



Poplar Hill (a.k.a. Harlow Subdivision) Lot 45: Preliminary Plan Amendment No. 12003010A (In Response to a Forest Conservation Law Violation)



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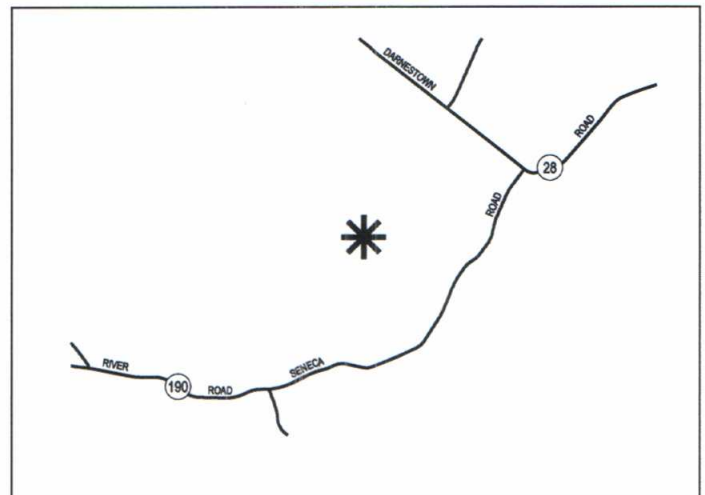
Mark Pfefferle, Chief, DARC, Mark.Pfefferle@montgomeryplanning.org, 301-495-4730

Completed: 02/06/15

Description

Limited Amendment, Preliminary Plan No. 12003010A, Poplar Hill (aka Harlow Subdivision) Lot 45 (in response to a forest conservation law violation)

- 14701 Poplar Hill Road
- RC Zone
- Within Potomac Subregion Master Plan
- Applicant: Shawn and Dianne McConnell
- Submitted on July 22, 2014



Summary

- Request to approve Preliminary Plan Amendment and Final Forest Conservation Plan for Poplar Hill (aka Harlow Subdivision) Lot 45 to:
 - Remove 7,700 square feet of Category I Conservation Easement from Lot 45 and mitigate onsite by adding 9,150 square feet of Category I Conservation Easement. Mitigation exceeds the area of conservation easement removed.
 - Restore natural slopes and replant native trees and shrubs within portions of retained and proposed Category I Conservation Easements.
 - Add 4,400 square feet of unprotected forested stream buffer to Category I Conservation Easement to comply with Preliminary Forest Conservation Plan No. 120030100.

STAFF RECOMMENDATION AND CONDITIONS

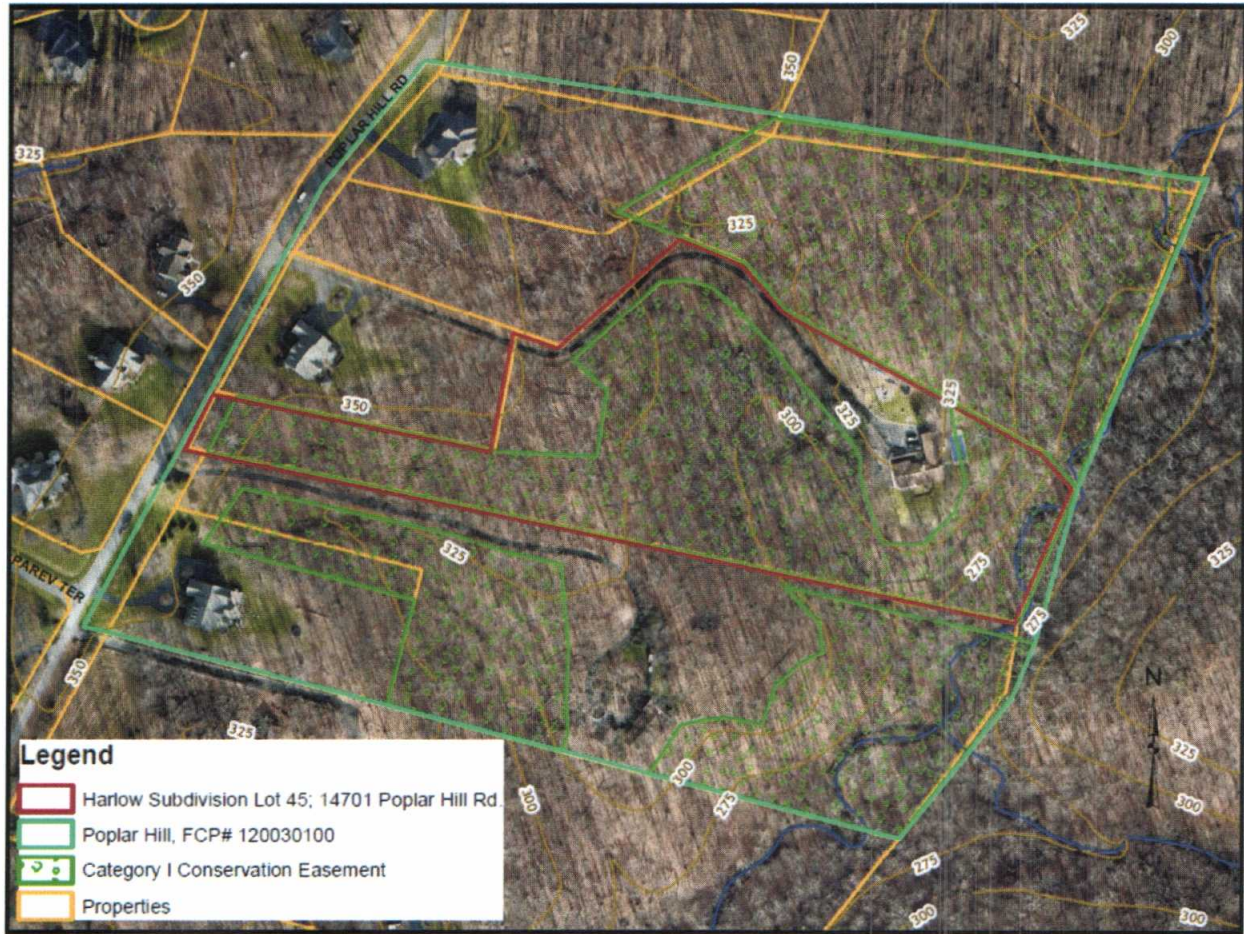
Staff recommends approval of the limited amendment to the Preliminary Plan subject to the following conditions. All other conditions of Preliminary Plan No. 120030100, as contained in the Montgomery County Planning Board's Opinion dated January 21, 2003, would remain in full force and effect except as modified below.

1. Prior to submitting a Record Plat application, the Applicant must record a Category I Conservation Easement by deed in the Land Records of Montgomery County, Maryland for all retained and new easement areas on the Subject Property. The new Category I Conservation Easement must be approved by the M-NCPPC Office of the General Counsel before recordation. The existing Category I Conservation Easement remains in full force and effect until the new Category I Conservation Easement is recorded in the Land Records of Montgomery County, Maryland.
2. Within one hundred and twenty (120) days of the mailing date of this Resolution, the Applicant must submit a complete Record Plat application that delineates and references the new Category I Conservation Easement.
3. Within thirty (30) days of the mailing date of this Resolution, the Applicant must submit a cost estimate for the restoration planting, two-year maintenance and signage requirements of the Final Forest Conservation Plan for Staff review and approval.
4. Within ninety (90) days of the mailing date of this Resolution, the Applicant must submit financial security for the planting, maintenance and signage requirements of the Final Forest Conservation Plan in the amount and in a format approved by Staff.
5. Within ninety (90) days of the mailing of this Resolution, the Applicant enter into a Maintenance and Management Agreement in a form approved by the M-NCPPC Office of the General Counsel to ensure compliance with the conditions of the Final Forest Conservation Plan.
6. Within ninety (90) days of the mailing of this Resolution, the existing perimeter fencing on Harlow Subdivision Lot 49 (14705 Poplar Hill Road) is to be relocated pursuant to this Amendment. The Applicant is responsible for securing access permission from Harlow Subdivision Lot 49 Property Owner.
7. Within nine (9) months of the mailing date of this Resolution, the Applicant must install permanent conservation easement markers at the perimeter of the new Category I Conservation Easement as shown on the Final Forest Conservation Plan.

