVEY PERFORMED BY CAS ENGINEERING, DATED APRIL, 2007.
- 4) TOTAL LOT AREA: PART OF LOT 16 = 78,672 SQ. FT. (1.826 ACRES)
- 5) PROPERTY SHOWN ON TAX MAP NO 561, PART OF LOT 16, BLOCK E, KENSINGTON HEIGHTS.
- 6) PROPERTY SHOWN ON H55C 200' SHEET 214 N4 03.
- 7) PROPERTY SHOWN ON MONTGOMERY COUNTY SOILS SURVEY MAP NO. 24. SOIL TYPE(S): 2C. AND 6A.
- 8) FLOOD ZONE "X" PER F.E.M.A. FIRM MAPS, COMMUNITY PANEL NUMBER 2403C0370D.
- 9) SITE IS LOCATED IN THE LOWER ROCK CREEK WATERSHED.
- 10) LOCAL UTILITIES INCLUDE:  
WATER - 4" SEWER - WASHINGTON SUBURBAN SANITARY COMMISSION  
ELECTRIC - PEPCO  
TELEPHONE - VERIZON  
GAS - WASHINGTON GAS

NRI NOTES

1. NO CULTURAL AND/OR HISTORICAL FEATURES EXIST ON-SITE BASED ON OUR RESEARCH OF AVAILABLE RECORDS AND ON-SITE OBSERVATION.
2. THERE ARE NO STATE OR COUNTY CHAMPION TREES LOCATED ON THIS PROPERTY.
3. NO RARE, THREATENED, OR ENDANGERED (RTE) SPECIES WERE OBSERVED DURING OUR SITE ANALYSIS. A REQUEST HAS BEEN MADE WITH THE DEPARTMENT OF NATURAL RESOURCES TO DETERMINE IF ANY KNOWN RTE SPECIES EXIST ON OR WITHIN PROXIMITY OF THE SITE.
4. THERE ARE NO WETLANDS, STREAMS, STREAM BUFFERS, FLOODPLAINS, OR OTHER HYDROLOGIC FEATURES LOCATED ON-SITE.
5. THE NRI FIELD ANALYSIS FOR THIS PROJECT WAS ORIGINALLY CONDUCTED IN JANUARY, 2007 AND UPDATED IN DECEMBER 2009 BY JAMES N. WITHER.
6. OFF-SITE LOCATIONS AND SIZES OF TREES, STRUCTURES, AND OTHER IMPROVEMENTS ARE APPROXIMATE.

FOREST CONSERVATION NOTES

1. ALL ON-SITE TREES ARE TO BE REMOVED.
  2. PER PRELIMINARY PLAN 1201070 (ENTITLED "KENSINGTON HEIGHTS"), THE APPLICANT MUST PROVIDE (6) 3" DIA (MIN) NATIVE CANOPY TREES ON-SITE AS MITIGATION FOR THE REMOVAL OF (2) SPECIEN TREES. PLANTATION TREES MUST BE PLANTED ON H.O.A. PROPERTY TO ENSURE LONG TERM PROTECTION.
- LOCATIONS OF TREES ARE SHOWN HEREON, BUT ARE SUBJECT TO RELOCATION WITH MNCPPC INSPECTOR'S APPROVAL.
- A PRE-PLANTING MEETING WITH THE MNCPPC FOREST CONSERVATION INSPECTOR WILL BE REQUIRED.

SOILS

1. 2C GLENEIL SILT LOAM (8 TO 15 PERCENT SLOPES, NOT HYDRIC)  
THIS SOIL IS VERY DEEP, WELL DRAINED AND MODERATELY PERMEABLE. AVAILABLE WATER CAPACITY IS HIGH. PRODUCTIVITY IS HIGH. EROSION HAZARD IS SLIGHT. POTENTIAL FOR FROST ACTION IS MODERATE. CAPABILITY SUBCLASS IIE
2. 6A BAILE SILT LOAM, (HYDRIC)  
THIS SOIL IS VERY DEEP, POORLY DRAINED AND SLOWLY PERMEABLE. AVAILABLE WATER CAPACITY IS HIGH. PRODUCTIVITY IS LOW. EROSION HAZARD IS SLIGHT. POTENTIAL FOR FROST ACTION IS HIGH. CAPABILITY SUBCLASS Vh

ENVIRONMENTAL DATA TABLE

FEATURE	EXISTING
AREA OF STEEP SLOPES (STOCKPILE AREA)	0.64 AC.
ENVIRONMENTAL BUFFER AREA	0 AC.
TOTAL FORESTED AREA	0 AC.
FORESTED ENVIRONMENTAL BUFFER	0 AC.
100-YEAR FLOODPLAIN	0 AC.
FORESTED FLOODPLAIN AREA	0 AC.
WETLANDS	0 AC.
FORESTED WETLANDS	0 AC.
AVERAGE WIDTH OF ENVIRONMENTAL BUFFER	0 FT.
LINEAR EXTENT OF STREAM	0 FT.

LEGEND

EXISTING FEATURES	
	PROPERTY LINES
	EX. SEWER LINE WITH CLEANOUT
	EX. SEWER MANHOLE AND INVERT
	EX. WATER LINE WITH VALVE
	EX. GAS LINE WITH VALVE
	EX. OVERHEAD UTILITY WITH POLE
	EX. TWO- AND TEN-FOOT CONTOURS
	EX. SPOT ELEVATION
	EX. WOOD OR STOCKADE FENCE
	EX. METAL OR WIRE FENCE
	EX. TREE LINE
	EX. TREE
	EX. TREE (TO BE REMOVED)
	EX. TREE WITH CRITICAL ROOT ZONE
	EX. SOILS BOUNDARY
	PROPOSED MITIGATION TREE

