




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


**MCPB**  
**Item # 1B**  
**7-30-2015**

**MEMORANDUM**

**DATE:** July 17, 2015

**TO:** Montgomery County Planning Board

**VIA:** Catherine Conlon, Supervisor   
D.A.R.C. Division  
(301) 495-4542

**FROM:** Stephen Smith, Senior Planner   
D.A.R.C. Division  
(301) 495-4522

**SUBJECT:** Informational Maps and Summary of Record Plats for the Planning Board  
Agenda for July 30, 2015

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The following record plats are recommended for APPROVAL, subject to the appropriate conditions of approval of the preliminary plan and site plan, if applicable, and conditioned on conformance with all requirements of Chapter 50 of the Montgomery County Code. Attached are specific recommendations and copies of plan drawings for the record plat. The following plats are included:

**220120040 – 220120060, 220120510** Greentree Farm  
**220150670** Sligo Park Hills, Section 7

**Plat Name:** Greentree Farm  
**Plat #:** 220120040 – 220120060, 220120510

**Location:** Located on the east and west sides of Peach Tree Road, approximately 2000 feet south of Whites Store Road, and approximately 1600 feet north of Moore Road, respectively.

**Master Plan:** Agriculture and Rural Open Space Master Plan

**Plat Details:** AR (formerly RDT) zone; 24 lots  
Private Well and Private Septic

**Owner:** Balsamah Corporation, N.V.

The subdivision plat has been reviewed by M-NCPPC staff and staff has determined that the plats comply with Preliminary Plan No. 120090110 (MCPB Resolution No. 10-129), as approved by the Board, and that any minor modifications reflected on the plats do not alter the intent of the Board's previous approval of the aforesaid plan.

**Correspondence received regarding Planning Board consideration of Plats**

Staff notes for the Board that correspondence was received from Mr. Allan Noble of Budow and Noble, P.C. representing Equestrian Partners in Conservation (EPIC), concerning the establishment of a trail easement upon property included in the Preliminary Plan. In his letter, dated November 10, 2014, he has requested that the Board's consideration of subject plats be set for a public hearing as opposed to the Consent Agenda.

Additionally, correspondence was received from Mr. Stephen Orens of Miles and Stockbridge, P.C., representing the property owner, dated November 13, 2014. In his letter, he objects to the aforesaid request by EPIC of scheduling a public hearing, and requests that plats be considered on the Board's Consent Agenda.

Both letters are attached herein so as to make the Board aware of the respective requests. It is left to the discretion of the respective Board members as to whether or not to consider the subject plats, and the Staff recommendation of approval, as part of its Consent Agenda.

**Attachments:**

Proposed Plats

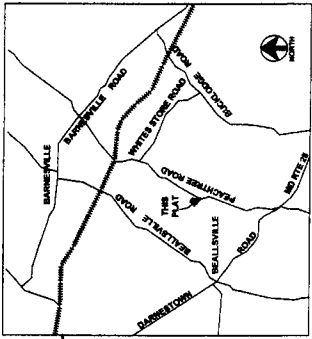
Approved Preliminary Plan

Letter from Budow and Noble, P.C. dated November 10, 2014 (w/ copy of C. Rubin letter dated June 9, 2014)

Letter from Miles & Stockbridge, P.C. dated November 13, 2014

Preliminary Plan Resolution MCPB No. 10-129 (for reference)

Covenant for Equestrian Trail (for reference)



VICINITY MAP

1" = 200'

OWNER'S CERTIFICATION

The undersigned, owners of the property shown hereon, hereby adopt this plat of subdivision, dedicate the streets shown hereon to the public use...

There are no suits, mortgages, leases, liens or trust affecting the subject property.

BALSAMAH CORPORATION, NV

Witness: David W. Miller, Katherine S. Seaton, Attorney at Law for BALSAMAH CORPORATION, NV

SURVEYOR'S CERTIFICATION

I hereby certify that the plat shown hereon is correct; that it is a subdivision of part of the land described in a deed from The Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the U.S.A. and Ruth McCormick Tankersley to Malsama Corporation N.V. (now known as Balsamah Corporation, N.V.), dated May 23, 1980...

Thomas A. Maddox, Registered Professional Land Surveyor, MD #10850, EXPIRES 4/3/2016

SUBDIVISION RECORD PLAT

LOTS 1-5

GREENTREE FARM

ELECTION DISTRICT II, MONTGOMERY COUNTY, MARYLAND, SCALE 1" = 100' JUNE 2015

THOMAS A. MADDOX, PROFESSIONAL LAND SURVEYOR, 8933 SHADY GROVE COURT, GAITHERSBURG, MARYLAND 20877, (301) 984-5804

PLAT NO. 13520001

MARYLAND STATE PLANE DATUM, SCALE 1" = 100'

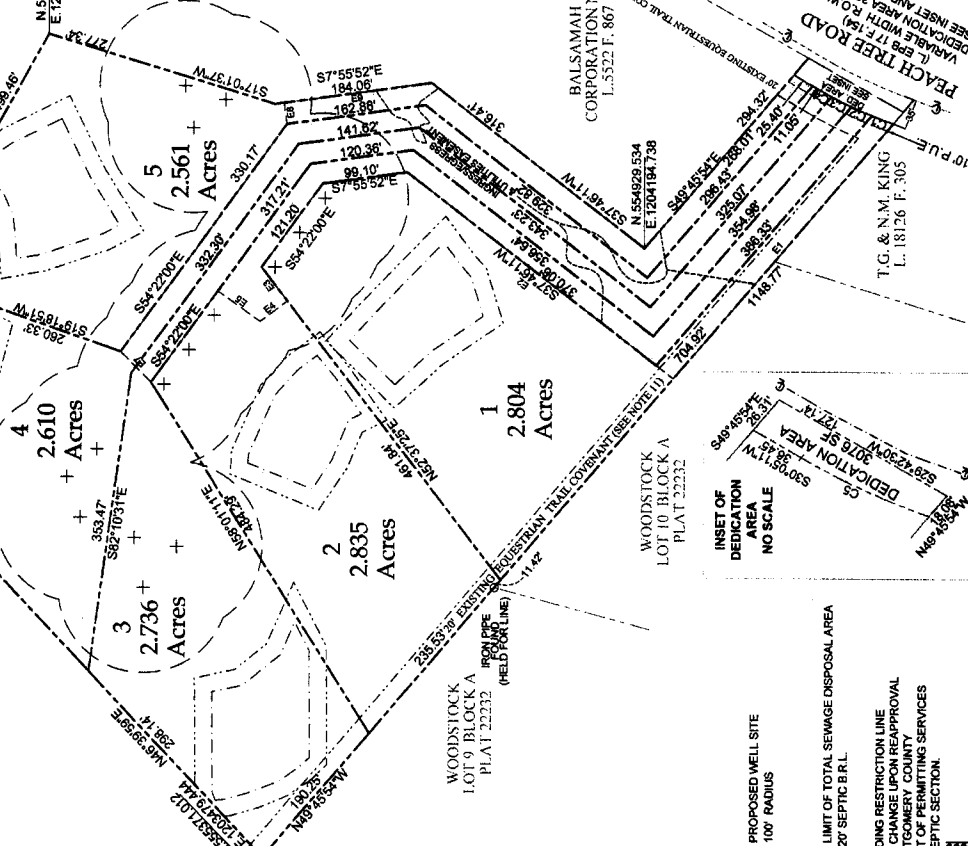
CURVE TABLE with columns: C, BEARING, H. DIST, RADIUS, ARC, DELTA

PLAT TOTALS with columns: NUMBER OF LOTS, AREA OF LOT, AREA OF DEDICATION, TOTAL AREA SHOWN ON PLAT

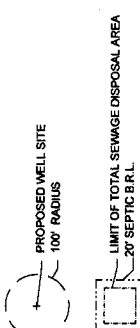
INGRESS/EGRESS & UTILITIES EASEMENT

Table with columns: LINE, BEARING, H. DIST, RADIUS, AREA

BALSAMAH CORPORATION, NV, L. 5522 F. 867



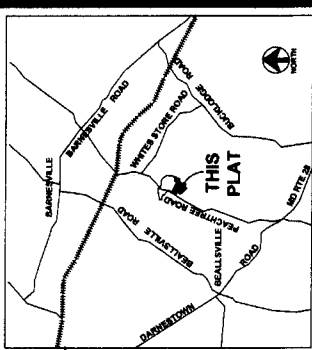
LEGEND



SEPTIC BUILDING RESTRICTION LINE SUBJECT TO CHANGE UPON REAPPROVAL BY THE MONTGOMERY COUNTY DEPARTMENT OF PERMITTING SERVICES, WELL AND SEPTIC SECTION.

NOTES: 1. PROPERTY ZONED AS (FORMERLY) R01 AT DATE OF RECORDATION... 2. THIS PLAT IS LIMITED TO THE USES AND CONDITIONS AS REQUIRED BY PRELIMINARY PLAN NO. 12099110... 3. LOTS TO BE SHOWN BY PRIVATE WELL AND ON-SITE SEWAGE DISPOSAL SYSTEMS... 4. THE PROPERTY SHOWN HEREON IS SUBJECT TO THE REQUIREMENTS OF THE MONTGOMERY COUNTY FOREST CONSERVATION LAW... 5. ALL TERMS, CONDITIONS, AGREEMENTS, LIMITATIONS, AND REQUIREMENTS ASSOCIATED WITH ANY PRELIMINARY PLAN, SITE PLAN, PERMIT, OR APPROVAL... 6. AGRICULTURE IS THE PREFERRED USE IN THE A/R (FORMERLY) RURAL DENSITY TRANSFER ZONE... 7. PROPERTY FOUND ON MONTGOMERY COUNTY TAX MAP C-1... 8. THE REMAINDER OF THE PARCEL TRACT (L. 5522 F. 867) FOR THIS SUBDIVISION IS SUBJECT TO A RESTRICTIVE COVENANT... 9. AGRICULTURE IS THE PREFERRED USE IN THE A/R (FORMERLY) RURAL DENSITY TRANSFER ZONE... 10. SEWAGE DISPOSAL AREAS ON LOTS 1, 2 & 5 ARE APPROVED FOR 5 BEDROOM 4 BATHROOM HOUSES... 11. THE EXISTING EQUESTRIAN TRAIL WAS ESTABLISHED BY A DECLARATION OF COVENANT... 12. ONE DEVELOPMENT RIGHT REMAINS AVAILABLE PER LOT... 13. THIS DEDICATION IS SUBJECT TO WHETHER RIGHTS MONTGOMERY COUNTY OBTAINED BY AN ACT OF THE GENERAL ASSEMBLY... 14. THE FOLLOWING NOTES COMPLY WITH CONDITION NUMBER 3 OF MDCR RESOLUTION NO. 10-19... 15. APPROVING PRELIMINARY PLAN NO. 12099110... 16. THE EQUESTRIAN TRAIL SHALL BE MAINTAINED AND KEPT OPEN TO THE PUBLIC... 17. THE EQUESTRIAN TRAIL SHALL BE MAINTAINED AND KEPT OPEN TO THE PUBLIC... 18. THE EQUESTRIAN TRAIL SHALL BE MAINTAINED AND KEPT OPEN TO THE PUBLIC... 19. THE EQUESTRIAN TRAIL SHALL BE MAINTAINED AND KEPT OPEN TO THE PUBLIC... 20. THE EQUESTRIAN TRAIL SHALL BE MAINTAINED AND KEPT OPEN TO THE PUBLIC...