SITE DESCRIPTION

The Poplar Hill subdivision is also known as the Harlow Subdivision. The subject property, Harlow Subdivision Lot 45, is 8.2 acres and is located at 14701 Poplar Hill Road in Germantown. The property is 1.3 miles west of Route 28. The house and the pool were built in the 1970s and pre-existed the 2003 subdivision. There is a metal chain-link fence on the property and on portions of the adjacent property. M-NCCPC Staff approved a fence in conservation easement permit in November 2003 for portions of this fencing. Figure 1 below shows the improvements and the existing forested Category I Conservation Easements on the property.

Figure 1 : Poplar Hill / Harlow Subdivision: March 2013 Aerial Photo



BACKGROUND

The Montgomery County Planning Board approved Preliminary Plan No. 120030100 "Poplar Hill" by Opinion mailed on January 21, 2003, for six lots on 30.90 acres of land in the RC Zone (Attachment 1). The subdivision took the land surrounding two existing homes and created six lots, all six fronting Poplar Hill Road.

The approved Preliminary Forest Conservation Plan protected 18 acres of existing forest with areas of forest retention and stream buffer as conservation areas (Attachment 2). At the time of Record Plat, the plan name "Poplar Hill" was called "Harlow Subdivision". Record Plat # 22623, Record Plat # 22725 and Record Plat # 23241 delineate the conservation easements within the subdivision. Record Plat # 22623 shows Lot 45 and the Category I Conservation Easements on the property (Attachment 3). The Record Plat granted the Category I Conservation Easement on Lot 45 to M-NCPPC pursuant to the Agreement recorded in Liber 13178 Folio 412 among the Land Records of Montgomery County, Maryland (Attachment 4).

The current Property Owner acquired the property in 2005. In 2008, the Property Owner graded and created a terrace within the conservation easement behind the home. Portions of the terrace and created slope behind the home are failing. Sometime before January 2014, the Property Owner started construction of a looped, circle driveway within portions of the conservation easement.

VIOLATION

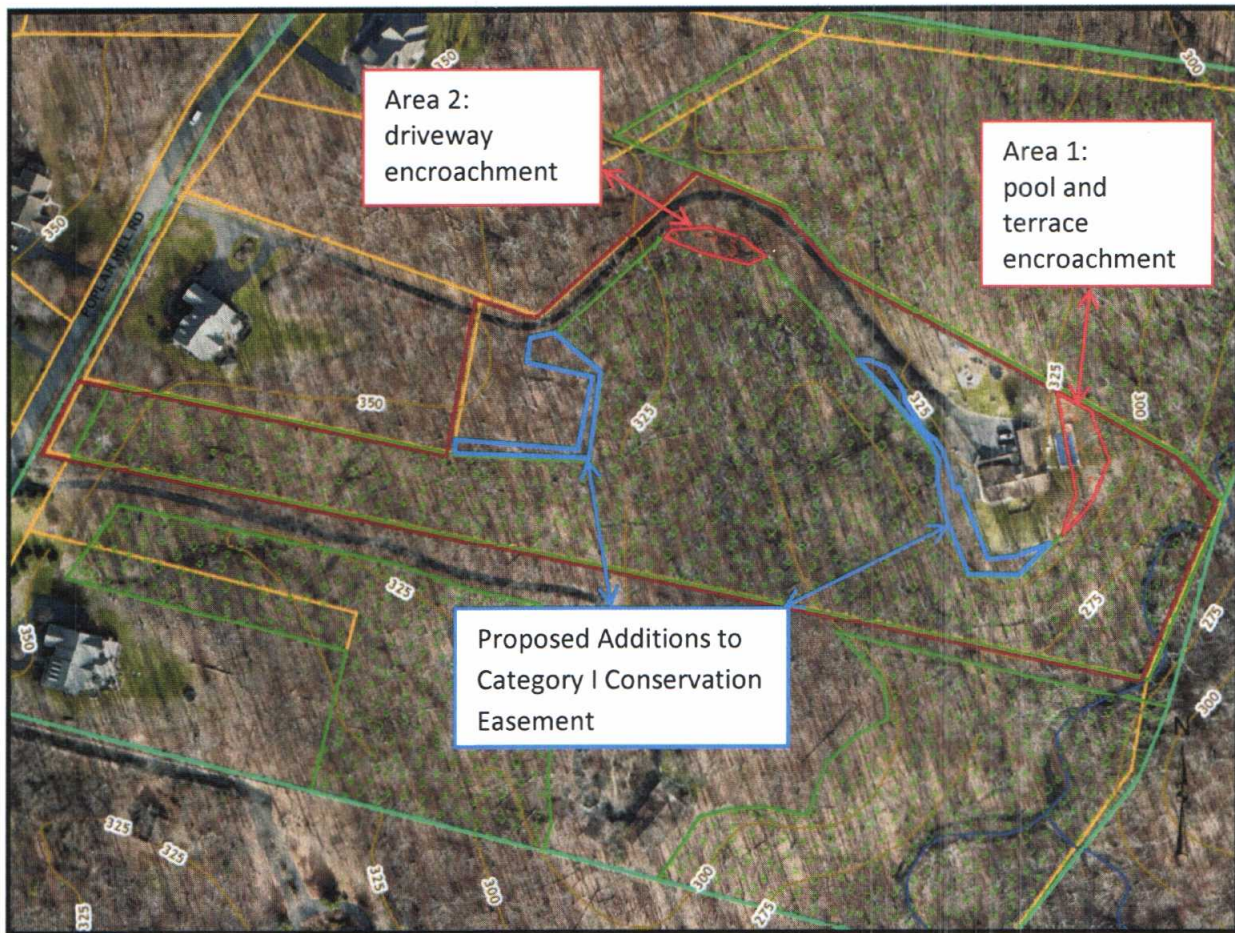
On January 30, 2014, during routine inspections, the forest conservation inspector discovered two separate conservation easement violations at Harlow Subdivision Lot 45. One violation area is behind the home and next to the pool. There, the inspector discovered a grassy area of conservation easement where fill dirt had been dumped and spread over top of existing trees and plants within the conservation easement area. The second violation area is near a gate that blocks the driveway to the residence. The inspector discovered that a private driveway was being constructed within a portion of the conservation easement to create a driveway circle.

Building a private driveway, filling in and changing natural grade and mowing grass are activities that are prohibited within Category I Conservation Easements. Figure 2 shows the two areas of conservation easement encroachment. On February 5, 2014, the inspector issued Administrative Citation No. EPD 000207 and Administrative Citation No. EPD 000208 to the Property Owner for these conservation easement violations (Attachments 5 and 6). On March 25, 2014, the Property Owner met with Staff and discussed various means to achieve compliance with the Forest Conservation Law and the conservation easements including a limited preliminary plan amendment. On April 7, 2014, M-NCPPC issued a Corrective Action Order directing the Property Owner to resolve the conservation easement violations. The Corrective Action Order required the Property Owner to either restore the easement and comply with the terms of the easement or submit a preliminary plan amendment for forest conservation purposes. The Property Owner chose to amend the preliminary plan.

APPLICANTS PROPOSAL

On July 22, 2014, the Applicant submitted a Preliminary Plan Amendment for Lot 45 which proposes to resolve the conservation easement encroachments (Attachment 7). The Applicant proposes removing two areas of conservation easement encroachment (Figure 2). An area of conservation easement behind the home that is within and next to the pool and septic system is referred to as Area 1. An area of conservation easement in front of the locked gate where the driveway circle construction was stopped is referred to as Area 2. Onsite mitigation is proposed and includes slope restoration and understory planting within affected conservation easement areas and additions of unprotected forested area to the Category I Conservation Easement.