TREE DATA

TREE NO.	SPECIES	D.B.H. (INCHES)	C.R.Z. (FEET)	CONDITION	COMMENTS	TO BE REMOVED?
1	BLACK LOCUST	17.5	26.25	POOR	DEAD	YES
2	DEADWOOD	18	NA	DEAD		YES
3	RED MAPLE	THIN 30	46	GOOD	IVY	YES
4	BLACK LOCUST	18	27	POOR	DEAD	YES
5	DEADWOOD	17.5	NA	DEAD		YES
6	BLACK GUM	18	27	GOOD		YES
7	BLACK LOCUST	23.5	36.3	POOR	DEADWOOD/DECAY	YES
8	SILVER MAPLE	THIN 19	28.5	POOR	DECAY	YES
9	BLACK LOCUST	12.5	18.7	POOR	IVY/DECAY	YES
10	BLACK LOCUST	10	15	POOR	DEAD	YES
11	BLACK LOCUST	THIN 19	28.5	POOR	DECAY	YES
12	BLACK LOCUST	13	19.5	POOR	DECAY	YES
13	BLACK LOCUST	13	19.5	POOR	DECAY	YES
14	TULIP POPLAR	31	46.5	GOOD	IVY	YES
15	BLACK LOCUST	MULTI 24	36	GOOD		YES
16	SILVER MAPLE	THIN 25	37.5	FAIR		YES
17	SCARLET OAK	18	27	FAIR		YES
18	SCARLET OAK	18	27	FAIR		YES
19	SCARLET OAK	15	22.5	FAIR		YES
20	SCARLET OAK	16	24	FAIR		YES
21	SCARLET OAK	20	30	FAIR		YES
22	SCARLET OAK	19	28.5	FAIR		YES
23	BLACK OAK	24	36	GOOD		YES
24	BLACK JACK OAK	16.5	24.7	GOOD		YES
25	TULIP POPLAR	20	30	FAIR	IVY	YES
26	SILVER MAPLE	18+	27+	OFFSITE		YES
27	BLACK CHERRY	18+	27+	OFFSITE		YES
28	BLACK LOCUST	10.5	15.7	GOOD		YES

INDICATES SPECIEN TREE (30" DBH)  
INDICATES SIGNIFICANT TREE (24" DBH TO 29" DBH)

DEVELOPER CERTIFICATE

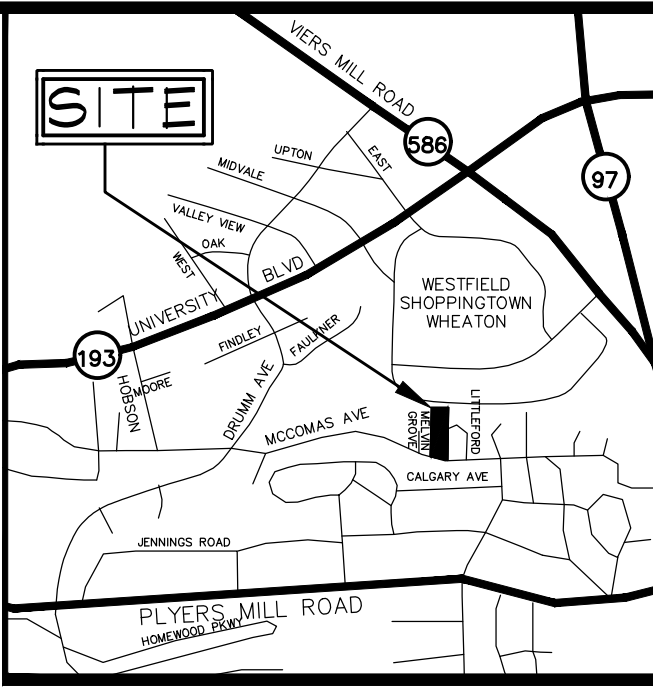
THE UNDERSIGNED AGREES TO EXECUTE ALL THE FEATURES OF THE APPROVED FINAL FOREST CONSERVATION PLAN NO. 820140040 INCLUDING, FINANCIAL BONDING, FOREST PLANTING, MAINTENANCE, AND ALL OTHER APPLICABLE AGREEMENTS.

DEVELOPER NAME: KENSINGTON HEIGHTS 2, LLC  
CONTACT PERSON OR OWNER: STERLING MEHRING  
ADDRESS: 2605 FOREST GLEN ROAD  
PHONE: (301) 585-2600  
EMAIL: yosterling@gmail.com  
SIGNATURE: \_\_\_\_\_

CERTIFICATION OF QUALIFIED PROFESSIONAL

I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON HAS BEEN PREPARED IN ACCORDANCE WITH MARYLAND STATE AND MONTGOMERY COUNTY FOREST CONSERVATION LAWS, AND M-NCPFC GUIDELINES.

DATE: \_\_\_\_\_  
JEFFREY A. ROBERTSON  
PDR / CDR 08.19.06.01  
QUALIFIED PROFESSIONAL

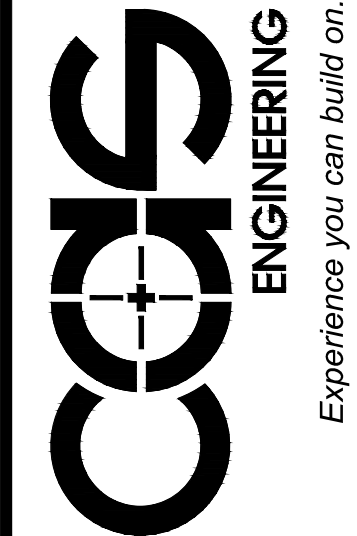


VICINITY MAP  
ADC MAP 5286, GRID B-5  
SCALE: 1" = 2000'

Attachment E	
DATE	02/20/10
PROJECT	06.081B
SUBMITTAL TO MNCPPC	EBT
INITIAL SUBMITTAL TO MNCPPC	EBT
REVISED PER DRG. COMMENTS	EBT
SCALE	1"=20'
APPROVAL	CAS

2609 MCCOMAS AVE, KENSINGTON, MARYLAND 20895  
PROPOSED LOTS 80-93, BLOCK E  
N/F PT LOT 16, PLAT BOOK B, PLAT 41, CIRCA SEPT., 1892  
**KENSINGTON HEIGHTS**  
WHEATON (13TH) ELECTION DISTRICT, MONTGOMERY COUNTY, MARYLAND  
**FINAL FOREST CONSERVATION PLAN**

108 West Ridgeville Blvd., Suite 101  
Mount Airy, Maryland 21771  
Phone: 301-607-8045 fax  
www.casengineering.com  
info@casengineering.com  
CIVIL • SURVEYING • LAND PLANNING





PRE-CONSTRUCTION

1. 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 HARTLAND-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.

2. NO CLEARING OR GRADING SHALL BEGIN BEFORE STRESS-REDUCTION MEASURES HAVE BEEN IMPLEMENTED. APPROPRIATE MEASURES MAY INCLUDE, BUT ARE NOT LIMITED TO:

- A. ROOT PRUNING
- B. CROWN REDUCTION OR PRUNING
- C. WATERING
- D. FERTILIZING
- E. VERTICAL PRUNING
- F. ROOT AERATION MATTING

3. 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.