Form for MONTGOMERY COUNTY DEPARTMENT OF PERMITTING SERVICES, including fields for PLAT, DATE, APPROVED, and SIGNATURE.



**OWNER'S CERTIFICATION**  
 1" = 2000'

The undersigned, owners of the property shown hereon, hereby adopt this plat of subdivision, dedicate the streets shown hereon to the public use. Establish slope easements adjacent to Greentree Farm Drive to the 50' front building restriction line. Said Slope easement to be extinguished after all improvements to the public right of way have been completed and accepted for maintenance by Montgomery County. Grants the Category 1 Conservation Easements as shown hereon in accordance with a document entitled, "Conservation Easement Agreement, Category 1" as recorded in Liber 13179 at Folio 412 among the land records of Montgomery County, Maryland. Grant 4 Public Improvements Easements shown hereon and designated as P.I.E. to the parties listed and with the terms and provisions being set forth in a certain document entitled "Declaration of Public Improvements Easement(s)", and recorded among the land records of Montgomery County, Maryland in Liber 4965 at Folio 246, which said easement provisions are incorporated by this reference. The undersigned also grants the Public Utility Easements (P.U.E.) as shown hereon to the utility companies in a document entitled "Terms and Provisions of Public Utility Easement" as recorded in Liber 3824 at Folio 47, and as shown to Montgomery County Department of Fire and Rescue. The owner will cause all property markers and any other required monumentation to be set by a registered Maryland Land Surveyor, in accordance with Section 90-24(e) of the Montgomery County Code.

There are no suits, mortgages, leases, liens or trust affecting the subject property.

BALSAMAH CORPORATION, NY  
 Date 6-25-15 *Darryl W. Miller*  
 Witness *Katherine S. Sexton*  
 BALSAMAH CORPORATION, NY

**SURVEYOR'S CERTIFICATION**

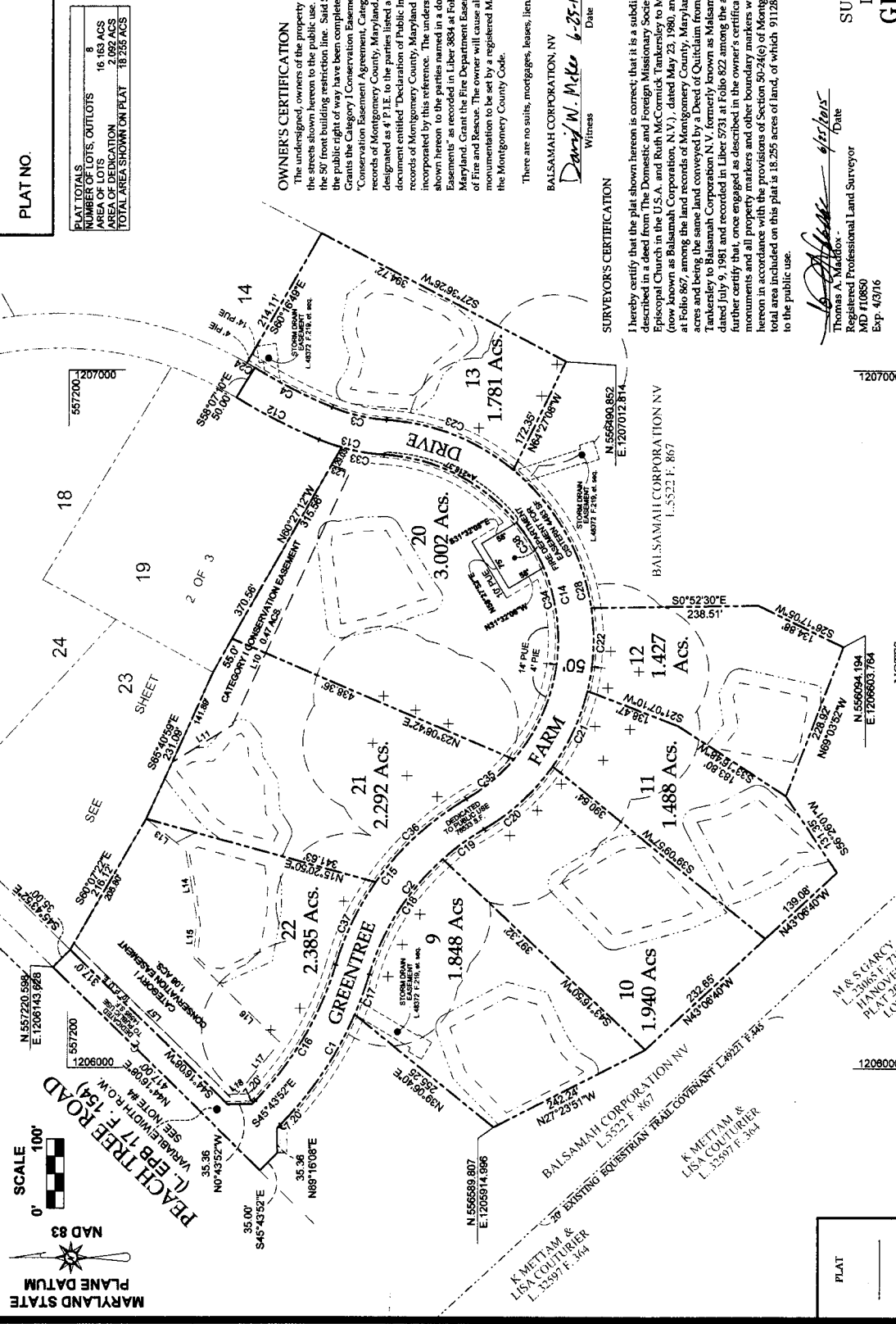
I hereby certify that the plat shown hereon is correct; that it is a subdivision of part of the land described in a deed from The Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the U.S.A. and Ruth McCormick Tankersley to Malsama Corporation NY (now known as Balsamah Corporation, N.Y.), dated May 23, 1980, and recorded in Liber 5922 at Folio 867, among the land records of Montgomery County, Maryland containing 840.1322 acres and being the same land conveyed by a Deed of Quitclaim from Ruth McCormick Tankersley to Balsamah Corporation N.Y. formerly known as Malsama Corporation N.Y. dated July 9, 1981, and recorded in Liber 5731 at Folio 822 among the aforesaid land records. I further certify that, once engaged as described in the owner's certification hereon, all monuments and all property markers and other boundary markers will be set as delineated hereon in accordance with the provisions of Section 90-24(e) of Montgomery County Code. The total area included on this plat is 18,255 acres of land, of which 91128 square feet is dedicated to the public use.

Thomas A. Maddox  
 Registered Professional Land Surveyor  
 MD #10850  
 Exp. 4/3/16

**SUBDIVISION RECORD PLAT**  
 LOTS 9-13 and 20-22  
**GREENTREE FARM**  
 ELECTION DISTRICT 11  
 MONTGOMERY COUNTY, MARYLAND  
 SCALE 1" = 100' JUNE 2015

**THOMAS A. MADDOX**  
 PROFESSIONAL LAND SURVEYOR  
 8933 SHADY GROVE COURT  
 GAITHERSBURG, MARYLAND 20877  
 (301) 984-5804

9028PLAT



**LEGEND**

PROPOSED WELL SITE  
 100' RADIUS

LIMIT OF TOTAL SEWAGE DISPOSAL AREA  
 20' SEPTIC B.I.R.

SEPTIC BUILDING RESTRICTION LINE  
 SUBJECT TO CHANGE UPON APPROVAL  
 BY THE MONTGOMERY COUNTY  
 DEPARTMENT OF PERMITTING SERVICES  
 WELL AND SEPTIC SECTION.

**NOTES**

1. THIS PLAT REPRESENTS SHEET 1 OF 3 AND DOES NOT CONSTITUTE THE ENTIRE PLAT. THE ENTIRETY IS SUBJECT. SEE SHEETS 2 AND 3 FOR ADDITIONAL INFORMATION.

2. THIS PLAT IS LIMITED TO THE USES AND CONDITIONS AS REQUIRED BY PRELIMINARY PLAN NO. 120690110, MCTB RESOLUTION NO. 10-159, DATED 9/28/10.

3. THE REMAINDER OF THE PARENT TRACT (L-532 F. 867) FOR THIS SUBDIVISION IS SUBJECT TO A RESTRICTIVE COVENANT RECORDED AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND IN LIBER 4988 AT FOLIO 244 PERTAINING TO DENSITY UPON THE ENTIRETY OF THE 840.1322 ACRES INCLUDED IN PRELIMINARY PLAN 120690110.

4. THE PORTION OF THE DEDICATION WITHIN PEACH TREE ROAD IS SUBJECT TO WHATEVER RIGHTS MONTGOMERY COUNTY OBTAINED BY AN ACT OF THE GENERAL ASSEMBLY AND RECORDED THE 20TH OF JANUARY, 1924 IN LIBER 237 FOLIO 154 AND 159.

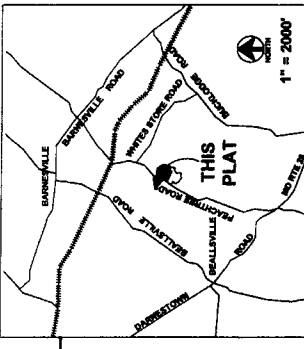
5. PROPERTY FOUND ON MONTGOMERY COUNTY TAX MAP CU.