Figure 2: Map of Proposed Category I Conservation Easement Changes – Abandon Encroachments and Add Unprotected Forest to Category I Conservation Easement

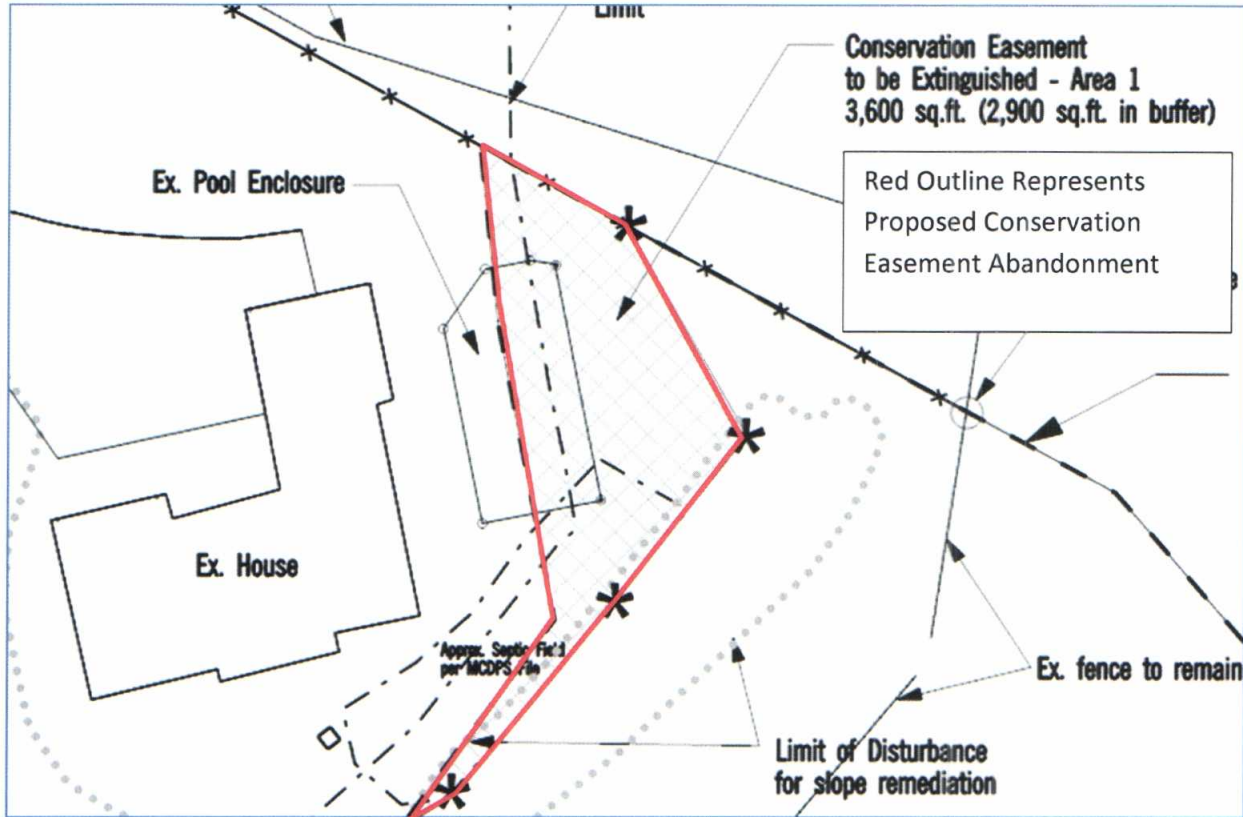


Area 1: Pool And Terrace Encroachment

At the rear of the property, the Applicant proposes removal of 3,600 square feet of conservation easement, including 2,900 square feet in a stream buffer. The easement area to be removed includes a portion of the pool, pool enclosure and septic area that is within the Category I Conservation Easement (Figure 3). The approved Preliminary Plan, Plan No. 120030100, failed to show the location of the existing pool and incorrectly noted the location of the home. Both the pool and house pre-dated the subdivision plan. Portions of the pool and the septic area are within the Category I Conservation Easement. The Amendment proposes removal of conservation easement area that is also the pool enclosure, septic area and adjacent terrace area. The top of the existing slope is proposed as the edge of the retained Category I Conservation Easement. As mitigation for the 2,900 square feet of stream buffer conservation easement removal, the Applicant propose adding 4,350 square feet of conservation easement of easement, Removal of the 700 square feet of non-stream buffer conservation easement from Area 1 will be compensated with addition of 700 square feet of non-stream buffer forest

elsewhere on the property. A total of 5,050 square feet of conservation easement will be added for the removal of 3,600 square feet of conservation easement from Area 1 (See Figures 2, 8 and 9 for specific locations of additional new conservation easement area).

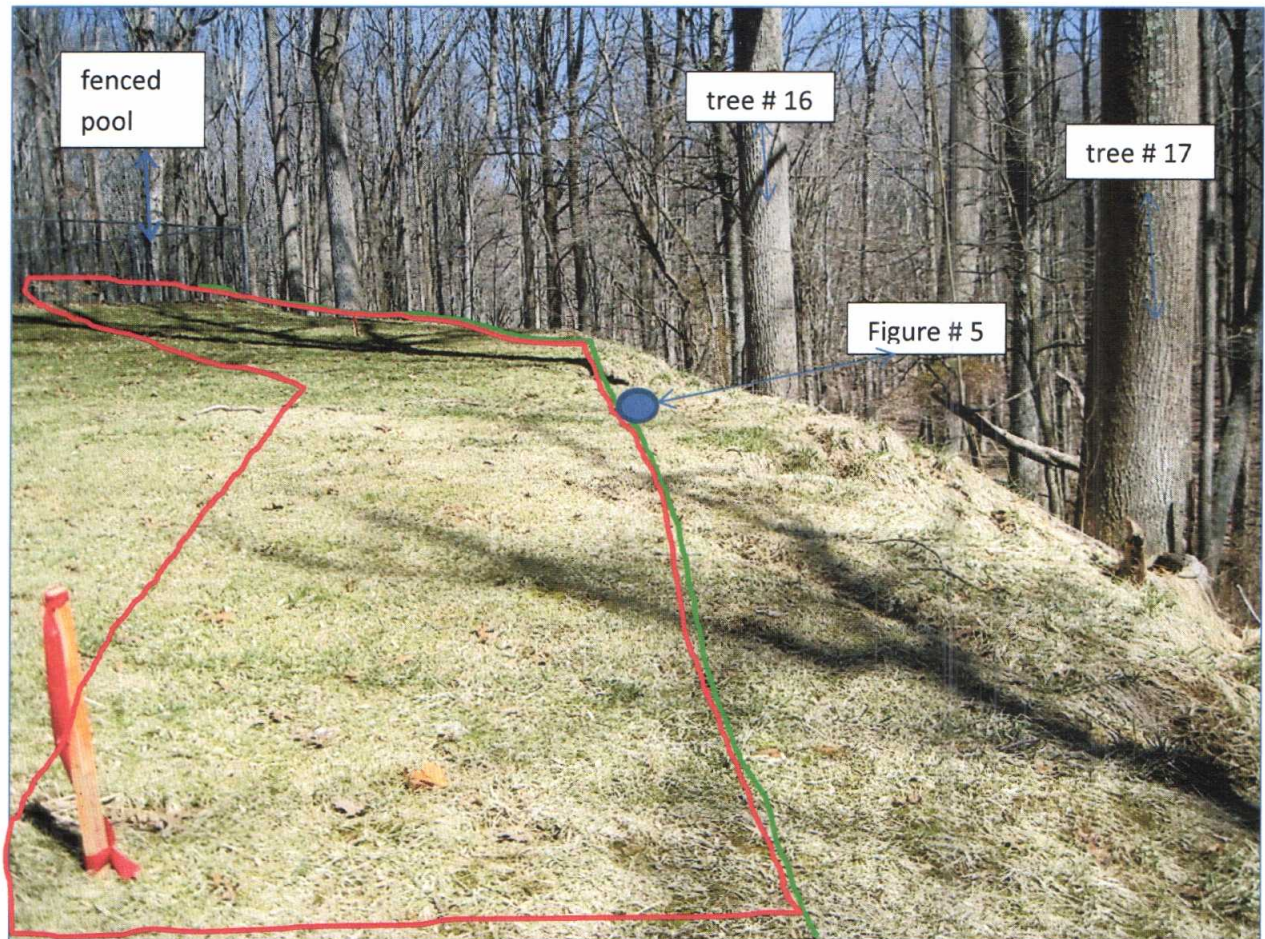
Figure 3: Area 1 - Proposed Conservation Easement Removal



Within Area 1, where fill dirt was dumped and spread, restoration is proposed. The Final Forest Conservation Plan, for Lot 45, proposes restoration of a natural grade, establishment of stable vegetated slopes and a replanting of native trees and shrubs. Permanent conservation easement markers are proposed along the conservation easement boundary.