4. 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 PROPOSED CONSTRUCTION ACTIVITIES. TREE PROTECTION FENCING SHALL BE INSTALLED WITH THE DPS SEDIMENT CONTROL INSPECTOR. MAY MAKE FIELD ADJUSTMENTS TO INCREASE THE SURVIVABILITY OF TREES AND FOREST SHOWN AS SAVED ON THE APPROVED PLAN. TEMPORARY TREE PROTECT DEVICES MAY INCLUDE:
  - A. CHAIN LINK FENCE (FOUR FEET HIGH)
  - B. SUPER SILT FENCE WITH HURD STRUNG BETWEEN SUPPORT POLES (MINIMUM 4 FEET HIGH) WITH HIGH VISIBILITY FLAGGING.
  - C. 14 GAUGE 2 INCH X 4 INCH WELDED HURD FENCING SUPPORTED BY STEEL T-BAR POSTS (MINIMUM 4 FEET HIGH) WITH HIGH VISIBILITY FLAGGING.
5. TEMPORARY PROTECTION DEVICES SHALL BE MAINTAINED AND INSTALLED BY THE CONTRACTOR FOR THE DURATION OF CONSTRUCTION. PROTECTION DEVICES SHALL BE ALTERED WITHOUT PRIOR APPROVAL IF 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.
6. FOREST RETENTION AREA SIGNS SHALL BE INSTALLED AS REQUIRED BY THE FOREST CONSERVATION INSPECTOR, OR AS SHOWN ON THE APPROVED PLAN.
7. 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.

8. 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.

9. AFTER CONSTRUCTION IS COMPLETED, AN INSPECTION SHALL BE REQUESTED. CORRECTIVE MEASURES MAY INCLUDE:

- A. REMOVAL AND REPLACEMENT OF DEAD AND DYING TREES
  - B. PRUNING OF DEAD OR DECLINING LIMBS
  - C. SOIL AERATION
  - D. FERTILIZATION
  - E. WATERING
  - F. MOUND REPAIR
  - G. CLEAN UP OF RETENTION AREAS
10. 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 DISTRICT COORDINATOR. WHEN THERE IS NO ADDITIONAL GRADING, SODDING, OR BURIAL THAT TAKE PLACE AFTER THE PROTECTION FENCE IS REMOVED.

## I. PRE-PLANTING CONSIDERATIONS

- C. IN AREAS WITH SUBSTANTIAL GROWTH OF INVASIVE UNDERCOVER SPECIES, MEASURES WILL BE TAKEN TO REMOVE AND DESTROY THEM PRIOR TO PLANTING. NECESSARY NEED CONTROL MEASURES SHOULD BE DETERMINED DURING THE PRE-PLANTING INSPECTION. COVERINGS, THE USE OF CHEMICAL WEED CONTROLS WILL BE LIMITED TO EXTREME CASES AND ONLY WITH PRIOR APPROVAL BY THE PERSONNEL CHARGED WITH THE PROJECT. SUCH TREATMENTS SHALL NOT BE APPLIED TO "ROOTED" OR NON-RATED SPECIES. IT IS SAFE TO USE AROUND WATER AND IT WILL NOT HARM THE AQUATIC PLANT OR ANIMAL COMMUNITY. IF ANY OTHER WEED MANAGEMENT PATTERN SHOULD BE MODIFIED SO AS TO ALLOW ACCESS BY MOWING EQUIPMENT WITHOUT DAMAGE TO PLANTS, THIS WILL BE DONE.
- D. SOIL ANALYSIS WILL BE CONDUCTED PRIOR TO COMMENCEMENT OF AFFORESTATION. ON LAND WHERE EXTENSIVE AGRICULTURE USE HAS OCCURRED IN THE PAST, TEST PITTS WILL BE DUG IN AREAS OF UNDISTURBED SOIL TO DETERMINE IF A FERTILITY DEFICIENCY EXISTS. FERTILIZER APPLICATIONS WILL BE MADE BY AUGERING AND PLANTING HOLES SHOULD BE DUG TO TWICE THE NORMAL DIAMETER FOR THE MATERIAL PLANTED.
- E. SOLIDS SHOULD BE TREATED BY INCORPORATING NATURAL MULCH WITHIN THE TOP 12 INCHES, OR AMENDMENTS AS DETERMINED BY THE SOIL ANALYSIS. NATURAL AMENDMENTS, SUCH AS ORGANIC BARK OR LEAF LITTER COMPOST ARE PREFERRED.
- F. IF FILL MATERIAL IS USED AT THE PLANTING SITE IT SHOULD BE CLEAN FILL WITH THE 12 INCHES OF NATIVE SOIL. STOCKPILES OF NATIVE TOP SOILS MUST BE DONE IN SUCH A WAY THAT THE HEIGHT OF THE PILE DOES NOT EXCEED THE SEED BANK.

IT IS RECOMMENDED THAT THE PLANTING OCCUR WITHIN 24 HOURS OF DELIVERY TO THE SITE. PLANT MATERIALS WHICH ARE LEFT UNPLANTED FOR MORE THAN 24 HOURS SHOULD BE PROTECTED FROM DIRECT SUNLIGHT AND WEATHER AND KEPT MOIST. NURSERY STOCK SHOULD NOT BE LEFT UNPLANTED FOR MORE THAN TWO (2) WEEKS.