APPROVED: 6-29-2015 DATE  
*Andrius Marciulis* DIRECTOR

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

APPROVED: \_\_\_\_\_ DATE \_\_\_\_\_  
 CHAIRMAN ASST.-SECRETARY-TREASURER  
 M.N.C.P. & P.C. RECORD FILE NO. \_\_\_\_\_

MARYLAND STATE PLANE DATUM  
 NAD 83  
 SCALE 1" = 100'



**VICINITY MAP**

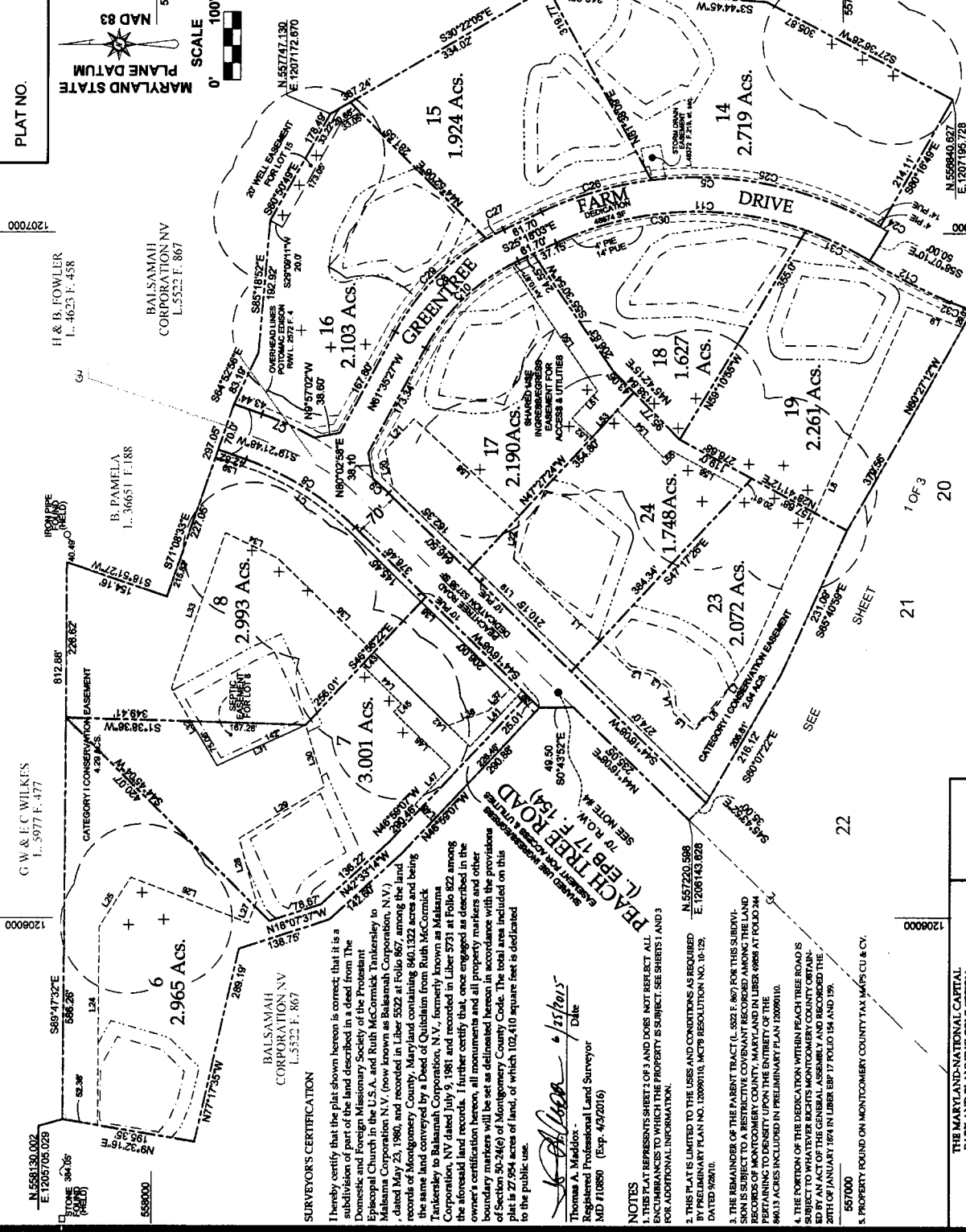
**OWNER'S CERTIFICATION**  
 The undersigned, owners of the property shown hereon, hereby adopt this plat of subdivision, dedicate the streets shown hereon to the public use, establish slope easements adjacent to Green Tree Farm Drive to the 50' front building restriction line. Said Slope easement to be completed and accepted for maintenance by Montgomery County. Grant the Category I Conservation easements as shown hereon in accordance with the Maryland State Conservation Easement Agreement, Category I as recorded in Folio 417 among the land records of Montgomery County, Maryland. Grant 4 Public Utility Easements shown hereon and described as follows: (1) Public Utility Easement (P.U.E.) as shown hereon to the parties listed and with the terms and provisions appearing in the deed recorded among the land records of Montgomery County, Maryland in Liber 4988 at Folio 248, which said terms and provisions are incorporated by this reference. The undesignated also grants the public utility easements (P.U.E.) as shown hereon to the parties named in a document entitled "Terms and Provisions of Public Utility Easements" as recorded in Liber 3834 at Folio 457 among the land records of Montgomery County, Maryland. The undesignated further grants (1) the ingress/egress and Utility Easement(s) shown hereon to the owners of Lots 6, 7, 8, 17, 18, 19, 23 and 24, their successors and assigns, (2) Septic Easement shown hereon to the owner of Lot 8 their successors and assigns, (3) Well Easement shown hereon to the owner of the Lot 15 their successors and assigns. The owner will cause all property corner markers and any other required monumentation to be set by a registered Maryland Land Surveyor, in accordance with Section 50-24(e) of the Montgomery County Code.

There are no debts, mortgages, leases, liens or trust affecting the subject property.

*David W. Miller*  
 David W. Miller, L.S. 525, Kathleen S. Seltz  
 Witnesses  
 Date  
 BALSAMAH CORPORATION, NV  
 Kathleen S. Seltz, Attorney in Fact for BALSAMAH CORPORATION, NV

**SUBDIVISION RECORD PLAT**  
**LOTS 6-8, 14-19, 23 & 24**  
**GREENTREE FARM**  
 ELECTION DISTRICT 11,  
 MONTGOMERY COUNTY, MARYLAND  
 SCALE 1" = 100' JUNE 2015

**THOMAS A. MADDOX**  
 PROFESSIONAL LAND SURVEYOR  
 9833 SHADY GROVE COURT  
 GAITHERSBURG, MARYLAND 20877  
 (301) 984-5804



PLAT TOTALS	11
NUMBER OF LOTS	25,603 ACS
AREA OF LOTS	27,384 ACS
TOTAL AREA OF CONSERVATION EASEMENT	27,384 ACS
TOTAL AREA SHOWN ON PLAT	27,384 ACS

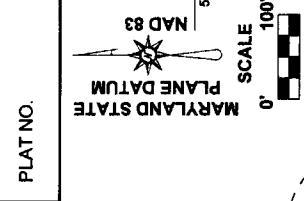
MONTGOMERY COUNTY  
 DEPARTMENT OF PERMITTING SERVICES  
 APPROVED: *6-29-2015*  
 DATE  
*David W. Miller*  
 DIRECTOR

PLAT \_\_\_\_\_  
 DATE \_\_\_\_\_  
 APPROVED: \_\_\_\_\_  
 DATE \_\_\_\_\_  
 CHAIRMAN ASST. SECRETARY-TREASURER  
 M.N.C.P. & P.C. RECORD FILE NO. \_\_\_\_\_

**NOTES**  
 1. THIS PLAT REPRESENTS SHEET 2 OF 3 AND DOES NOT REFLECT ALL ENCUMBRANCES TO WHICH THE PROPERTY IS SUBJECT. SEE SHEETS 1 AND 3 FOR ADDITIONAL INFORMATION.  
 2. THIS PLAT IS LIMITED TO THE USES AND CONDITIONS AS REQUIRED BY PRELIMINARY PLAN NO. 1209910, MCTP RESOLUTION NO. 18-128, DATED 9/28/10.  
 3. THE REMAINDER OF THE PARCEL TRACT (L. 629 F. 629 FOR THIS SUBDIVISION IS SUBJECT TO A RESTRICTIVE COVENANT RECORDED AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND IN LIBER 8689 AT FOLIO 244 PERTAINING TO DENSITY UPON THE ENTIRETY OF THE 960.13 ACRES INCLUDED IN PRELIMINARY PLAN 1209910.  
 4. THE PORTION OF THE CERTIFICATION WITHIN BEACH TREE ROAD IS SUBJECT TO WHATEVER RIGHTS MONTGOMERY COUNTY MAY CLAIM, AS SET BY AN ACT OF THE GENERAL ASSEMBLY AND RECORDED THE 20TH OF JANUARY 1874 IN LIBER BPP 17 FOLIO 154 AND 159.  
 5. PROPERTY FOUND ON MONTGOMERY COUNTY TAX MAPS C & C.V.

*Thomas A. Maddox*  
 Thomas A. Maddox  
 Registered Professional Land Surveyor  
 MD #10890 (Exp. 4/24/2016)  
 Date \_\_\_\_\_

**SURVEYOR'S CERTIFICATION**  
 I hereby certify that the plat shown hereon is correct, that it is a subdivision or part of the land described in a deed from The Episcopal Church in the U.S.A. and Ruth McCormick Donoherty to Elizabeth C. Church in the U.S.A. and Ruth McCormick Donoherty to Elizabeth C. Church in the U.S.A. (as amended) as recorded in Folio 23, 1980 and Folio 23, 1980 and Folio 23, 1980 among the land records of Montgomery County, Maryland, containing 840.122 acres and being the same land conveyed by a Deed of Conveyance from Ruth McCormick Donoherty to Balsamah Corporation, NV, family now known as Balsamah Corporation, NV dated July 9, 1981 and recorded in Liber 5751 at Folio 822 among the aforesaid land records. I further certify that I was engaged as described in the boundary certification hereon, all measurements and all property markers and other boundary markers will be set as delineated hereon, with the provisions of Section 50-24(e) of Montgomery County Code. The total area included on this plat is 27,984 acres of land, of which 102,410 square feet is dedicated to the public use.



PLAT NO. 1207000  
 H & B FOWLER  
 L. 4623 F. 458  
 BALSAMAH CORPORATION NV  
 L. 5522 F. 867

R. PAMELA  
 L. 36651 F. 188  
 BALSAMAH CORPORATION NV  
 L. 5522 F. 867

G. W. & F. C. WILKES  
 L. 5977 F. 477  
 CATEGORY I CONSERVATION EASEMENT

IRON PIPE  
 M. A. B. O. (FIELD)  
 M. A. B. O. (FIELD)  
 CATEGORY I CONSERVATION EASEMENT

BALSAMAH CORPORATION NV  
 L. 5522 F. 867

STONE 360.16  
 589°47'32"E  
 586.28'









**BARNESVILLE OAK FARMS**  
 PRELIMINARY PLAN (LOTS 1 - 5)  
 (MSSC Ord Shap 228W17; Tax Map DU 13)  
 Montgomery County, Maryland