Figures 4, 5 and 6 below show the steep slopes to be restored. Fill dirt is to be carefully removed from the tree trunks of specimen tulip poplar tree # 16 and # 17. The Amendment proposes establishment of stable slopes with a max slope of 2:1. A combination of wood chips and a fern, shrub and tree planting is proposed on the restored slopes. Two (2) years of maintenance and management will be provided for the restoration planting.

**Figure 4: Area 1: Grassy Terrace in Conservation Easement behind pool and house –
Proposed conservation easement removal and restoration of retained conservation easement.**



Red outline approximates a portion of proposed abandonment
Green line approximates proposed new conservation easement boundary and edge of proposed slope restoration

Figure 5: Area 1 - Failing slope behind home at edge of retained Category I Conservation Easement



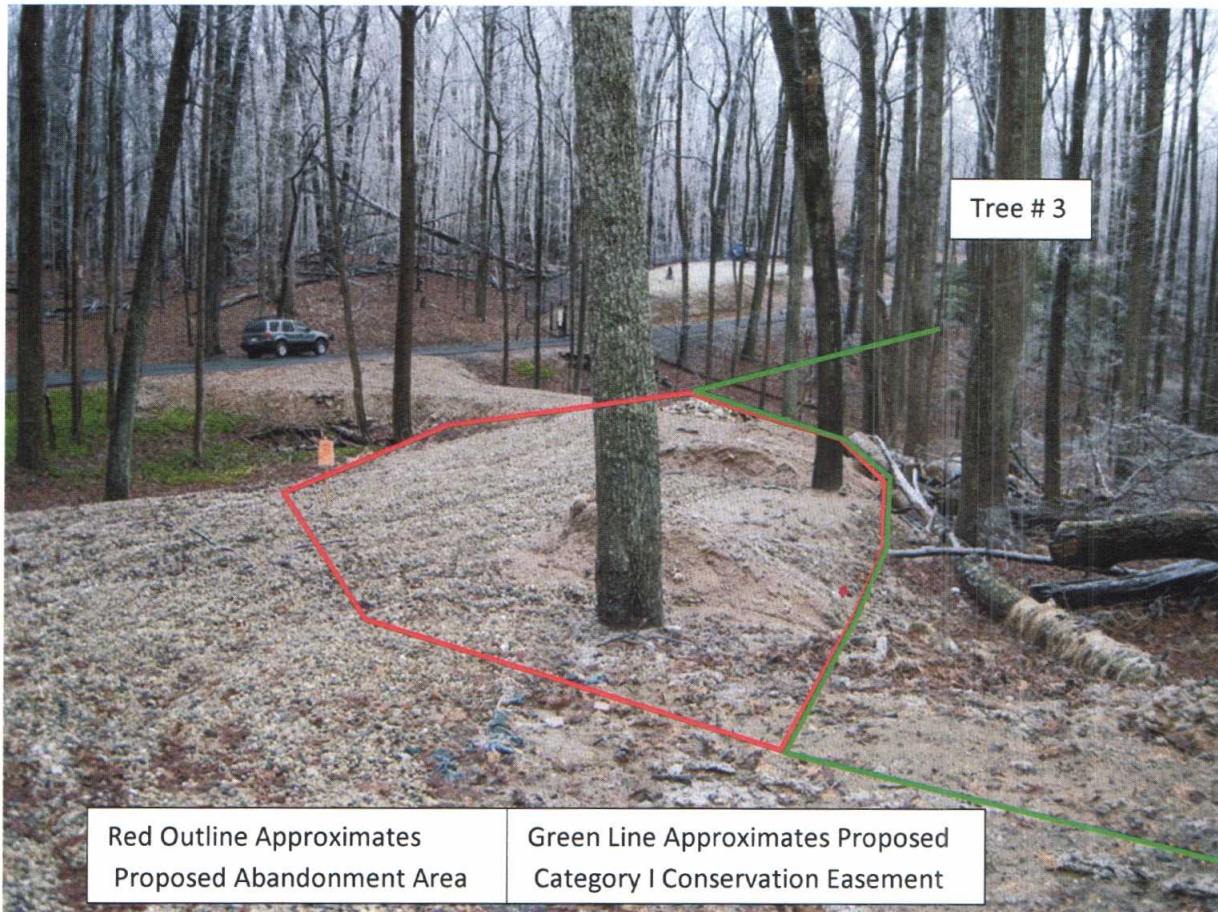
Figure 6: Area 1: Looking South at the Conservation Easement Stream Buffer Restoration Area



Area 2: Driveway Encroachment

At the front of the property, the Applicant proposes removal of approximately 4,100 square feet of conservation easement that is filled in with gravel and stone to create a looped driveway. This encroachment area is referred to as Area 2. Figure 7 approximates the proposed conservation easement removal. The Amendment notes that a loop driveway is necessary because a locked driveway gate beyond this point necessitates a delivery truck turnaround. The locked gate is approximately 970 feet from Poplar Hill Road.

Figure 7: Area 2 – February 5, 2014 Driveway Photo – Proposed Conservation Easement Changes



The Applicant proposes to mitigate the Area 2 conservation easement removal by permanently protecting 4,100 square feet of previously unprotected forest on the property (See Figure 2, 8 and 9 for locations of new additional conservation easement). This is a 1:1 replacement to removal ratio which is the Planning Board policy for onsite mitigation. In addition to this replacement for the easement removal, the Applicant will restore the existing conservation easement that was impacted by the construction by: 1) cutting, chipping and spreading wood chips; 2) removing all construction debris from the driveway slopes and conservation easement area; 3) installing permanent conservation easement

markers at the easement boundary; 4) planting 10 trees and 5 shrubs as mitigation for the conservation easement disturbance; and 5) providing a 2 year maintenance period for the newly planted trees and shrubs. The Applicant will be granted permission to remove two existing trees that have been buried by the driveway construction

PROPOSED ADDITIONS TO CATEGORY I CONSERVATION EASEMENT

A total of 7,700 square feet of conservation easement is proposed for removal. The Amendment proposes adding 9,150 square feet of existing unprotected forest as Category I Conservation Easement. Conservation easement removed that is not stream buffer is proposed for removal and replacement at the 1:1 mitigation rate. The 2,900 square feet of conservation easement removed from the stream buffer behind the home is proposed to be replaced at 1.5:1 mitigation rate where 1.5 square feet of unprotected forest is added for every 1 square feet of stream buffer conservation easement removed.

Figure 8 illustrates a proposed addition of 4,250 square feet of existing forest that is adjacent to a septic reserve area. The area is an existing hardwood forest with few non-native invasive plants. The area is a building restriction area for the septic reserve and as such is compatible with forest protection.

Figure 8: Next to Septic Reserve - Proposed addition of 4,250 square feet of Conservation Easement