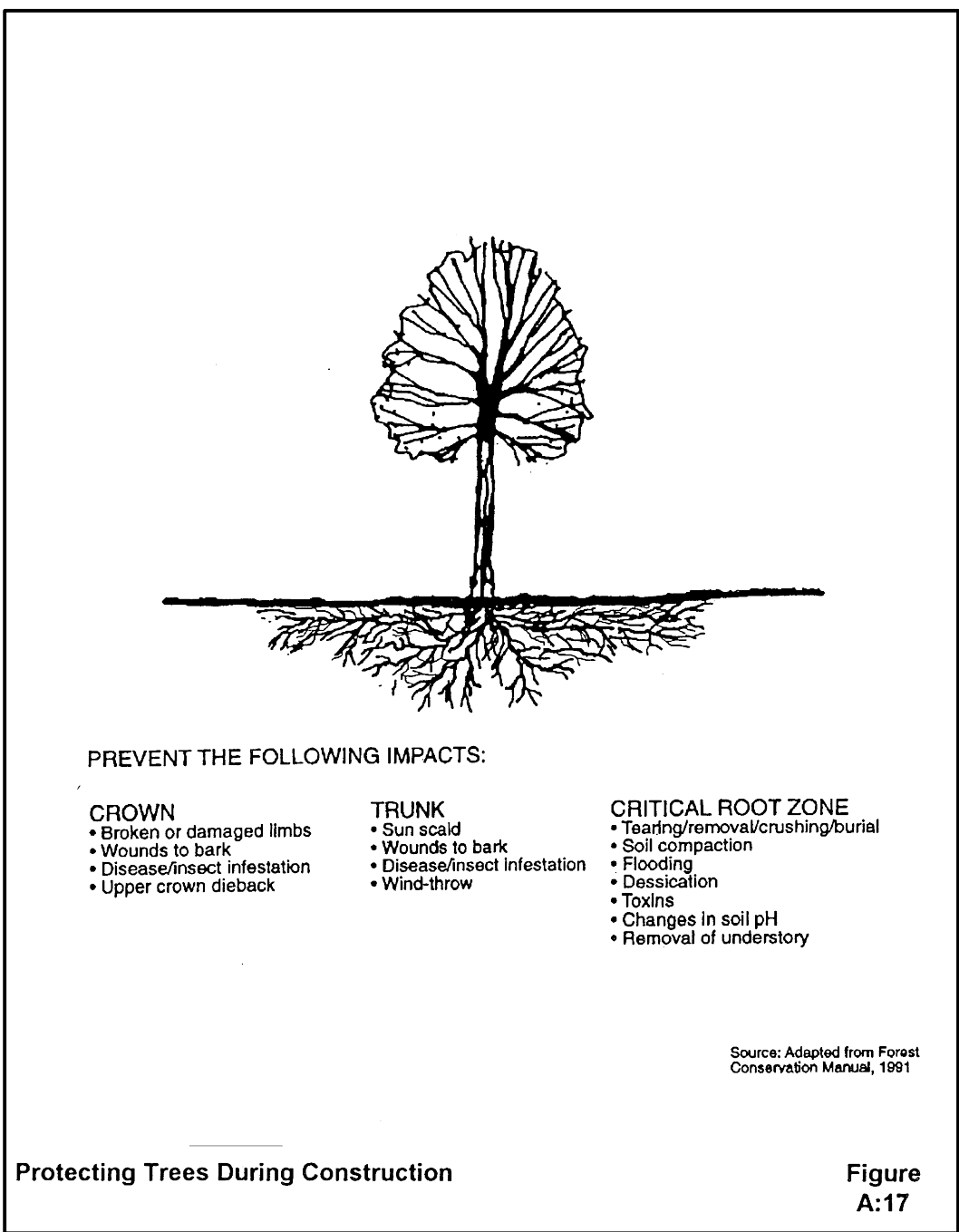
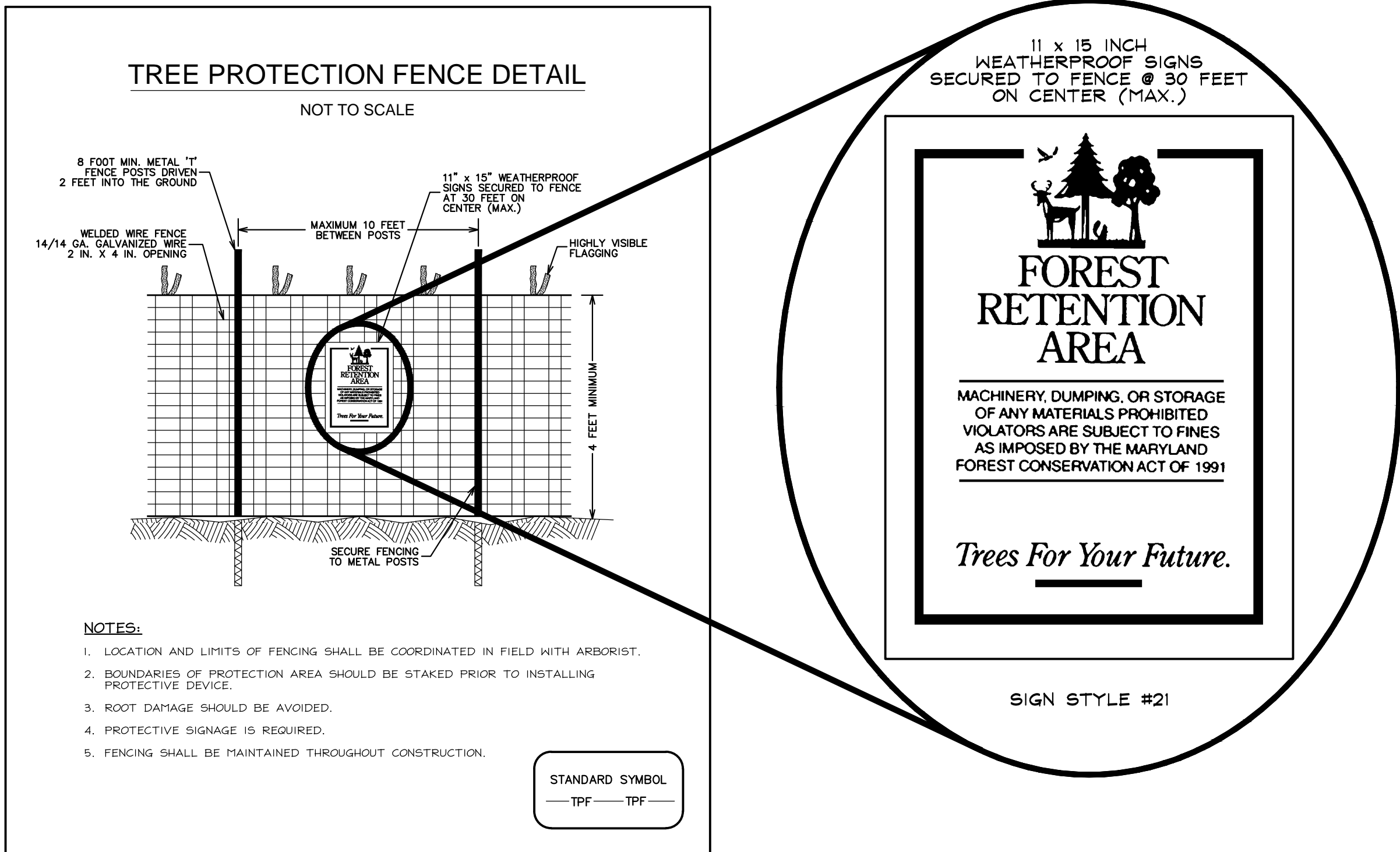
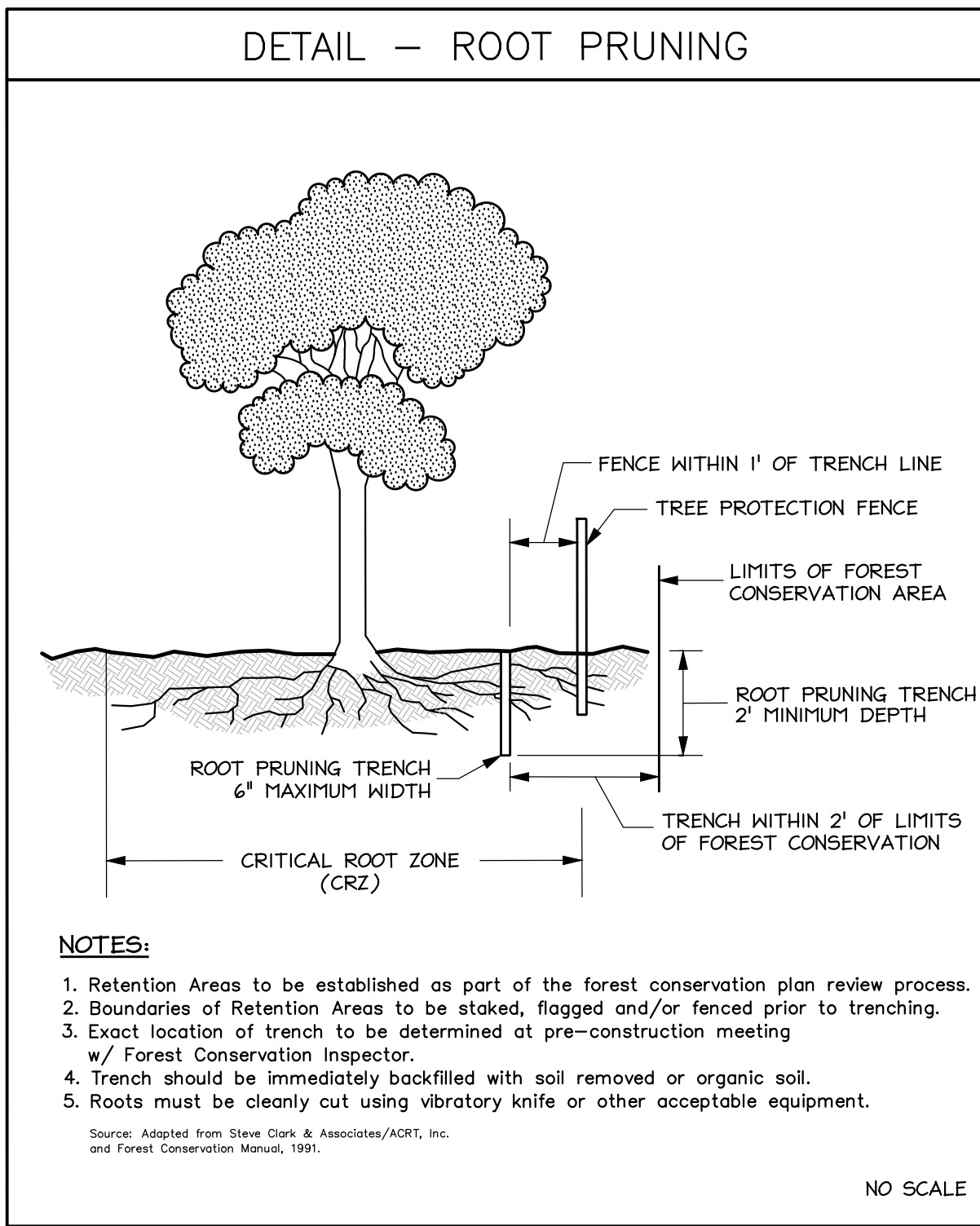
- ON-SITE INSPECTION
- NOTE: TO PLANTING, PLANTING STOCK SHOULD BE INSPECTED. PLANTS NOT CONFORMING TO STANDARD NURSERYMAN SPECIFICATION FOR SIZE, FORM, VIGOR, ROOTS, TRUNK WOUNDS, INSECTS, AND DISEASE SHOULD BE REPLACED.
4. PLANTING SPECIFICATIONS
- A. CONTAINER GROWN STOCK: SUCCESSFUL PLANTING OF CONTAINER GROWN STOCK REQUIRES CAREFUL SITE PREPARATION AND INSPECTION OF THE PLANT MATERIAL ROOT SYSTEM. CAUTION IS RECOMMENDED WHEN SELECTING PLANTS GROWN IN A SOLID MEDIUM DIFFERING FROM THAT OF THE PLANTING SITE. THE PLANT SHOULD BE REMOVED FROM THE CONTAINER AND THE ROOTS GENTLY LOOSED FROM THE SOLID MEDIUM. THE ROOTS EXCISE THE ROOT BALL. SUBSTITUTION IS STRONGLY RECOMMENDED. S-SHAPED OR KINKED ROOT SYSTEMS SHOULD ALSO BE NOTED, AND REMOVED IF NECESSARY. PLANTS SHOULD NOT BE TREATED ON-SITE. PLANTS WITH EVIDENT WOUNDS, INSECT OR BORNE DISEASES, THE PLANTING FIELD SHOULD BE PREPARED AS SPECIFIED. NATIVE STOCKPLD SOLDS SHOULD BE USED IN THE PLANTING FIELD. RAKE SOLDS EVENLY OVER THE PLANTING FIELD AND COVER WITH A 2 TO 4 INCHES OF MULCH.
  - B. BALLED AND BURLAPPED TREES: BALLED AND BURLAPPED TREES MUST BE HANDLED WITH CARE WHILE PLANTING. THE TREE SHOULD BE REMOVED FROM THE BALL AND THE ROOTS GENTLY TEND TO SEPARATE THE TRUNK FROM THE ROOT BALL. PRIOR TO PLANTING, ROOTS BALLS SHOULD BE KEPT HOST.