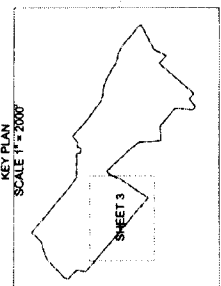
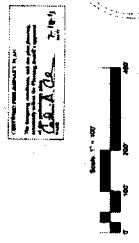
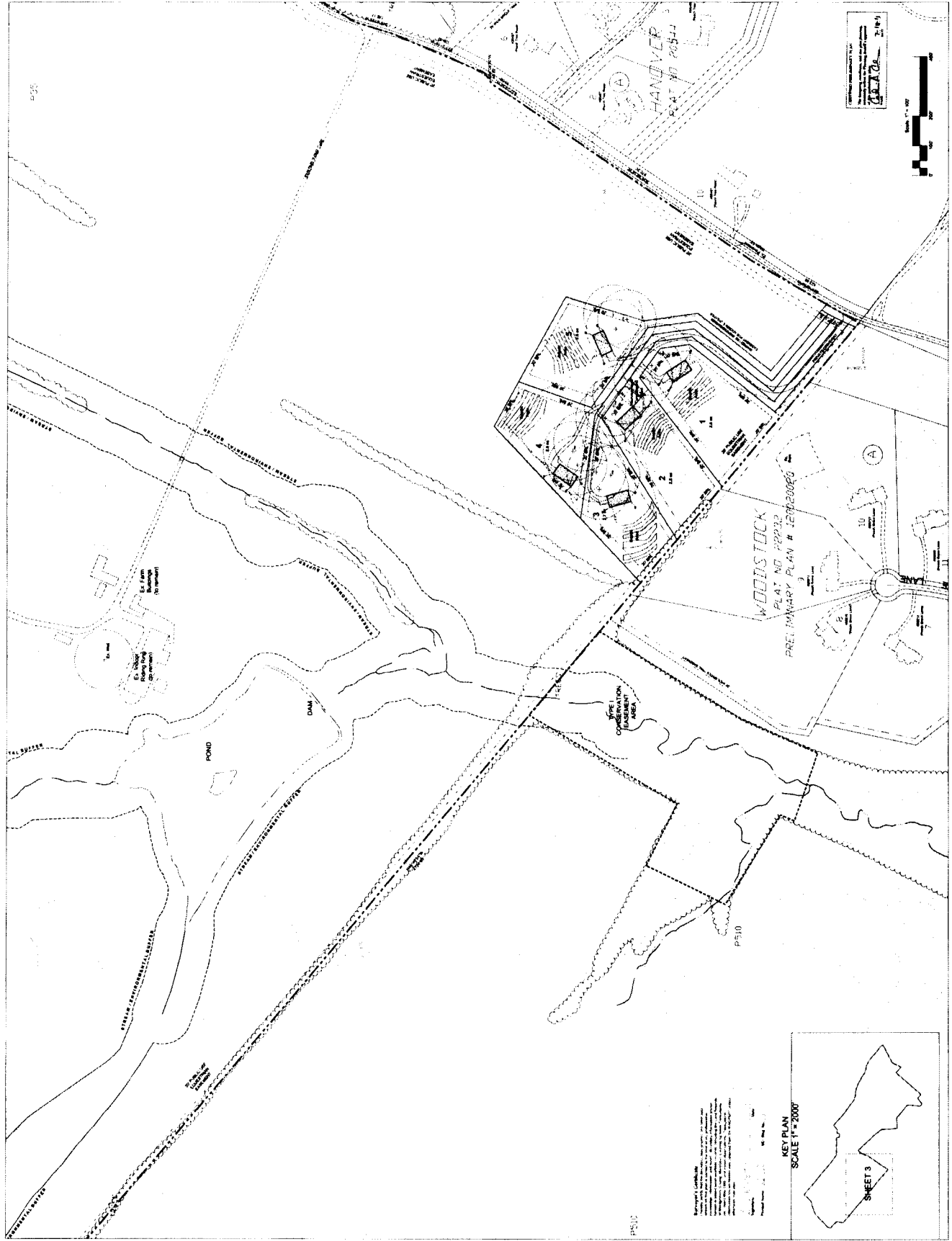


Howard & Associates, Inc.  
 1000 North Glebe Road, Suite 200  
 Arlington, Virginia 22202  
 Tel: 703-261-1100

Date: 09/25/08  
 Scale: 1" = 100'



Sheet 1 of 5
Project No. 08-001
Client Barnesville Oak Farms
Location 13000 Barnesville Road, Gaithersburg, MD
Scale 1" = 100'
Date 09/25/08
Drawn by [Name]
Checked by [Name]
Approved by [Name]



KEY PLAN  
 SCALE 1" = 2000'

PSS/IC

**PRELIMINARY PLAN (LOTS 6-24)**  
**BARNESVILLE OAK FARMS**  
 (MSBC CIVIL ENGINE 2289W17, Tax Map DU 13)  
 Montgomery County, Maryland



Planning & Architects, Inc.  
 10000 Rockville Pike, Suite 100  
 Rockville, MD 20850  
 Phone: (301) 981-1100  
 Fax: (301) 981-1101  
 E-mail: info@b-a.com

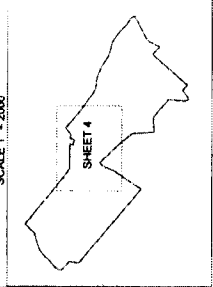
DATE: 08/20/08  
 SCALE: 1" = 100'



Sheet 4 of 6



HAINOVER  
 PLAT NO. 20826  
 DEC. 11, 1990  
 D.C. 11/20/07



NOTES:  
 1. THIS PLAN IS A PRELIMINARY PLAN AND IS NOT TO BE USED FOR CONSTRUCTION.  
 2. THE DESIGNER HAS CONDUCTED VISUAL INSPECTIONS OF THE SITE AND HAS FOUND NO OBVIOUS OBSTACLES TO THE PROPOSED DEVELOPMENT.  
 3. THE DESIGNER HAS CONDUCTED A VISUAL INSPECTION OF THE ADJACENT PROPERTIES AND HAS FOUND NO OBVIOUS OBSTACLES TO THE PROPOSED DEVELOPMENT.  
 4. THE DESIGNER HAS CONDUCTED A VISUAL INSPECTION OF THE ADJACENT PROPERTIES AND HAS FOUND NO OBVIOUS OBSTACLES TO THE PROPOSED DEVELOPMENT.  
 5. THE DESIGNER HAS CONDUCTED A VISUAL INSPECTION OF THE ADJACENT PROPERTIES AND HAS FOUND NO OBVIOUS OBSTACLES TO THE PROPOSED DEVELOPMENT.  
 6. THE DESIGNER HAS CONDUCTED A VISUAL INSPECTION OF THE ADJACENT PROPERTIES AND HAS FOUND NO OBVIOUS OBSTACLES TO THE PROPOSED DEVELOPMENT.  
 7. THE DESIGNER HAS CONDUCTED A VISUAL INSPECTION OF THE ADJACENT PROPERTIES AND HAS FOUND NO OBVIOUS OBSTACLES TO THE PROPOSED DEVELOPMENT.  
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 9. THE DESIGNER HAS CONDUCTED A VISUAL INSPECTION OF THE ADJACENT PROPERTIES AND HAS FOUND NO OBVIOUS OBSTACLES TO THE PROPOSED DEVELOPMENT.  
 10. THE DESIGNER HAS CONDUCTED A VISUAL INSPECTION OF THE ADJACENT PROPERTIES AND HAS FOUND NO OBVIOUS OBSTACLES TO THE PROPOSED DEVELOPMENT.





**BARNESVILLE OAK FARMS**  
 PRELIMINARY PLAN (FARM REMAINDER)  
 (WSSC Ord Sheet 228NW17, Tax Map DU 13)  
 Montgomery County, Maryland



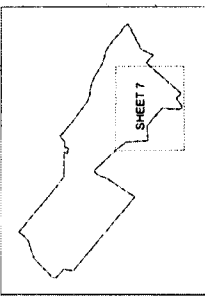
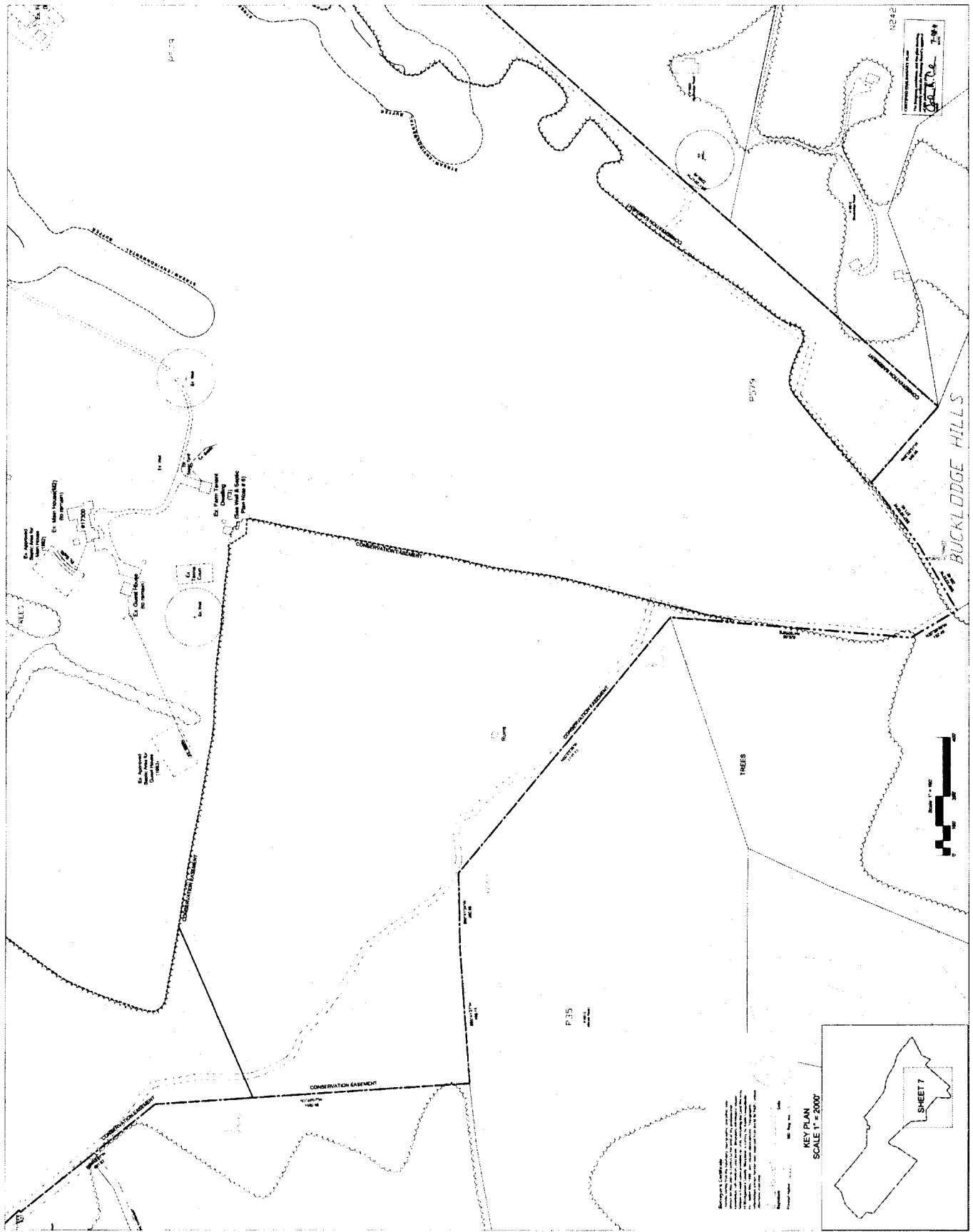
Design & Services, Inc.  
 10000 Rockville Pike, Suite 200  
 Rockville, MD 20850  
 Phone: (301) 986-1234

date: 09/25/08  
 scale: 1" = 100'



Sheet 7 of 8

NO. SHEETS	8
NO. SHEETS USED	8
NO. SHEETS LEFT	0
NO. SHEETS USED	8
NO. SHEETS LEFT	0



Legend:  
 --- Proposed Boundary  
 --- Existing Boundary  
 --- Conservation Easement  
 --- Trees  
 --- Paved Area  
 --- Utility Lines  
 --- Other Features