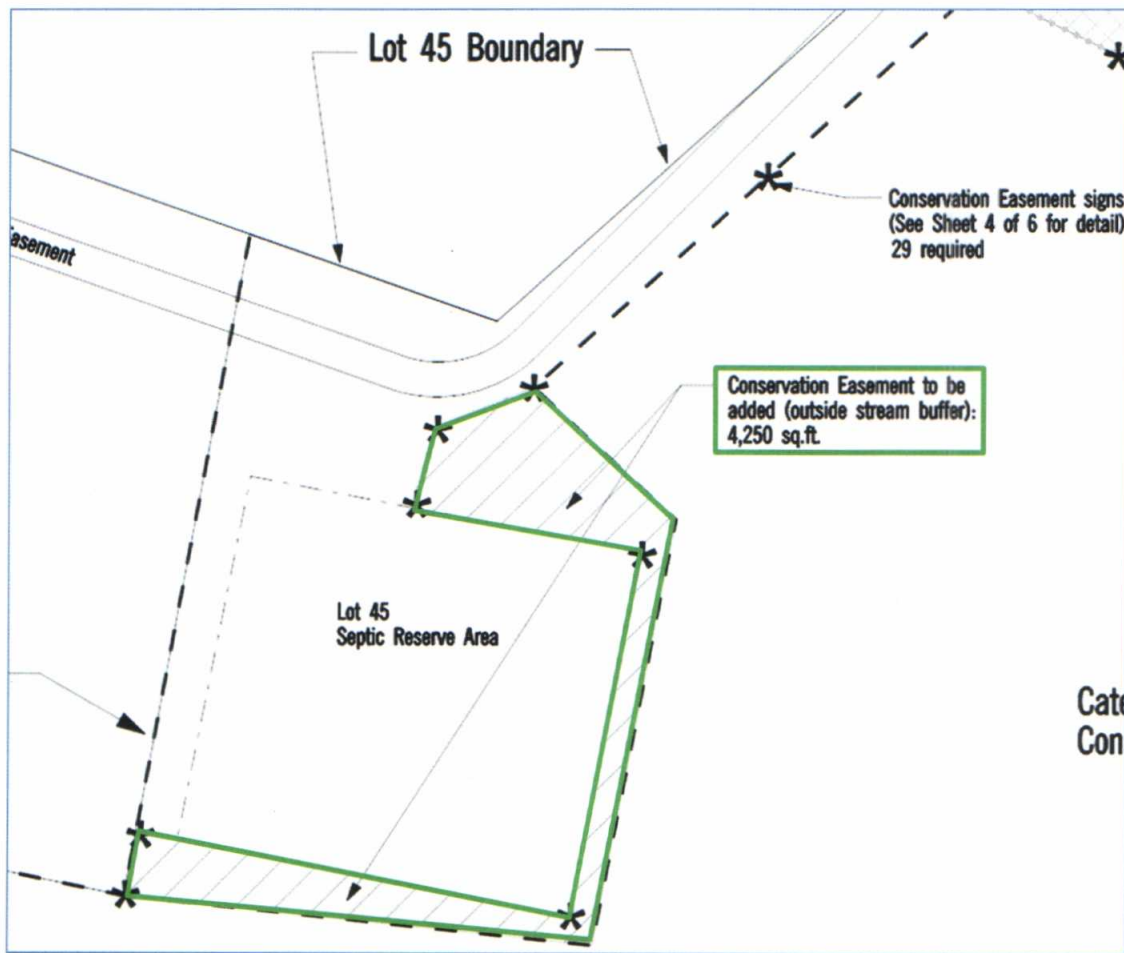
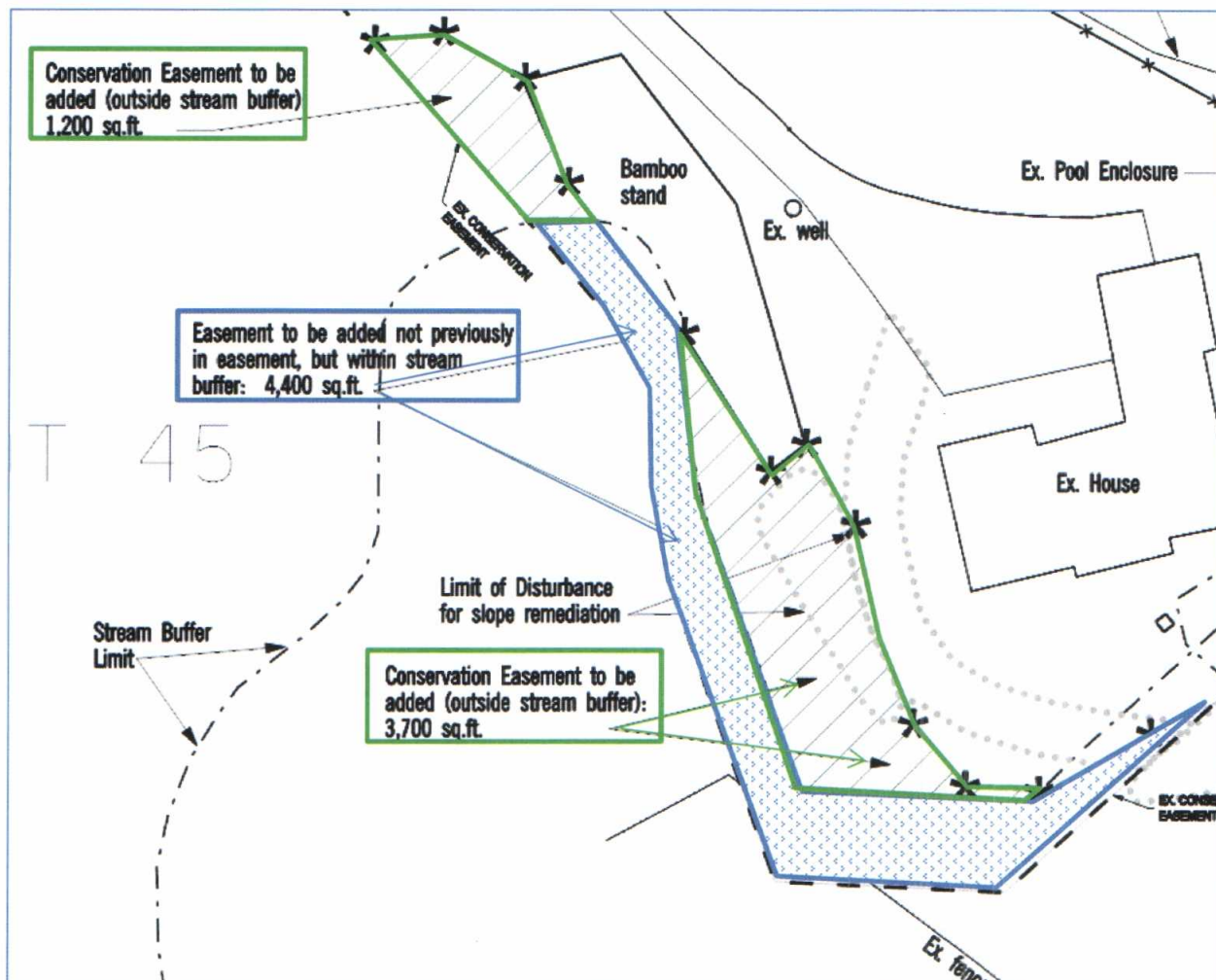


Figure 9 shows two areas of addition to Category I Conservation Easement to account for the encroachment removals. These additions total 4,900 square feet of non-stream buffer forest addition to Category I Conservation Easement. These areas are adjacent to stream buffer.

Figure 9 also shows how the Applicant's proposal to add 4,400 square feet of unprotected stream buffer forest to Category I Conservation Easement to comply with previously approved Preliminary Forest Conservation Plan # 120030100. The approved Preliminary Forest Conservation Plan shows this 4,400 square foot area as within the stream buffer and forest conservation area. Record Plat # 22623 failed to record these areas as Category I Conservation Easement. Approval of Preliminary Plan No. 120030100 required Category I Conservation Easement over these areas.

Figure 9: Proposed Additions to Conservation Easement -Within and Next to Stream Buffer



FENCING AND SIGNAGE

The Amendment proposes relocating a section of chain-link fencing that was installed on Harlow Subdivision Lot 49, 14705 Poplar Hill Road. A section of this fencing will be relocated from the conservation easement on Lot 49 to locations shown on the Final Forest Conservation Plan. Within the

conservation easement on Lot 45, fencing is only approved in the locations shown on the November 17, 2003 M-NCPPC Staff approval of fence in conservation easement request (Attachment 8).

The Proposal also includes the installation of twenty nine (29) permanent conservation easement markers along the proposed Category I Conservation Easement boundary.

FOREST CONSERVATION VARIANCE REPORT

Section 22A-12(b) (3) of the Montgomery County Forest Conservation Law provides criteria that identify individual trees and plants as high priority for retention and protection. Trees that measure 30 DBH (diameter at 4.5 feet above ground) inches or greater; are part of a historic site or designated with a historic structure; are designated as a national, State or County champion tree: are at least 75 percent of the diameter of the current State champion tree of that species or are plants that are designated as Federal or State rare, threatened or endangered are priority for retention and protection (“Protected Plant”, “Protected Tree”). Any impact to a Protected Plant including removal or disturbance to a plant’s critical root zone requires a variance. The Applicant has submitted a Statement of Justification for Variance impact to the root zones of six trees with DBH’s equal or exceeding 30 inches (Attachment 9). Pursuant to Section 22A-12(b)(3) the written request for variance must demonstrate that disturbance to a Protected Plant would not result in an unwarranted hardship as part of the development of a property.