  - C. PLANTING FIELDS SHOULD BE CREATED EQUAL TO 2.6 TIMES THE DIAMETER OF THE ROOT BALL USE WATER TO SETTLE SOIL BACKFILLED AROUND TREES. STOCKPLD NATIVE TOP SOLDS, IF AVAILABLE, SHOULD BE USED TO COVER THE PLANTING FIELD. THE PLANTING FIELD SHOULD BE COVERED WITH MULCH. THE PLANTING FIELD SHOULD BE RAKED EVENLY OVER THE PLANTING FIELD AND COVERED WITH MULCH.
  - D. STAKING OF TREES IS NOT RECOMMENDED EXCEPT IN AREAS OF HIGH WINDS. MOVEMENT IS NECESSARY TO STRENGTHEN THE TRUNK OF THE PLANTED TREE. IF STAKES ARE USED, THEY SHOULD BE REMOVED AFTER THE TREE IS ESTABLISHED. STAKING IS ALSO NOT RECOMMENDED DUE TO THE INCREASED OPPORTUNITIES FOR INSECT INFESTATION AND DISEASE.
  - E. DEER PROTECTION MEASURES MAY BE NECESSARY AND WILL BE DETERMINED BY THE M-NCPPC INSPECTOR AT THE TIME OF THE PRE-PLANTING MEETING.
  - F. ALL SHRUBS AND TREES SHALL BE FULCHED WITH A 3" THICK LAYER OF SHREDED HARDWOOD MULCH 18" IN DIAMETER AROUND EACH PLANT OR INSTALL GEOTEXTILE NEED MATS 2' SQUARE BY NEED PRO. VISITORE TREE MATS BY TREESPECIALISTS OR APPROVED EQUAL.
  - G. ALL DISTURBED AREAS ADJACENT TO AND WITHIN THE AFFORESTATION PLANTING AREAS SHALL BE STABILIZED WITH PLANTED OR SEED SOIL AT 5000 ANNUAL REPAIRS, 30% ALKALINE CLOVER AND 20% RED TOP. SEED RATE AT 1 POUND PER 1,000 SQUARE FEET.
5. POST-PLANTING CONSIDERATIONS
- A. SOIL STABILIZATION FOR AREAS OF LARGE SCALE DISTURBANCE, SOLDS MUST BE STABILIZED USING A NON-TOXIC BUILDING GRADE COVER OR ENGINEERING COVER. COVERING SHOULD BE UNDER THE SUPERVISOR CONTROL. SUPERVISOR AND THE M-NCPPC SPECIALIST SUPERVISOR INSPECTION ON APPROVAL AND METHODS USED.