ALLAN A. NOBLE  
MICHAEL J. BUDOW  
RICHARD E. SCHIMMEL  
WALTER E. GILLCRIST, JR  
ANNE KELLEY HOWARD  
J. CHARLES SZCZESNY  
LAURA BASEM JACOBS  
MELISSA D. MCNAIR  
HOWARD R. MEINSTER  
MATTHEW M. DAVEY  
G. CALVIN AWKWARD III\*\*  
ROBYN A. MCQUILLEN\*  
MARIE-THERESE P. GOFF  
VERONICA K. YU  
CHARLES J. COUGHLIN  
NICOLE M. QUERI\*

**LAW OFFICES**  
**BUDOW AND NOBLE, P.C.**  
SUITE 500 WEST  
7315 WISCONSIN AVENUE  
BETHESDA, MARYLAND 20814-3206

(301) 654-0896  
FAX (301) 907-9591  
EMAIL: [info@budownoble.com](mailto:info@budownoble.com)  
WEBSITE: [www.budownoble.com](http://www.budownoble.com)

HOWARD COUNTY OFFICE  
Executive Center I  
3300 North Ridge Road, Suite 245  
ELLICOTT CITY, MARYLAND 21043  
(410) 461-3322

PRACTICING IN MARYLAND  
AND THE DISTRICT OF COLUMBIA

\*MARYLAND ONLY  
\*\*ALSO ADMITTED IN VIRGINIA

November 10, 2014

Casey Anderson, Chair  
Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Re: Barnesville Oak Farm Public Use Trail Easement  
MCPB No. 10-129  
Preliminary Plan No. 120090110

Dear Chair Anderson:

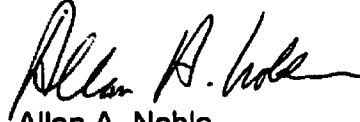
I write to you in my capacity as a member of the Board of Directors of Equestrian Partners in Conservation (EPIC) and as Counsel (Pro Bono) for EPIC concerning the above referenced matter. EPIC is the proposed grantee of an equestrian easement concerning the above mentioned property formally known as Barnesville Oak Farm and now known as Greentree Farm subdivision. As the record will reflect, pending before the Board is the matter of the adoption of an equestrian easement to implement the Board's Resolution 10-129 of September 28, 2010.

EPIC's efforts to reach out to the applicant to try to resolve this matter have been ignored by the applicant. It is my understanding based upon previous communications, including Carol Rubin's letter of June 9, 2014, (copy attached) that this matter will be set for a full public hearing. I simply wish to remind the Planning Board that this matter is of critical importance to not only EPIC but to the equestrian community and others in this County who wish to continue the establishment of a trail system which connect existing parks, park trail systems, and other public trails on private lands. As such we view this matter as precedent setting. It is obvious that the applicant has no desire to meet with us to try to resolve this matter and that the only way the matter can be resolved is through

Casey Anderson, Chair  
November 10, 2014  
Page 3

the public hearing process and a decision by the Board. This letter will simply remind you of the importance of this matter and that EPIC respectfully requests that when the matter comes before the Board it be set for public hearing rather than as a consent item so that our members will have notice and we can be prepared to assist the Board in resolving the easement issue in a way that meets the needs of the equestrian community, the subdivision's future property owners, and the integrity of the Board's earlier decision.

Very truly yours,



Allan A. Noble

AAN/jge

cc: (via email):

Steven J. Orens, Esq., Attorney for Applicant  
Gwen Wright, Director, M-NCPPC  
Carol S. Rubin, Associate General Counsel, M-NCPPC



M-NCPPC



THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

OFFICE OF THE GENERAL COUNSEL  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
www.mncppc.org

Tel: (301) 495-4646 Fax: (301) 495-2173

June 9, 2014

Allan Noble, Esq.  
Budlow and Noble, PC  
Suite 500 West  
7315 Wisconsin Avenue  
Bethesda, Maryland 20814-3206

Re: Green Tree Farms Subdivision (formerly known as Barnesville Oak Farm)

Dear Mr. Noble:

Your June 2, 2014 letter on behalf of EPIC to Planning Board Chair Françoise Carrier concerning the equestrian easement on the referenced property has been referred to me for response. As Ms. Carrier indicated to you in earlier correspondence on the same matter, since the plat is still pending, she is unable to discuss the terms of the easement with you because it would be ex parte communications.

You have requested that the hearing on the plat be delayed to give EPIC an opportunity to meet with the property owner/developer ("Applicant") in an attempt to resolve the dispute concerning the easement. The Applicant has not yet submitted a plat that is ready for Planning Board action, and therefore, we are not in a position to schedule a hearing on the matter at this point.

I understand that the Applicant has declined to meet with EPIC. Therefore Staff is unable to facilitate the discussions you request, however, we cannot, and certainly do not wish to prevent you from reaching out to the Applicant directly.

If your efforts to resolve any dispute with the Applicant directly are unsuccessful, let me remind you that when this matter comes before the Planning Board, EPIC and any other interested party will have the opportunity to address the Board directly with its position. That is precisely the reason that the Planning Board's review of the plat will be set for a full public hearing as opposed to the usual process of putting the matter on the Board's Consent Agenda.

Finally, I find your statement that "staff's strategy of yielding to threats of litigation to be both appalling and absolutely contrary to the public interest" to be extremely

Allan Noble, Esq.  
June 9, 2014  
Page 2

disappointing. As I made clear at the meeting between us, the Board's condition requiring an equestrian easement can be met through an easement shown on the plat with clarifying language noted. The Planning Department has expended considerable staff and legal resources to ensure that the Board's condition is implemented. The Chair has indicated that she intends to recommend language for the plat that will provide a simple, straightforward easement that serves the intended public purpose and meets the intent of the Board's conditional approval of the Preliminary Plan.

Sincerely,



Carol S. Rubin  
Associate General Counsel

cc: (via email):

Stephen J. Orens, Miles & Stockbridge, P.C.  
Montgomery County Council:

Phil Andrews  
Roger Berliner  
Cherri Branson  
Marc Elrich  
Nancy Floreen  
George Leventhal  
Nancy Navarro  
Craig Rice  
Hans Reimer

Ike Leggett, County Executive  
Françoise M. Carrier, Chair, M-NCPPC Montgomery County Planning Board  
Gwen Wright, Director, M-NCPPC Montgomery County Planning Department  
MCP-CTrack



Stephen J. Orens  
301-517-4828  
sorens@milesstockbridge.com

November 13, 2014

**VIA ELECTRONIC MAIL**  
**VIA REGULAR MAIL**

The Honorable Casey Anderson, Chair  
The Montgomery County Planning Board  
The Maryland- National Capital Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Re: Re-submission of Record Plats  
(Applications 220120510, 220120040, 220120050 and 220120060)  
In Connection With Approved Preliminary Plan No. 120090110 - Greentree Farms  
(formerly Barnesville Oak Farms) Subdivision MCPB Resolution Number 10-129

Dear Chair Anderson:

We represent Barnesville Oak Farms LLC, acting on behalf of Balsamah Corporation, N.V., as Applicant for approval of the above referenced Final Subdivision Plats (collectively the "Farm Property Owner"). On behalf of the Farm Property Owner, Benning and Associates has resubmitted the above identified Final Subdivision Plats for approval and recordation pursuant to MCPB Resolution Number 10-129 (the "Approval Resolution") approving Preliminary Plan No. 120090110 ("the Approved Subdivision").

We are in receipt of a copy of correspondence addressed to you from Allan N. Noble, Esquire representing Equestrian Partners in Conservation, also known as "EPIC." Mr. Noble's letter requests that the Planning Board conduct a public hearing before acting on the above referenced final subdivision plats that have been pending since August 1, 2011. EPIC has neither a property right nor a special interest in the approval of the pending final plats that would entitle it to request a public hearing. EPIC owns no property within the vicinity of the Greentree Farms Property. EPIC has no standing to request a public hearing in a matter in which it has no special interest distinguishable from that of the general public.

Accordingly, we strenuously object to a public hearing, as an unnecessary, undue additional financial burden on the Farm Property Owner. Any additional delay resulting from EPIC's request will further aggravate the financial strain on the Farm Property Owner, and would only serve to advance EPIC's objective to obtain a property interest in the Greentree Farms Property.

A public hearing is not necessary for the Planning Board to act. We urge the Planning Board to reject this misuse of the Planning Board's plat approval process that does not serve the public interest, or the interests of the agricultural community.

Contrary to the factually inaccurate assertion by EPIC's counsel in his November 10, 2014 letter, EPIC is not "the proposed grantee of an equestrian easement." In approving the Preliminary Subdivision Plan for Greentree Farms the Planning Board did not and lawfully could not require that the Farm Property Owner convey a property interest in the form of an easement to a private third party. EPIC's counsel once again seeks to elevate the Planning Board's identification of EPIC, at the behest of the Department of Parks, as a "suitable" entity to manage a privately owned equestrian trail on someone else's private property into a grant of an enforceable property right. EPIC, aided and abetted by an individual in the Parks Department has successfully thwarted the completion of the subdivision process for over three years. To delay action again would be intolerable!

To our knowledge, no person or entity with standing to do so has requested that a public hearing be substituted for the standard and usual practice of scheduling Final Plats on the Consent Agenda when Staff has recommended approval.

This letter constitutes the Applicant's formal request that the pending Final Plats for Greentree Farms be scheduled on the next available Consent Agenda in accordance with Rule 14.14.1 of Rule 4.14 of the Planning Board's Rules of Procedure, entitled "Consent Agenda for Record Plats."

Should the Planning Board agree to hold a hearing before acting on plats that have been pending approval for over three years, we request, without waiving our objection to a hearing, that the Planning Board conduct that hearing at the earliest possible date. The Farm Property Owner and our consultants will be present and prepared for a hearing on the date that the Plats are before the Board on its Consent Agenda.