Unwarranted Hardship

Without a variance, the Applicant would be unable to take steps to correct a Forest Conservation Law violation and improve the health of Tree # 3, #15, #16, #17, # 26 and # 28. The respective trees have adapted to the initial shock from the disturbance within their root zones. However, the surrounding soil and root environment is not stable; the proposed impact would be to create stable slopes, to improve aeration within the root zones and to encourage fine root development. Failure to implement the proposed restoration could shorten the life of tree # 3, # 15 and # 16 and reduce the benefits these trees provide to the forest and stream buffer. Fungal decay in the roots and stem of tree # 15 and # 16 would be hastened with failure to enable the Applicant to restore stable slopes.

Variance Findings

The Planning Board must make findings that an Applicant has met all requirements of Section 22A-21 of the Montgomery County Forest Conservation Law before granting a variance. Staff has made the following determination on the required findings for granting of a variance:

1. Will not confer on the applicant a special privilege that would be denied other applicants:

The property is a residential property with an existing home, pool and driveway. The Applicant has owned the property since July 2005, the house and pool were built in the 1970s. Maintenance of existing structures in a safe condition is not unique to this Applicant and does not provide special privileges that would be denied to other applicants. The Variance Request is for impact to mitigate root damage that has already been done to Protected Trees.

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

The Variance is required to remediate the past placement of fill dirt within the CRZs (critical root zones) of the Protected Trees and is a necessary condition of this Amendment and the associated Forest Conservation Plan. The work to be performed under the Variance is recommended by Staff to bring the Subject Property into compliance with the Forest Conservation Law and is not based on conditions or circumstances that are the result of the Applicant's actions.

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

The request of a variance is not related in any way to a condition on an adjacent, neighboring property.

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

The request of a variance will allow for establishment of stable vegetated slopes and improve the stream buffers filtration capacity.

County Arborist Recommendation

Pursuant to Section 22A-21 of the Montgomery County Forest Conservation Law, the County Arborist has reviewed the Applicant's Variance Request. The County Arborist's recommendations are attached (Attachment 10).

Mitigation and Variance Recommendation

The Amendment includes a restoration planting where the conservation easement was disturbed. The proposed Forest Conservation Plan includes planting 10 shrubs and 2 trees within or next to the root zones of tree # 15, # 16, # 17, # 26 and # 28 and 10 trees and 5 shrubs within or next to the root zone of tree # 3.

Staff recommends that the variance be granted with the proposed mitigation. The submitted Final Forest Conservation Plan meets all applicable requirements of the Montgomery County Forest Conservation Law.

PLANNING BOARD REVIEW AUTHORITY

The Planning Board approved Preliminary Plan 120030100 "Poplar Hill" and required the establishment of the conservation easements in the subdivision. The Planning Board has authority under Subdivision Regulations (Chapter 50 of the Montgomery County Code) to hear an amendment that proposes changes to the conservation easements.

In addition, the Planning Board has directed Staff to bring all requests for modifications to conservation easements before them to be considered in a public forum.

STAFF REVIEW

This Preliminary Plan Amendment is in response to violation of the Category I Conservation Easement. The M-NCPPC inspector issued two administrative citations to the Property Owner for encroachments into the Category I Conservation Easement. The Property Owner contested the citations but agreed to meet with Staff to discuss the case. In meeting with Staff, the Property Owner learned how the violations could be resolved. After this meeting, a Corrective Action Order was issued requiring immediate restoration of the conservation easements or submittal, review and presentation of a Preliminary Plan Amendment for conservation easement changes. The Property Owner decided to pursue a Preliminary Plan Amendment which was submitted on July 22, 2014. No additional fines or citations were issued for the mowing and driveway encroachments in the Category I Conservation Easement while this amendment was under review.

The Amendment proposes a path to resolve the conservation easement encroachments and improve the habitat and stability of retained conservation easements. To resolve the encroachment violations, 7,700 square feet of Category I Conservation Easement is to be removed and replaced onsite with 9,150 square feet of Category I Conservation Easement. The proposed mitigation rate is 1:1 for non-stream buffer replacement and non-stream buffer removal and 1.5:1 for non-stream buffer replacement and stream buffer removal.

NOTIFICATION and OUTREACH

The Subject Property was properly signed with notification of the upcoming Preliminary Plan Amendment prior to the acceptance of the application. All adjoining and confronting property owners, civic associations, and other registered interested parties were notified of the upcoming public hearing on the proposed amendment.

RECOMMENDATION

Staff recommends that the Planning Board approve this Amendment with the conditions specified above.

ATTACHMENTS

1. Montgomery County Planning Board Opinion, Preliminary Plan No. 120030100 "Poplar Hill"
2. Approved Preliminary Forest Conservation Plan # 120030100 "Poplar Hill"
3. Record Plat # 22623, Lot 45 Harlow Subdivision
4. Category I Conservation Easement Agreement LF13178.412
5. Copy of Administrative Citation No. EPD 00207
6. Copy of Administrative Citation No. EPD 00208
7. Limited Preliminary Plan Amendment and Final Forest Conservation Plan for Lot 45
8. Fence in Conservation Easement Permit Approval – 11/17/2003
9. Statement of Shawn P. McConnell for a Variance – December 2014
10. County Arborist Variance Recommendation Letter



Date Mailed: January 21, 2003

Action: Approved Staff Recommendation

Motion of Comm. Robinson, seconded by
Comm. Bryant with a vote of 4-1;

Comms. Bryant, Perdue, Robinson
and Wellington voting in favor
Comms. Berlage opposed

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-03010

NAME OF PLAN: POPLAR HILL

On 09/10/02, MR. CHUN LAU, MR. AND MRS. FRED SCHUYLER, MR. AND MRS. JOSEPH LAFLEUR submitted an application for the approval of a preliminary plan of subdivision of property in the RC zone. The application proposed to create 6 lots on 30.90 acres of land. The application was designated Preliminary Plan 1-03010. On 12/12/02, Preliminary Plan 1-03010 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form, attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-03010 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-03010.

Approval, Pursuant to Section 50-29 (b)(2) of the Montgomery County Subdivision Regulations and Subject to the Following Conditions:

- (1) Compliance with the conditions of approval for the preliminary forest conservation plan. The applicant must satisfy all conditions prior to recording of plat(s) or MCDPS issuance of sediment and erosion control permits
- (2) Record plat to show delineation of a Category I conservation easement over the area of stream valley buffer, forest conservation areas and open space as shown on the approved preliminary plan and forest conservation plan
- (3) Record plat to reflect common ingress/egress easements over all shared driveways
- (4) Record plat to contain a note detailing the uses and benefits of the open space for the lots within the subdivision
- (5) Compliance with the conditions of MCDPS stormwater management approval
- (6) Compliance with conditions of MCDPS (Health Dept.) septic approval
- (7) Access and improvements as required to be approved by MCDPWT prior to recordation of plat(s)

- (8) This preliminary plan will remain valid for thirty-seven (37) months from the date of mailing of the Planning Board opinion. Prior to this date, a final record plat must be recorded for all property delineated on the approved preliminary plan, or a request for an extension must be filed
- (9) The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board opinion
- (10) Other necessary easements

MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
FOREST CONSERVATION PLAN RECOMMENDATIONS

TO: Malcolm Shaneman
Development Review Division

SUBJECT: Preliminary Forest Conservation Plan # 1-03010
Preliminary/Site Plan Poplar Hill
Date Recd 9/10/02 NRI/FSD # 4-01183

The subject Forest Conservation Plan has been reviewed by the Environmental Planning Division to determine if it meets the requirements of Chapter 22A of the Montgomery County Code (Forest Conservation Law). The following determination has been made:

SUBMISSION ADEQUACY

Adequate as submitted

RECOMMENDATIONS

Approve subject to the following conditions:

Required site inspections by M-NCPPC monitoring staff (as specified in "Trees Technical Manual")

Approval of the following items by M-NCPPC staff prior to DPS issuance of the sediment and erosion control permit:

Tree Protection Plan

Afforestation/Reforestation Planting Plan

Submittal of financial security to M-NCPPC prior to clearing or grading.

Record plat to show appropriate notes and/or easements. Agreements must be approved by M-NCPPC staff prior to recording plats.

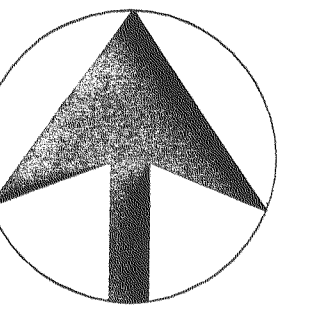
Maintenance agreement to be reviewed and approved by M-NCPPC staff prior to first inspection of planted areas.