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

#### ADDITIONAL REQUIREMENTS FOR PLANS WITH PLANTING REQUIREMENTS

4. BEFORE THE START OF ANY REQUIRED REFORESTATION AND AFFORESTATION PLANTING.
5. 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.
6. 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.



I. NET TRACT AREA

2.30	A. TOTAL TRACT AREA (INCLUDES OFF-SITE DISTURBANCE)
0.00	B. LAND DEDICATION AREA (PARKS, COUNTY FACILITY, ETC.)
0.00	C. LAND DEDICATION FOR ROADS OR UTILITIES (NOT CONSTRUCTED BY THIS PLAN)
0.00	D. AREA TO REMAIN IN AGRICULTURAL PRODUCTION
0.00	E. OTHER DEDUCTIONS
2.30	F. NET TRACT AREA

II. LAND USE CATEGORY

INPUT THE NUMBER "1" UNDER THE APPROPRIATE LAND USE / ZONING CATEGORY.  
LIMITED TO ONE ENTRY ONLY.

		A	HDR	IDA	HDR	HFD
0.35	G. AFFORESTATION THRESHOLD	20%	20%	20%	15%	15%
0.46	H. CONSERVATION THRESHOLD	50%	50%	50%	50%	20%
III.	<b>EXISTING FOREST COVER</b>					
0.00	I. EXISTING FOREST COVER					
0.00	J. AREA OF FOREST TO BE KEPT					
0.00	K. AREA OF FOREST ABOVE CONSERVATION THRESHOLD					
IV.	<b>BREAK EVEN POINT</b>					
0.00	L. FOREST RETENTION ABOVE THRESHOLD WITH NO MITIGATION					
0.00	M. CLEARING PERMITTED WITHOUT MITIGATION					
V.	<b>PROPOSED FOREST CLEARING</b>					
0.00	N. TOTAL AREA OF FOREST TO BE CLEARED					
0.00	O. TOTAL AREA OF FOREST TO BE KEPT					
0.00	P. REAFForestation FOR CLEARING ABOVE CONSERVATION THRESHOLD					
0.00	Q. REAFForestation FOR CLEARING ON CONSERVATION THRESHOLD					
0.00	R. CREDIT FOR RETENTION ABOVE CONSERVATION THRESHOLD					
0.00	S. TOTAL REAFForestation REQUIRED					
0.35	T. TOTAL AFFORESTATION REQUIRED					
VI.	<b>PLANTING REQUIREMENTS</b>					
0.35	U. CREDIT FOR LANDSCAPING (NOT TO EXCEED 20% OF 'U')					
0.35	V. TOTAL REAFForestation AND AFFORESTATION REQUIRED					