Sincerely,



Stephen J. Orens

cc: Gwen Wright, Planning Director  
Rose Krasnow, Deputy Planning Director  
Carol S. Rubin, Esquire Associate General Counsel  
Rebecca D. Walker, Esquire  
Farm Property Owner, Applicant  
Allan Noble, Esquire



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

MCPB No. 10-129  
 Preliminary Plan No. 120090110  
 Barnesville Oak Farm  
 Date of Hearing: July 22, 2010

SEP 28 2010

**MONTGOMERY COUNTY PLANNING BOARD**

**RESOLUTION**

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, Balsamah Corporation N.V. (formerly known as Malsama Corporation N.V.), a Netherlands Antilles corporation ("Balsamah") is the owner of approximately 840 acres of land located on the east and west sides of Peach Tree Road, bounded on the north by Whites Store Road and to the west by Beallsville Road (MD 109) ("Property" or "Subject Property"); and

WHEREAS, by letter dated November 13, 2008, Balsamah authorized Katherine S. Sexton and/or Barnesville Oak Farms LLC, a Maryland corporation, as their appointed representatives to act individually or together, on behalf of Balsamah to take all necessary steps to obtain preliminary subdivision plan approval for the Property; and

WHEREAS, on December 4, 2008, Barnesville Oak Farms LLC, ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 21 lots and 3 outlots for up to 24 one family detached dwelling units and two farm parcels to be unplatted on the Property, in the Agricultural and Rural Open Space Master Plan ("AROS Master Plan") area; and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120090110, Barnesville Oak Farm, ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated July 9, 2010, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

Approved as to  
 Legal Sufficiency:

*[Handwritten Signature]* 8/31/10

8787 Georgia Avenue, Suite 200, Silver Spring, MD 20910 Chairman's Office: 301.495.4605 Fax: 301.495.1320

[www.MCParkandPlanning.org](http://www.MCParkandPlanning.org) E-Mail: [mcp-chairman@mncppc.org](mailto:mcp-chairman@mncppc.org)

WHEREAS, Montgomery Countryside Alliance and the Audubon Naturalist Society, two parties of record requested a delay of the Hearing alleging that Balsamah did not have authority to authorize their appointed representatives to file the Application and act on its behalf during the proceedings for the Application because neither Balsamah, its predecessor in interest (Malsama Corporation), nor its Managing Director (Curcao Corporation) is registered to do business in the state of Maryland; and

WHEREAS, upon testimony heard and evidence submitted for the record by Montgomery Countryside Alliance, the Audubon Naturalist Society, and Applicant as a preliminary matter on July 23, 2010, the Planning Board denied the request for delay, on motion of Commissioner Dreyfuss; seconded by Commissioner Wells-Harley, with a vote of 4-0, Commissioners Dreyfuss, Wells-Harley, Alfandre, and Carrier, voting in favor, with Commissioner Presley abstaining; and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on July 23, 2010, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on July 23, 2010, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Dreyfuss; seconded by Commissioner Alfandre, with a vote of 4-1, Commissioners Dreyfuss, Alfandre, Carrier, and Wells-Harley voting in favor, with Commissioner Presley voting to disapprove.

NOW, THEREFORE, BE IT RESOLVED, that, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No.120090110 to create 21 lots and 3 outlots for up to 24 one family detached dwelling units, and two unplatted farm parcels on 840 acres of land, in the RDT zone, located on the east and west sides of Peach Tree Road, bounded on the north by Whites Store Road and to the west by Beallsville Road (MD 109), in the AROS master plan area, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to 21 one-family detached residential lots and 3 outlots for up to 24 one family detached dwelling units, and two unplatted farm parcels.
- 2) The applicant must comply with all conditions of approval of the preliminary forest conservation plan prior to plat recordation or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permit(s), as appropriate. Conditions include, but are not limited to:
  - a. Category I conservation easements on platted portions of the Property

must be shown on the record plats.

- b. Category I conservation easements must be placed over all forest conservation areas located on the unplatted farm remainders of the Property. These conservation easements must be recorded by deed in the County land records and referenced on the record plat(s) for the residential lots.
- 3) **A Public Use Trail Easement ("PUTE") must be created on the Property as shown on the preliminary plan. The PUTE will name Equestrian Partners in Conservation ("EPIC"), a 501c3 non-profit corporation, its successors or assigns, or another suitable entity identified by MNCPPC staff, as the Grantee and must include, at a minimum:(i) the conditions and restrictions governing uses that are within the definition of "Recreational Purpose" as defined in the MD Ann. Code, Natural Resources Article, §5-1101; (ii) the right of Grantee to construct, maintain and repair the trail, with no obligation by either Grantee or the Grantor to do so; and (iii) rights of enforcement by both the Grantor and the Grantee, with no obligation on either to do so. The PUTE must be approved by the Commission's Office of the General Counsel which approval may not be delayed beyond 120 days following adoption of the MCPB Resolution of approval of the Preliminary Plan but no less than 90 days after submission of a reasonable draft for review. Prior to recordation of the initial plat, the applicant must record the PUTE in the land records and the plat must include a reference to the Liber and Folio of the recorded PUTE. Should the designated Grantee as specified herein decline to accept the PUTE, the record plat may be recorded without the reference.**
  - 4) Prior to recordation of the plat(s), Applicant must submit an affidavit to MNCPPC staff that verifies the availability of one Transferrable Development Right for each lot and outlot shown on the plat(s).
  - 5) The record plat must show dedication of Peach Tree Road to a width of 70 feet (or 35 feet from centerline) to Rustic Road standards and the new internal road (Barnesville Oak Lane) as a 50 foot wide tertiary road right-of-way as shown on the approved preliminary plan.
  - 6) The Applicant must construct all road improvements within the rights-of-way shown on the approved preliminary plan to the full width mandated by the master plan and to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the preliminary plan, "To Be Constructed By \_\_\_\_\_" are excluded from this condition.
  - 7) The record plat must reflect common ingress/egress and utility easements over all shared driveways.
  - 8) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated September 9, 2009 and reconfirmed on May 14, 2010. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.

- 9) The Applicant must comply with the conditions of the MCDPS, Well and Septic Section approval dated April 16, 2010. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 10) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated June 23, 2009. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 11) 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 and driveway locations shown on the preliminary plan are illustrative. The final locations of buildings, structures and hardscape will be determined during the building permit approval process. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."
- 12) Record Plat must contain the following note: "Agriculture is the preferred use in the Rural Density Transfer Zone. All agricultural operations shall be permitted at any time, including the operation of farm machinery, and no agricultural use shall be subject to restriction because it interferes with other uses permitted in the Zone."
- 13) Record Plat must reference a recorded easement for the parent parcels indicating i) that density and TDRs for these lots was removed from the parent parcels; and ii) per §59-C-9.41 of the Montgomery County Zoning Ordinance, following this subdivision, any farm tenant dwelling, farm tenant mobile home, or guest house is included in the total permitted density of 33 residential structures on the Property.
- 14) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board resolution.
- 15) Other necessary easements must be shown on the record plat(s).

**BE IT FURTHER RESOLVED**, that, having given full consideration to testimony heard and evidence submitted for the record by Montgomery Countryside Alliance, the Audubon Naturalist Society, and Applicant, the Montgomery County Planning Board **FINDS** that:

1. *The Applicant had authority to file the Application on behalf of Balsamah Corporation N.V. (formerly known as Malsama Corporation N.V.), a Netherlands Antilles corporation as the owner of the Property.*



The Subdivision Regulations, Chapter 50 of the Montgomery County Code, defines an Owner as “[a] person or corporation holding a legal title in the land...” Subdivider is defined as “[a]n individual, partnership or corporation (or agent thereof) that undertakes the subdivision of land or the activities covered under [Chapter 50].....” Nothing in either of those definitions or in the Subdivision Regulations requires that the owner or subdivider be registered to do business in the State of Maryland. And Montgomery Countryside Alliance or the Audubon Naturalist Society provided no legal basis on which the Board could rely. It has been the longstanding practice of the Planning Board to accept applications for subdivision from an agent of a property owner, so long as the authority of the agent is clear. In accordance with the subdivision regulations, the Applicant submitted written verification with the Application authorizing the Applicant to file the Application and it was found to be complete. In fact, as stated by Montgomery Countryside Alliance and the Audubon Naturalist Society, the request for delay of the proceedings was raised in order to provide these interested parties with an opportunity to discuss their concerns about the Application directly with the owner of the Property; their preference over working through their issues with the owner’s appointed representatives.

The Planning Board did not find the request or the evidence presented to be so compelling as to warrant a delay of the Hearing, particularly since Applicant’s appointed representatives have made themselves available through a public meeting held in Poolesville on their proposed Application, have provided updated plans to the neighbors, and have been available at several Rustic Roads Advisory Committee meetings. To the contrary, the Planning Board found the authorization submitted with the Application, together with the July 22, 2010, letter with supporting documentation from Stephen J. Orens, on behalf of Applicant objecting to the requested postponement, and the reasons set forth therein to be compelling.

**AND BE IT FURTHER RESOLVED**, that, having given full consideration to the recommendations and findings of its Staff 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 Montgomery County Planning Board **FINDS**, with the conditions of approval, that:

**2. *The Preliminary Plan substantially conforms to the AROS Master Plan.***

The Planning Board determined that the Preliminary Plan, as proposed, protects to a significant degree, the ability for agricultural practices to continue on the Property as recommended by the AROS Master Plan. Of the 840 acres making up this Property, 780 acres will remain in agriculture. The AROS Master Plan does not set a specific objective goal for preservation, and the intent of the

Master Plan is that the Planning Board, in its discretionary role must be satisfied that the Applicant has made reasonable good faith efforts to protect as much agricultural land as possible. The Board was satisfied that the Preliminary Plan protects agriculture and minimizes fragmentation of active farmland by creating residential lots that are as small as reasonably possible, and that are clustered in areas that do not detract from the active agricultural land. The Preliminary Plan intentionally minimizes the spread of residential development to avoid fragmentation and to minimize the potential for conflicts between farm and non-farm properties. Although there was testimony that the proposed development would change the character of the area, creating a suburban enclave within the Agricultural Reserve, the focus of the Master Plan is preservation of agriculture within the Reserve -- not maintenance of the rural character. However, in order to allay those concerns, the Preliminary Plan calls for the new homes to be buffered, where practical, from the agricultural areas to reduce conflicts. The Board finds that the Preliminary Plan is in substantial conformance with the AROS Master Plan.

**3. *The Preliminary Plan substantially conforms to the Rustic Roads Functional Master Plan.***

The Planning Board finds that the Preliminary Plan substantially conforms to the Rustic Roads Functional Master Plan. All three abutting roads, Beallsville Road, Peach Tree Road and Whites Store Road are Rustic Roads, with Whites Store Road also being designated as an Exceptional Rustic Road. The lot layout proposed on the Preliminary Plan does not visually impact Beallsville Road or Whites Store Road but concentrates development along Peach Tree Road. The Board considered the impact of the two driveways and the two new road access points along Peach Tree Road and understood that the Rustic Roads Advisory Committee had recommended approval of the Preliminary Plan with these points of access.

The Planning Board was satisfied that the visual impacts to Peach Tree Road were minimized by using shared driveways to serve multiple lots and that the two access points for the new tertiary street were necessary for the number of lots proposed. The Board also considered the Staff Report which explained that the five lots in the southernmost cluster were relocated back off Peach Tree Road to minimize impact to a designated viewshed in the Rustic Roads Functional Master Plan that captured a view to Sugarloaf Mountain. The remaining 16 lots and three outlots on the Preliminary Plan uses forest, to the extent possible, to screen views along Peach Tree Road. The Board was satisfied that the Preliminary Plan appropriately addressed the recommendations of the Rustic Roads Functional Master Plan and finds that the Preliminary Plan is in substantial conformance with that plan.

**4. All public facilities will be adequate to support and service the area of the proposed subdivision.**

The Planning Board finds that all public facilities will be adequate to serve the lots proposed by this Application. The Board determined that a new road is required to serve the 13 proposed lots and 3 outlots located on the east side of Peach Tree Road, and that it should be constructed to tertiary road standards within a dedicated 50 foot wide right-of-way. No sidewalks are required for this section of road because of its low traffic volume and because it is in the "rural area" defined in the road code. Pedestrians can safely use the road shoulders in this low traffic volume area. The Board also determined that two shared driveways will be adequate to serve the three-lot and five-lot clusters on the west side of Peach Tree Road.