Other

Comments: 1) Forest conservation and 60% open space requirements being met with 18 acres of forest preservation. 2) The 18 acres to be plat recorded at Category I conservation easement.

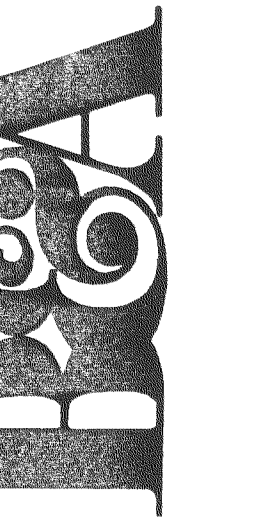
SIGNATURE: Carol Martin DATE: 10/01/02
Carol Martin, Environmental Planning Division

Cc: Benning & Associates



date: JULY 2002
scale: 1" = 100'

Banning & Associates, Inc.
Land Planning Consultants
10000 Rockville Pike, Suite 200
Germantown, MD 20877
(301) 948-0240



PRELIMINARY FOREST CONSERVATION PLAN
POPLAR HILL
Montgomery County, Maryland

NOTES:

1. AREA OF PROPERTY - 30.9 ACRES
2. EXISTING ZONING - RURAL CLUSTER (RC)
3. NUMBER OF LOTS PERMITTED - 6
4. NUMBER OF LOTS SHOWN - 6
5. METHOD OF DEVELOPMENT - CLUSTER
6. AREA DEDICATED TO PUBLIC STREET - 0.9 AC
7. NET TRACT AREA - 30.0 AC
6. OPEN SPACE REQUIRED FOR CLUSTER OPTION @ 60% - 18.0 AC
6. MINIMUM LOT SIZE PERMITTED: 40,000 SF
7. SITE TO BE SERVED BY INDIVIDUAL WELLS & ON-SITE SEPTIC SYSTEMS
8. EXISTING SEWER & WATER SERVICE CATEGORIES: S-6, W-6
9. LOCATED IN GREAT SENECA CREEK WATERSHED
10. MINIMUM SETBACK REQUIREMENTS (RC):
Frontyards - 50'
Sideyards - 35' TOTAL, 17' MINIMUM
Rearyards - 35'
11. SITE TO BE SERVED BY: Verizon, PEPCO, W. Gas (as available)
12. SOURCE OF BASE INFORMATION:
M-NCPPC 200-SCALE SHEET 219NW15

FOREST CONSERVATION WORKSHEET
POPLAR HILL

NET TRACT AREA:

A. Total tract area	30.09
B. Land dedication acres (parks, county facility, etc.)	0.00
C. Land dedication for roads or utilities (not being constructed by this plan)	0.90
D. Area to remain in commercial agricultural production/use	0.00
E. Other deductions (specify)	0.00
F. Net Tract Area	29.19

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

	ARA	MDR	IDA	HDR	MPD	CIA	
	1.00	0.00	0.00	0.00	0.00	0.00	
G. Afforestation Threshold					0.20 x F =		5.84
H. Conservation Threshold					0.50 x F =		14.60

EXISTING FOREST COVER:

I. Existing forest cover	27.60
J. Area of forest above afforestation threshold	21.76
K. Area of forest above conservation threshold	13.01

BREAK EVEN POINT:

L. Forest retention above threshold with no mitigation	17.20
M. Clearing permitted without mitigation	10.40

PROPOSED FOREST CLEARING:

N. Total area of forest to be cleared	9.60
O. Total area of forest to be retained	18.00

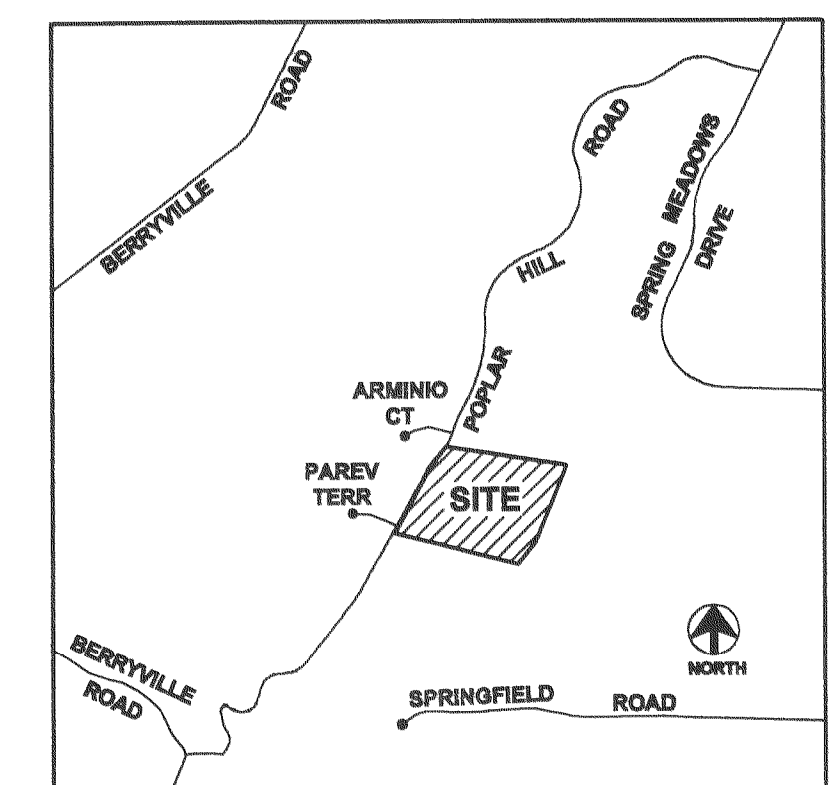
PLANTING REQUIREMENTS:

P. Reforestation for clearing above conservation threshold	2.40
Q. Reforestation for clearing below conservation threshold	0.00
R. Credit for retention above conservation threshold	3.41
S. Total reforestation required	0.00
T. Total afforestation required	0.00
U. Credit for landscaping (may not exceed 20% of "S")	0.00
V. Total reforestation and afforestation required	0.00

worksheet updated 8/5/2002

THE MARYLAND NATIONAL CAPITAL
PARK AND PLANNING COMMISSION
PRELIMINARY FOREST CONSERVATION PLAN
**CONDITIONAL
APPROVAL**

Plan No. 1-03-010
Carol Austin 10-01-02
DATE
VICINITY MAP
SCALE: 1" = 2,000'



OWNERS:
**FREDERICK L. SCHUYLER,
JOSEPH D. LAFLEUR, JR. &
CHUN LAU**
C/O MR. JODY S. KLINE, ESQ.
MILLER, MILLER & CANBY
200-B MONROE STREET
ROCKVILLE, MARYLAND 20850
301-782-9212



LEGEND:

- CONSERVATION AREA
- SLOPES 25% OR >
- POSSIBLE CLEARING

OWNER'S CERTIFICATION

The undersigned, owner of the property shown hereon, hereby adopt this plan of subdivision, dedicates the street shown hereon to public use, grant a 10 foot Public Utilities Easement shown hereon as (10' P.U.E.), to the parties named in a document entitled "Terms and Provisions of Public Utility Easements" as recorded in Liber 3834 at Folio 457, and further grant a "Category 1 Conservation Easement", as shown hereon, to the parties named in the document entitled "Conservation Easement Agreement, Category 1" as recorded in Liber 13178 at Folio 412 all among the Land Records of Montgomery County, Maryland. 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 suits, leases, liens, mortgages or trusts affecting the property shown on this plan of subdivision.