0.35 AC TO BE PROVIDED IN AN OFF-SITE EASEMENT.

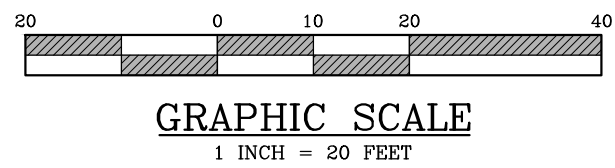
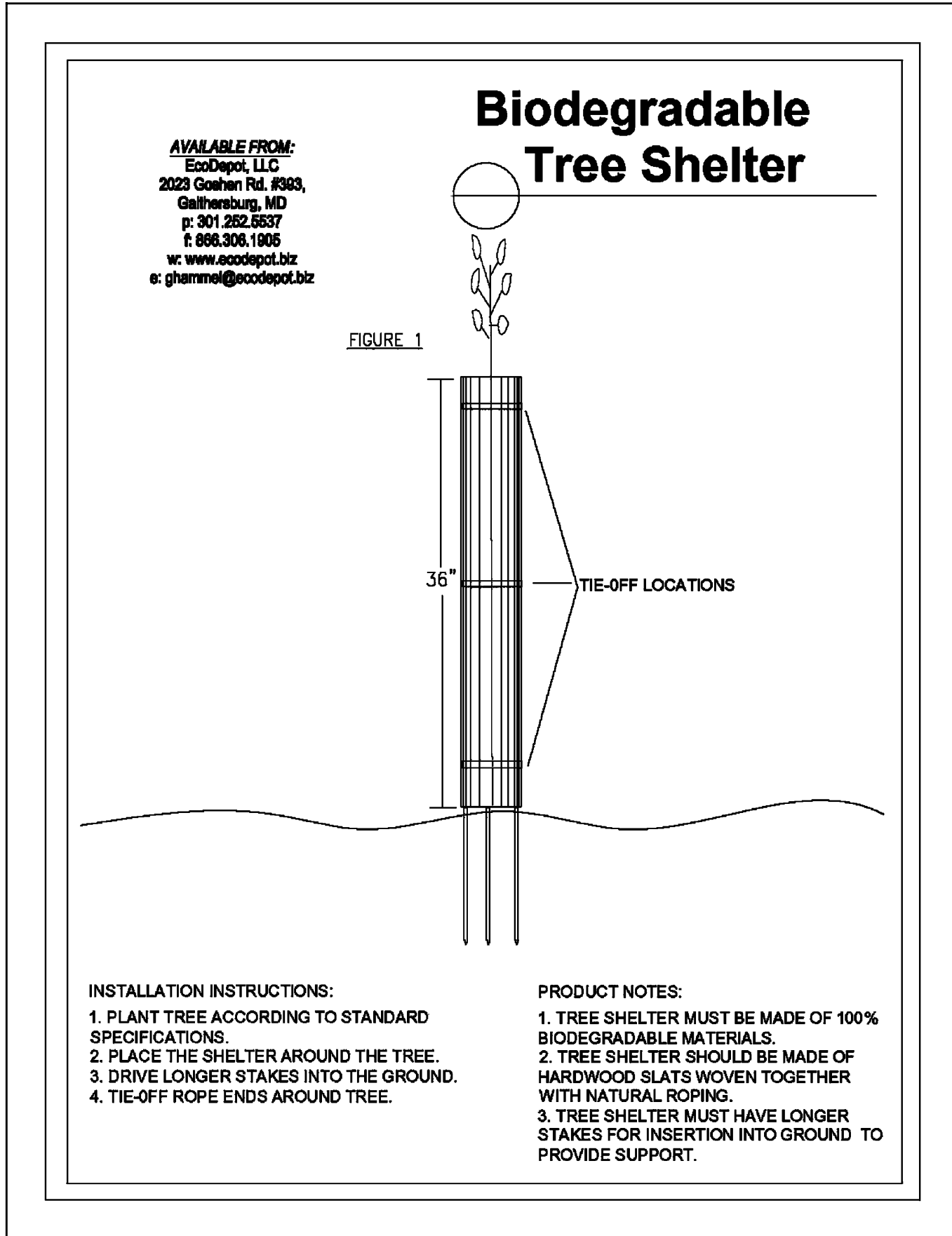
ACREAGE OF TRACT	1.78 ACRES (ON-SITE) + 0.52 ACRES (OFF-SITE)																		
ACREAGE OF TRACT REMAINING IN AGRICULTURAL USE	0.00 ACRES																		
ACREAGE OF ROAD AND UTILITY ROW'S WHICH WILL NOT BE IMPROVED AS PART OF THE DEVELOPMENT APPLICATION	0.00 ACRES																		
ACREAGE OF TOTAL EXISTING FOREST	0.00 ACRES																		
ACREAGE OF TOTAL FOREST RETENTION	0.00 ACRES																		
ACREAGE OF TOTAL FOREST CLEARING	0.00 ACRES																		
LAND USE CATEGORY AND CONSERVATION AND AFFORESTATION THRESHOLDS FROM THE SECTION 22A-12(a) OF THE FOREST CONSERVATION LAW	<p>MINIMUM DENSITY RESIDENTIAL: 95% ACRES; AFFORES. THRESHOLD: 0.36 ACRES; CONSERV. THRESHOLD: 0.95 ACRES</p>																		
	<table border="1"> <thead> <tr> <th>AREA RETAINED</th><th>AREA CLEARED</th><th>AREA PLANTED</th></tr> </thead> <tbody> <tr> <td>ACREAGE OF FOREST RETAINED, CLEARED AND PLANTED WITHIN WETLANDS</td><td>0.0 ACRES</td><td>0.0 ACRES</td></tr> <tr> <td>ACREAGE OF FOREST RETAINED, CLEARED, AND PLANTED WITHIN 100-FOOT FLOODPLAIN</td><td>0.0 ACRES</td><td>0.0 ACRES</td></tr> <tr> <td>ACREAGE OF FOREST RETAINED, CLEARED, AND PLANTED WITHIN IN STREAM BUFFERS</td><td>0.0 ACRES</td><td>0.0 ACRES</td></tr> <tr> <td>ACREAGE OF FOREST RETAINED, CLEARED, AND PLANTED WITHIN PRIORITY AREAS</td><td>0.0 ACRES</td><td>0.0 ACRES</td></tr> <tr> <td>LINEAR FEET AND AVERAGE WIDTH OF STREAM BUFFER PROVIDED</td><td>LENGTH = 0' AVERAGE WIDTH = 0'</td><td></td></tr> </tbody> </table>	AREA RETAINED	AREA CLEARED	AREA PLANTED	ACREAGE OF FOREST RETAINED, CLEARED AND PLANTED WITHIN WETLANDS	0.0 ACRES	0.0 ACRES	ACREAGE OF FOREST RETAINED, CLEARED, AND PLANTED WITHIN 100-FOOT FLOODPLAIN	0.0 ACRES	0.0 ACRES	ACREAGE OF FOREST RETAINED, CLEARED, AND PLANTED WITHIN IN STREAM BUFFERS	0.0 ACRES	0.0 ACRES	ACREAGE OF FOREST RETAINED, CLEARED, AND PLANTED WITHIN PRIORITY AREAS	0.0 ACRES	0.0 ACRES	LINEAR FEET AND AVERAGE WIDTH OF STREAM BUFFER PROVIDED	LENGTH = 0' AVERAGE WIDTH = 0'	
AREA RETAINED	AREA CLEARED	AREA PLANTED																	
ACREAGE OF FOREST RETAINED, CLEARED AND PLANTED WITHIN WETLANDS	0.0 ACRES	0.0 ACRES																	
ACREAGE OF FOREST RETAINED, CLEARED, AND PLANTED WITHIN 100-FOOT FLOODPLAIN	0.0 ACRES	0.0 ACRES																	
ACREAGE OF FOREST RETAINED, CLEARED, AND PLANTED WITHIN IN STREAM BUFFERS	0.0 ACRES	0.0 ACRES																	
ACREAGE OF FOREST RETAINED, CLEARED, AND PLANTED WITHIN PRIORITY AREAS	0.0 ACRES	0.0 ACRES																	
LINEAR FEET AND AVERAGE WIDTH OF STREAM BUFFER PROVIDED	LENGTH = 0' AVERAGE WIDTH = 0'																		

PER THE REQUIREMENTS OF PRELIMINARY PLAN 120110170, KENSINGTON HEIGHTS, THIS PLAN MUST PROVIDE AT LEAST (6) 3" CALIPER NATIVE CANOPY TREES AS MITIGATION FOR THE REMOVAL OF (2) SPECIMEN TREES. MITIGATION TREES TO BE PLANTED ON H.O.A. PROPERTY TO ENSURE LONG TERM PROTECTION.

**NOTE:**  
DUE TO SITE VARIATIONS, THE FOLLOWING PLANTING TABLE MAY BE REVISED AS THE INSPECTOR FEELS APPROPRIATE TO ACCOMMODATE ANY SPECIFIC NEEDS AND/OR CONDITIONS THAT MAY ARISE.

FINAL LOCATIONS TO BE VERIFIED AT A PRE-PLANTING MEETING WITH MNCPPC INSPECTOR.