The Board considered the Staff Report and determined that the 21 lots and three outlots proposed will not generate 30 or more vehicle trips during the morning or evening peak-hours; therefore, the application is not subject to Local Area Transportation Review. The Subject Property is located in the Rural West Policy Area where there is no trip mitigation requirement for PAMR according to the current Growth Policy. The Board was satisfied that the local road network will not be overburdened by the additional traffic generated by this development. Proposed vehicle and pedestrian access for the subdivision will be safe and adequate with the proposed public improvements.

The Board finds that other public facilities and services are available and will be adequate to serve the proposed dwelling units. Local utilities have found that their respective services, if located in the area, are adequate to serve the proposed subdivision. The Montgomery County Department of Permitting Services (MCDPS) has approved the septic systems for all but three lots (11, 19, 20), which as a result are to be recorded as outlots. The Maryland Department of the Environment (MDE) has analyzed the well water withdrawal and has issued a groundwater appropriation permit. The Board understood that MDE was satisfied that well water supplies would be adequate for the new lots and that recharge to the groundwater supply was adequate for local wells.

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 and that it includes an easement for a future water supply cistern that will be shown on the record plat. Other public facilities and services, such as schools, police stations, firehouses and health services, are operating

within the standards set by the Growth Policy Resolution currently in effect. The Application is not within a school moratorium area and is not subject to a School Facilities Payment.

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

This application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Board finds the application meets all applicable sections. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision as previously discussed regarding the size, shape and location of the lots on the farm.

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

The Board finds that the Preliminary Plan meets all applicable requirements of the Montgomery County Forest Conservation Law, Chapter 22A. Of the 840 acres making up this Property, 780 acres will remain in agriculture and are exempt from forest conservation requirements through an agricultural Declaration of Intent. The residential component of this Application generates a 57.8 acre net tract area that is subject to the law. The forest conservation requirement on the 57.8 acre net tract will be met by protecting 8.30 acres within the residential lots and 89.6 acres on the unplatted farm portion of the Application. The Applicant also proposed to protect an additional 50 acres of existing forest to be used for forest banking purposes.

7. *The Application meets all applicable stormwater management requirements and will provide adequate control of stormwater runoff from the site. This finding is based on the determination by the Montgomery County Department of Permitting Services ("MCDPS") that the Stormwater Management Concept Plan meets MCDPS' standards.*

The MCDPS Stormwater Management Section approved the stormwater management concept for the project on September 9, 2009 and the concept was reaffirmed on May 14, 2010. The concept plan consists of on-site water quality controls and onsite recharge via roadside swales, drywells and rooftop disconnects. Channel protection volume is not required because the one-year post development peak hour discharge is less than or equal to 2.0 cubic feet per second.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 60 months from its Initiation Date (as defined in Montgomery County Code Section 50-

35(h), as amended) 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 among the Land Records of Montgomery County, Maryland or a request for an extension must be filed; and

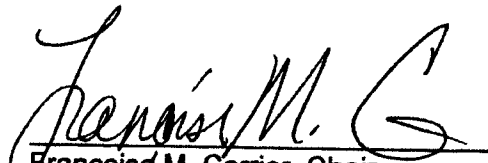
BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is SEP 28 2010 (which is the date that this Resolution is mailed to all parties of record); and

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 Alfandre, seconded by Vice Chair Wells-Harley, with Chairman Carrier, Vice Chair Wells-Harley, and Commissioners Alfandre and Dreyfuss present and voting in favor of the motion, and Commissioner Presley absent at its regular meeting held on Thursday, September 16, 2010, in Silver Spring, Maryland.

  
Françoise M. Carrier, Chair  
Montgomery County Planning Board

49221 445

**COVENANT TO ESTABLISH AN EQUESTRIAN TRAIL FOR RECREATIONAL USE BY THE GENERAL PUBLIC**

THIS DECLARATION, made this 11<sup>th</sup> day of Sept., 2014 by BARNESVILLE OAK FARMS, LLC, a Maryland Limited Liability Company, on behalf of itself, its successors and assigns ("BOF" or the "Applicant") in its capacity as agent for the Balsamah Corporation, N.V. a Curacao corporation, its successors and assigns, (hereafter the "Farm Owner") authorized to do business in the State of Maryland (collectively "Declarant") ESTABLISHES AN EQUESTRIAN TRAIL FOR RECREATIONAL USE BY THE GENERAL PUBLIC subject to the terms, conditions and restrictions hereinafter set forth.

**WITNESSETH**

WHEREAS, Declarant is the owner of that certain parcel of land containing 840 acres, known of record as Parcel P579 on Tax Map DU13; and

WHEREAS, Declarant submitted Preliminary Plan Number 120090110 for subdivision approval for the 840 acre parcel of land known of record as Parcel P579 on Tax Map DU53 (hereafter the "Property"); and

WHEREAS, the Property is located on the east and west sides of Peach Tree Road in Montgomery County, Maryland; and

WHEREAS, on July 22, 2010 the Montgomery County Planning Board ("the Planning Board") of the Maryland-National Capital Park and Planning Commission (the "Commission") approved Preliminary Plan Number 120090110 subject to certain conditions; and

WHEREAS, pursuant to Section 50-30(c)(3) of the Montgomery County Subdivision Regulations, being also Chapter 50 of the Montgomery County Code 2004 as amended, Planning Board is empowered to require the establishment of recreational equestrian trail through the subdivision process for use by the general public; and

WHEREAS, on September 28, 2010, the Planning Board issued MCPB Resolution Number 10-129 approving the Preliminary Plan subject to conditions (the "Approval Resolution"); and

WHEREAS, Approval Resolution Condition Number Three ("Condition Number 3") requires the establishment of an Equestrian Trail for recreational use by the general public (the "Equestrian Trail") at the precise location and in the exact alignment as shown on the Approved Preliminary Plan; and

WHEREAS, the Approved Preliminary Plan depicts the precise location and exact alignment of the Planning Board approved recreational Equestrian Trail; and

WHEREAS, Subtitle 11 of Title 5 of the Natural Resources Article of the Maryland Annotated Code encourages landowners to permit the use of private property by the general public for recreational purposes, such as horseback riding, under certain limited circumstances;

FILED  
LORETTA E. KNIGHT  
CLERK'S OFFICE  
MONTGOMERY COUNTY, MD.

2014 SEP 26 PM 3:27

TRV FD SUR 40.00  
RECORDING FEE 20.00  
TOTAL 60.00  
LEK CA 23443  
Sep 26, 2014 4313  
03:20 PM

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) LEK 49221, p. 0445, MSA\_CE63\_49178. Date available 10/03/2014. Printed 07/15/2015.

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40  
CA

After recording hold for:

**MILES & STOCKBRIDGE**  
11 North Washington Street  
Suite 700  
Rockville, Maryland 20850-4229

109

and

WHEREAS, Subtitle 11 of Title 5 of the Natural Resources Article of the Maryland Annotated Code limits the liability of a landowner who permits such use of private property without charge; and

WHEREAS, By this Declaration Declarant establishes an equestrian trail for use by the general public and to permit the recreational equestrian use of the Equestrian Trail solely at the user's own risk, subject to Declarants' absolute immunity from any and all liability and the additional limitations on liability enumerated in the Natural Resources Article of the Maryland Annotated Code as currently codified and the terms, conditions and restrictions hereinafter set forth; and

WHEREAS, This Declaration of Covenant implements the general scheme of development intended by the Preliminary Plan and approved by the Planning Board's Approval Resolution and is recorded to benefit the land upon which the approved residential development will be located and establish the restrictions and limitations applicable to the use of the Equestrian Trail hereby established.

NOW THEREFORE, in consideration of the above recitals each of which is incorporated herein as if fully set forth below, and the covenants, terms, and restrictions hereinafter set forth, Declarant hereby establishes an Equestrian Trail on the Property for use by the general public in the precise location and exact alignment as approved by the Planning Board and as depicted on Exhibit "A" to this Declaration.

1. Recreational Equestrian Trail Established.

In compliance with Condition Number 3 an Equestrian Trail limited to equestrian recreational use by the general public without charge is hereby established on the Property as depicted on Exhibit "A" attached hereto and incorporated herein by this reference. The Equestrian Trail hereby established is for the benefit of the general public to be used solely for equestrian purposes pursuant to the express terms and conditions set forth in the Special Notes required by Paragraph 7(b) of this Declaration and the express terms and conditions set forth below.

- (a) In order to protect the residential use of the Property any activity by persons using the recreational Equestrian Trail that disrupts the quiet enjoyment and privacy of residents is prohibited.
- (b) In order to protect the agricultural use of the Property, any activity by persons using the recreational Equestrian Trail that disrupts or interferes with the agricultural use of the Property is prohibited
- (c) In order to assure the safe use of the trail, persons under the age of 18 are not permitted to use the recreational Equestrian Trail unless accompanied at all times by an adult over the age of eighteen.
- (d) In order to protect the residential and agricultural uses of the Property persons using the recreational Equestrian Trail are restricted to the precise trail location depicted on Exhibit "A". Access to any other part of the Property is strictly prohibited.

- (e) In order to protect the Declarant and the residential and agricultural uses of the Property the Equestrian Trail may not be used for fundraising purposes or for Equestrian Trail tours. No person or entity may charge a fee or solicit a donation from any person using the Equestrian Trail.
- (f) No person or entity has been granted the right to name the trail or to post any sign purporting to identify the equestrian trail by any name.

2. **Effective Date.**

This Declaration shall become effective and the Equestrian Trail shall be accessible to the general public for recreational equestrian use following the recordation of the Final Subdivision Plats for the approved lots on the Property among the land Records of Montgomery County, subject to the limitations expressed in Section 6 of this Declaration.

3. **Enforcement and Remedies**

(a) Declarant for itself and its respective assigns, representatives, agents and employees expressly reserves the right to enforce the provisions of this Declaration and to take all necessary actions within the boundaries of the Equestrian Trail to comply with all governmental requirements, to service the Property and the agricultural and permitted uses of the Property and to protect the Equestrian Trail from physical damage. These rights include but are not limited to the right to implement the approved Preliminary Plan, pave portions of the Equestrian Trail where necessary under State and/or County laws and to grant utility easements.

(b) The Declarant, its successors and assigns are entitled to recover reasonable attorney's fees and costs incurred in the event of any violation of the terms and restrictions of this Declaration of Covenant and any litigation instituted to enforce this Declaration.

4. **Prior Easements**

This Declaration is subject to prior easements of record for public roads, private drives and highways, public utilities, and pipelines. This Declaration is also subject to future easements granted in connection with the development of the Property, including but not limited to public roads, private drives and highways, public utilities, pipelines, and ingress/egress easements, and to easements pertaining to the establishment or transfer of Transferable Development rights("TDR's") or building Lot Termination easements ("BLT's").

5. **No restriction on Use or Development**

Nothing in this Declaration may be construed, interpreted or enforced in any manner that would impinge, restrict, conflict with or impede in any way whatsoever the agricultural or other permitted uses of the Property, including but not limited to its development (including but not limited to clearing and grading), the establishment or transfer of TDR's or BLT's.