BOTANICAL NAME	COMMON NAME	SIZE	FORM	SPACING	QUANTITY
<b>DECIDUOUS TREES</b>					
QUERCUS RUBRA	RED OAK	3' CALIPER	B&B	12'	6

OWNER

KENSINGTON HEIGHTS 2, LLC  
ATTN: STERLING MEHRING  
2505 FOREST GLEN ROAD  
SILVER SPRING, MARYLAND :  
(301) 585-2600 PHONE  
yosterling@gmail.com

ARCHITECT

GPS DESIGNS, LLC  
ATTN: GREG SPARHAWK  
634 9th AVENUE  
KIRKLAND, WASHINGTON, 98033  
(425) 495-7241 PHONE  
gregsparhawk@yahoo.com

PROJECT	DATE
06.081B	02/2010
ILLUSTRATION	ENGINEERING
EBT	EBT
SCALE	APPROVAL
1"=20'	CAS

DATE	BY	REVISION
06/14/13	EBT	SUBMITTAL TO KMSC
09/30/13	EBT	INITIAL SUBMITTAL TO MNPPC
01/22/14	EBT	REVISED PER DRC COMMENTS

2609 McCOMAS AVE, KENSINGTON, MARYLAND 20895  
PROPOSED LOTS 80-93, BLOCK E

N/F PT LOT 16, PLAT BOOK B, PLAT 41, CIRCA SEPT, 1892

**KENSINGTON HEIGHTS**  
WHEATON (13TH) ELECTION DISTRICT, MONTGOMERY COUNTY, MARYLAND

# FINAL FOREST CONSERVATION PLAN

108 West Ridgeville Blvd., Suite 101  
Mount Airy, Maryland 21771

301-607-8031 office  
301-607-8045 fax  
www.casengineering.com  
info@casengineering.com

CIVIL • SURVEYING • LAND PLANNING

*Experience you can build on.*



April 4, 2014

*VIA EMAIL – [crystal.myers@mncppc-mc.org](mailto:crystal.myers@mncppc-mc.org)*

Ms. Crystal Myers  
Area 2 Senior Planner  
Montgomery County Planning Department  
8787 Georgia Avenue  
Silver Spring, MD 20910

Re: Site Plan No. 810140040, Kensington Heights – McComas Avenue

Dear Crystal:

On behalf of Westfield, LLC, the owner's representative and manager of the Westfield Wheaton Regional Shopping, Center, I write to reiterate our objection to a proposed condition of approval for the referenced site plan for "Kensington Heights, 2609 McComas Avenue"—a site plan the mall ownership otherwise supports.

As I discussed with you in person and by email, the condition to which we object, as initially proposed by you and your planning colleagues, would require the developer to install a sidewalk on its site for a pedestrian connection from McComas Avenue to the mall property. This sidewalk would terminate on the developer's site at a point adjoining property owned by the mall but not developed. To complete this pedestrian connection would require walkers to traverse a steep slope to reach the mall's ring road and parking lots, some 16 to 17 feet above that of the Kensington Heights-McComas development. Such a connection would encourage pedestrians to walk through an intended buffer area and to enter onto the developed mall site (ring road and parking lot) at a point along the privately maintained ring road where there is no sidewalk and no marked crosswalks. This pathway would create unsafe conditions.

You have recently advised that you intend to modify the proposed condition to require the developer to create an access easement for this pedestrian connection, but to leave the sidewalk un-built. Arguably this condition is more benign. Westfield, however, remains opposed to any condition which encourages and in fact authorizes pedestrians from the general public to cross the Kensington Heights-McComas Avenue development and then enter the mall site, via an unpaved, steep slope along its ring road where there is no sidewalk and where the potential for conflict with vehicular travel exists. Likewise, such a pathway might encourage trespassers to enter the neighboring communities from the mall.



At the time of consideration of the recently adopted Wheaton Central Business District and Vicinity Sector Plan (January 2012), we participated in discussions with staff about the mall's southern perimeter and pedestrian connections. It was agreed that the southern edge of the mall property would remain as a green buffer area. While the Sector Plan indicated that additional shared use paths connecting through the buffer to the residential neighborhoods might be considered upon redevelopment of the mall, the plan specifically, on page 61 thereof, illustrated existing and future pedestrian connections. The particular one proposed here was not shown. There are two existing pedestrian connections on the southern edge of the mall to the east of McComas Avenue, one which has been upgraded with stairs to accommodate the grade differential and which connects to a sidewalk and a marked pedestrian crossing. This is two blocks east of the site in issue, at Torrance Drive. One newly proposed pedestrian connection is shown west of this site, roughly at the corner of the southern edge as it turns directly north toward University Boulevard. With these pedestrian connections, there is no need for another southern access point.

The location as proposed on the site plan presents a substantial security concern, not just for the mall but for the residential community who will occupy this new development. Multiple points for pedestrian entry, especially in unmarked areas, create the potential for pedestrian accidents or harm.

Allowing general public access across private property places a burden on the developer and the future residents to maintain and secure this access on their property. Will the homeowners be responsible to monitor the safe passage of pedestrians who use the easement? And, once those pedestrians enter onto mall property will that responsibility shift to the mall? By placing an access easement on record, you would be imposing an obligation on the mall to provide access at this location to its site, in a regulatory case in which the mall is not the applicant.

Moreover, construction of any formal connection across the mall property would be fraught with difficulty. It would be expensive to construct such connection and likely require long ramps in order to meet accessibility requirements because of the 16 foot grade differential between the two properties. Maintaining these ramps, especially in winters as we have just had, would also be a challenge.

At the time of the rezoning of this particular site to RT-8 zoning, the District Council's Resolution (Res. No. 16-1518), referenced a note added by the applicant to the Schematic Development Plan (SDP). That note, Note 5, reads: "*No pedestrian sidewalk access to Wheaton Plaza is being provided or proposed per the direction of the community.*" As the Resolution goes on to explain, this note was added to address concerns expressed by the People's Counsel and a number of community residents who feared that a pedestrian connection to Wheaton Plaza would bring crime into their neighborhood. As the Resolution observes this condition could be changed at site plan by the Planning Board, but the opinion goes on to note the testimony of the

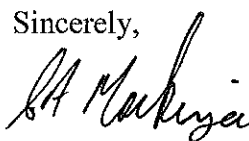
Ms. Crystal Myers  
April 4, 2014  
Page 3

late Al Blumberg, the Applicant's land planner, that "*such a connection is unlikely because of the large difference in elevations between the subject site and Wheaton Plaza and because there is no sidewalk to connect it to in this area of the Wheaton Plaza site.*" (Resolution, p. 9) That remains the situation today.

While the mall will cooperate with planning officials, at the time of any future redevelopment of the mall, to ensure adequate and safe pedestrian connections, it is inappropriate and unwise at this time to require an access easement for a pedestrian connection at this location on the mall property.

I will be happy to answer any questions or yours or any Planning Board members when this matter is brought to hearing. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Clive Mackenzie".

Clive Mackenzie, Sr. Vice President,  
Development  
Westfield, LLC

cc: Sterling Mehring, Applicant  
Jim Agliata  
Vice President of Development  
Westfield, LLC