6. **Public Access to the Recreational Equestrian Trail**

(a) Access to the recreational Equestrian Trail by the general public shall commence on a date determined by the Declarant, but no later than 90 days following recordation of the last subdivision plat required to implement the approved Preliminary Plan and the expiration of all periods during which an appeal of any subdivision related approval may be taken.



(b) Access to the recreational Equestrian Trail by the general public is strictly limited to the precise location of the approved Equestrian Trail as shown on the approved Preliminary Plan and on Exhibit "A".

7. Recreational Equestrian Trail to be referenced on Record Plats

(a) Record Plats submitted by the Declarant for approval by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission shall include specific references to the recreational Equestrian Trail and shall reference this Declaration by its Liber and folio number.

(b) Record Plats submitted by the Declarant for approval by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission shall include the following "Special Notes"

SPECIAL NOTES

1. These Special Notes comply with Condition Number 3 of MCPB Resolution No. 10-129 approving Preliminary Plan No. 120090110. Condition Number 3 established the location of an equestrian trail for use by the general public as shown on the Planning Board approved Preliminary Plan. The equestrian trail may be used by the general public without charge solely for recreational horseback riding. Such use is expressly restricted to horseback riding within the boundaries of the Planning Board approved equestrian trail as depicted hereon. The equestrian trail is on private property and any activity outside of the boundaries of the approved trail as depicted on this Plat is strictly prohibited. Use of the equestrian trail by members of the general public is at the user's own risk. The owners of the Property and their employees, agents and representatives are not liable for any death or injury to persons or property damage arising out of a person's use of the trail. Immunity from liability is of the essence of the Applicants' consent to establish an equestrian trail on private property. Use of the equestrian trail is also subject to the provisions and property owner protections enumerated in Subtitle 11 of Title 5, Sections 5-1101 through 5-1104 of the Natural Resources Article of the Maryland Annotated Code. Motorized vehicles of any type are strictly prohibited. Smoking and fires of any kind are strictly prohibited on the trail. The equestrian trail is privately owned and is not owned, operated or maintained by the Parks Department, the Maryland-National Capital Park and Planning Commission, or any other governmental entity. Unless expressly authorized by the Property owner, no entity or individual is authorized to operate, maintain or manage the equestrian trail and, in accordance with Section 5-1103 of the Natural Resources Article, the landowner is not required to maintain the trail or keep it safe for entry or use by members of the general public.

2. The Equestrian Trail shall be posted with a Notice listing use restrictions at locations approved by the Planning Department.

**8. Plat Approval and Recordation**

(a) In the event that any Court of competent jurisdiction reverses or remands any governmental approval pertaining to the subdivision of the Property, and/or the use of the Property or the Equestrian Trail this Declaration and all terms, conditions, restrictions, covenants and agreements contained herein and the right of the general public to access the recreational Equestrian Trail for recreational horseback riding, shall immediately terminate, and this Declaration shall be automatically revoked, released and extinguished for all purposes (except for Declarant's rights of immunity, enforcement and remedies provided herein in this Paragraph 8 and in Paragraphs 3 and 9) without any further action by Declarant.

(b) In the event of the termination of this Declaration as herein provided in subsection 8(a), Declarant, its successors or assigns may at their sole discretion file in the Land Records a formal termination, revocation, release and extinguishment of this instrument.

(c) In the event that any of the subdivision plats required by Preliminary Plan No. 120090110 are not approved for recordation by the Planning Board and recorded in the Land records of Montgomery County, Maryland this Declaration shall terminate as provided in subsection 8(a).

(d) In the event of any administrative or judicial challenge to the approval of the subdivision plats, their recordation, or this Declaration or any portion thereof this Declaration shall terminate as provided in subsection 8(a).

(e) This Declaration shall terminate as provided in subsection 8(a) above if any Court of competent jurisdiction reverses or remands any governmental approval pertaining to the subdivision of the Property, and/or the use of the Property or the Equestrian Trail.

9. In addition to and not in substitution of any other provision hereof, this Declaration is subject to the provisions and limits on liability established by Section 5-1104 of the Natural Resources Article of the Maryland Annotated Code, as codified on the date of recordation and the provisions of the Land Use Article of the Maryland Annotated Code, and Declarant shall be held harmless in accordance with all of the above referenced protections and the Maryland Annotated Code as codified on the date of recordation, and nothing herein may be interpreted or construed otherwise.

**10. Declaration to Run with the Land.**

Subject to Section 8, this Covenant shall run with the land in perpetuity.

**11. Recordation.**

Declarant shall cause this Covenant to be recorded among the Land Records of Montgomery County, Maryland.

**12. Construction and Interpretation**

This Declaration shall be construed, interpreted and enforced according to the laws of the State of Maryland.

13. Modification

This Declaration may only be modified in a writing signed by the Declarant and its successors or assigns.

14. Severability.

If any clause or provision of this Declaration is deemed by a court of law illegal, invalid, or unenforceable under any present or future law, the remainder of this Declaration will not be affected thereby. It is the express intention of the Declarant that if any such provision is held to be illegal, invalid, or unenforceable, that the remaining provisions of this Declaration shall remain valid and enforceable.

IN WITNESS THEREOF, the parties hereto have executed this easement this 11<sup>th</sup> day of September, 2014.

GRANTOR:

BARNESVILLE OAK FARMS, LLC

By: Katharine Sexton  
Its Agent, and Agent for  
Balsamah Corporation, N.V.



STATE OF MARYLAND  
COUNTY OF MONTGOMERY:

On this 11<sup>th</sup> day of September, 2014, before me, the undersigned notary public personally appeared KATHARINE SEXTON and proved to me through satisfactory evidence of identification, which consisted of DC DRIVERS LICENSE, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

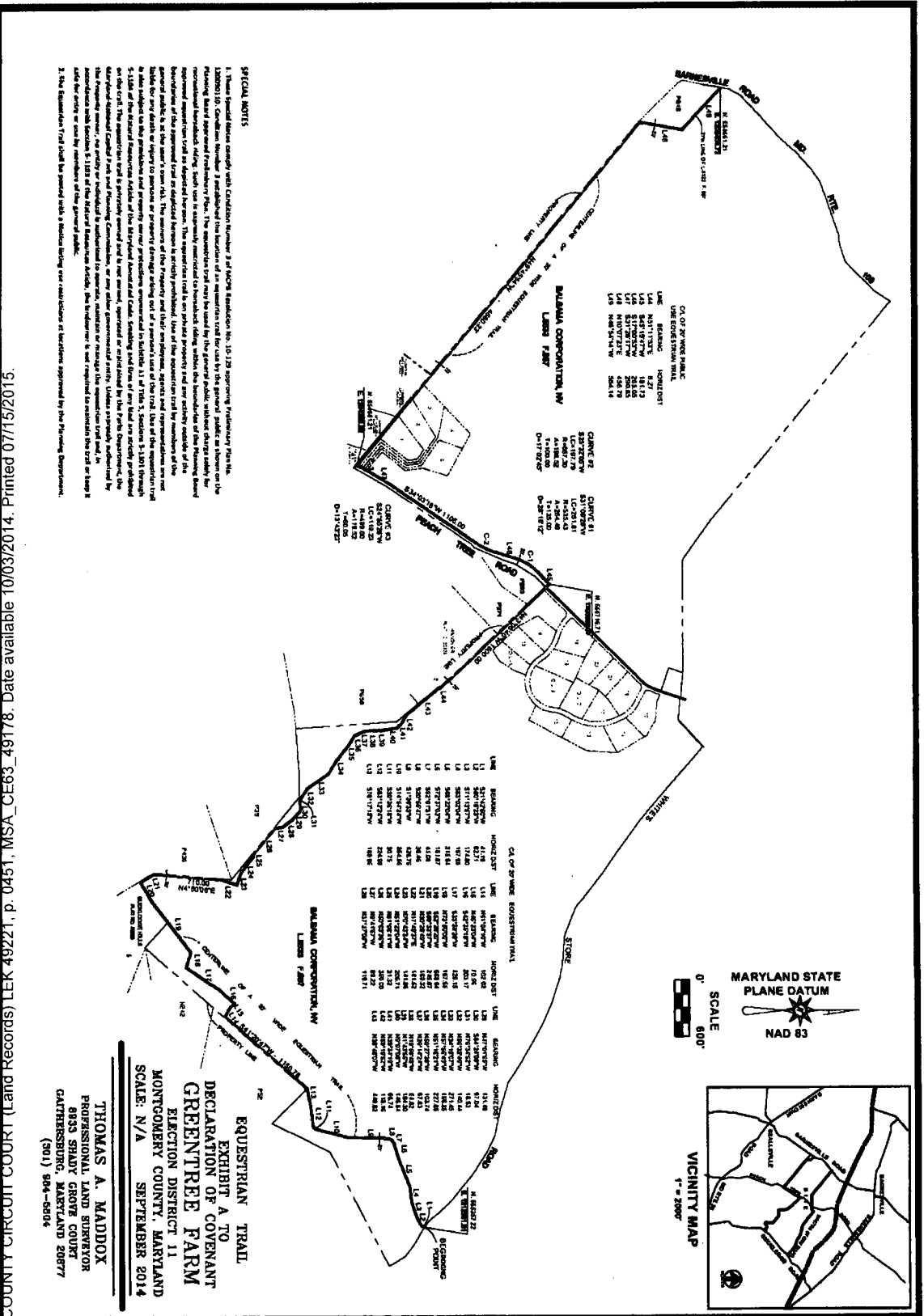
Nelson Espinoza  
Notary Public

My Commission Expires: 5/31/2018

**THE UNDERSIGNED**, a member in good standing of the Bar of the Court of Appeals of Maryland, hereby certifies that the within instrument was prepared by him or under his immediate supervision.

Stephen J. Orens  
Stephen J. Orens

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) LEK 49221, p. 0450, MSA\_CE63\_49178. Date available 10/03/2014. Printed 07/15/2015.



**SPECIAL NOTES**

1. This map was prepared in compliance with Ordinance Number 2 of Montgomery County, Maryland, Chapter 10B, Subchapter 10B, Section 10B-112.01, regarding Professional Practice, and Chapter 10B, Subchapter 10B, Section 10B-112.02, regarding Professional Practice. The map was prepared by the general public as shown on the accompanying Declaration of Covenant and Declaration of Easement. The map was prepared by the general public as shown on the accompanying Declaration of Covenant and Declaration of Easement. The map was prepared by the general public as shown on the accompanying Declaration of Covenant and Declaration of Easement.
2. The Equestrian Trail shall be owned and maintained by the general public.
3. The Equestrian Trail shall be owned and maintained by the general public.

**THOMAS A. MADDOX**  
 PROFESSIONAL LAND SURVEYOR  
 6833 SHADY GROVE COURT  
 GAITHERSBURG, MARYLAND 20877  
 (301) 904-6604

**DECLARATION OF COVENANT  
 GREEN TREE FARM**  
 EQUESTRIAN TRAIL  
 EXHIBIT A TO  
 DECLARATION OF COVENANT  
 GREEN TREE FARM  
 MONTGOMERY COUNTY, MARYLAND  
 SCALE: N/A SEPTEMBER 2014

EXHIBIT A