Witness: [Signature] Date: June 3, 2003 Joseph D. LaFleur, Jr. Surviving Spouse

SURVEYOR'S CERTIFICATION

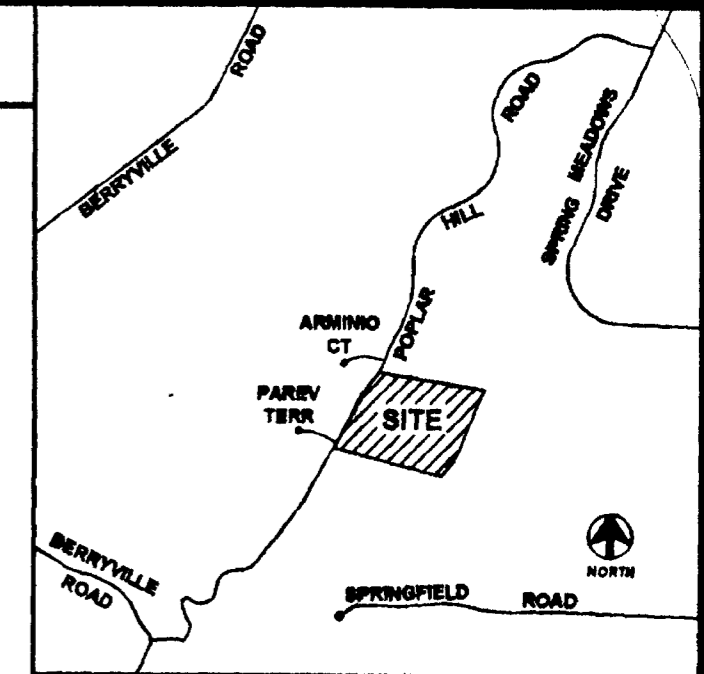
I hereby certify that the plat shown hereon is correct; that it is a subdivision of all of the land described in a deed from Dorothy E. Andrews to Joseph D. LaFleur, Jr. and Joan R. LaFleur, his wife, dated November 27, 1988 and recorded in Liber 3815 at Folio 280 also being a resubdivision of part of Lot 7 as shown on a plat entitled HARLOW SUBDIVISION and recorded in Plat Book 28 at Plat 1818 all among the land records of Montgomery County, Maryland. 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 50-24(e) of Montgomery County Code. The total area included on this plat is 10.4420 acres of land of which 0.2422 acres is dedicated to the public use.

I further certify that the 100 year flood plain shown hereon is an accurate representation of the study referenced in note 10.

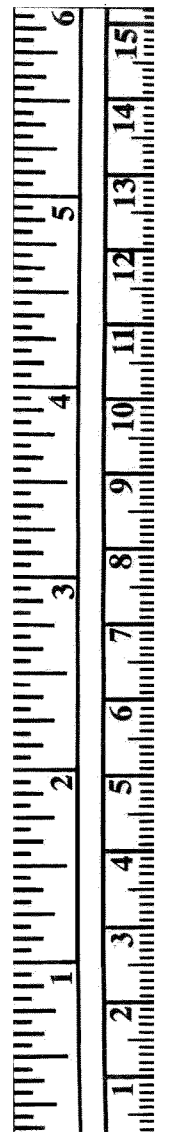
June 3, 2003 DATE THOMAS A. MADDOX - Registered Professional Land Surveyor MD #10850



PLAT NO. 22623

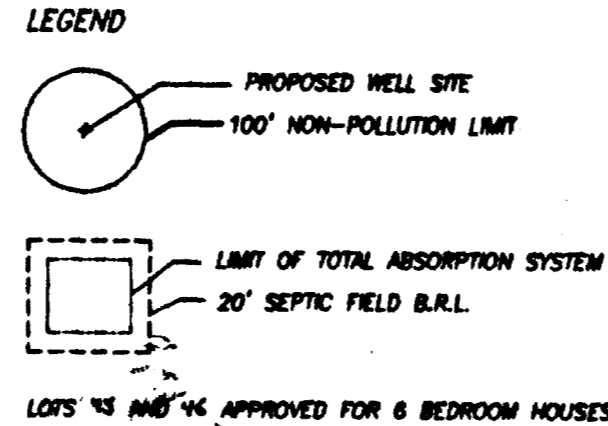
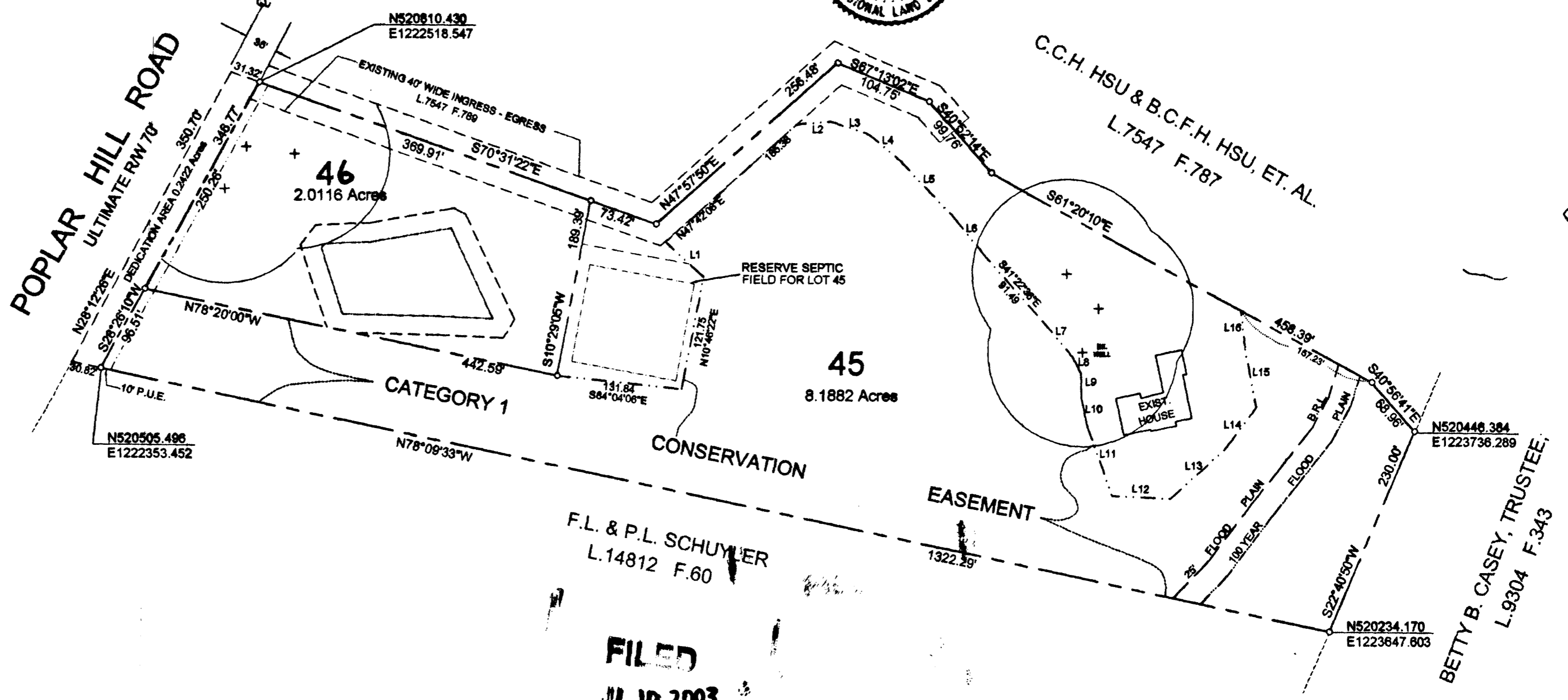


VICINITY MAP SCALE: 1" = 2000'



NOTES

- 1. PROPERTY ZONED RC
2. ALL LOTS ARE TO BE SERVED BY INDIVIDUAL WELLS AND SEPTIC SYSTEMS.
3. THIS PLAT LIMITED TO THE USES AND CONDITIONS AS REQUIRED BY PRELIMINARY PLAN NO. 1-03010 ENTITLED POPLAR HILL, APPROVED ON 12-12-02, ANY PROPOSED CHANGES IN USE WILL REQUIRE FURTHER PLANNING BOARD REVIEW AND APPROVAL.
4. THE PROPERTY SHOWN HEREON IS SUBJECT TO THE REQUIREMENTS OF THE MONTGOMERY COUNTY FOREST CONSERVATION LAW OF 1992, INCLUDING APPROVAL OF A FINAL FOREST CONSERVATION PLAN AND APPROPRIATE AGREEMENTS PRIOR TO ISSUANCE OF A SEDIMENT CONTROL PERMIT.
5. ALL TERMS, CONDITIONS, AGREEMENTS, LIMITATIONS, AND REQUIREMENTS ASSOCIATED WITH ANY PRELIMINARY PLAN, SITE PLAN, PROJECT PLAN, OR OTHER PLAN, ALLOWING DEVELOPMENT OF THIS PROPERTY, APPROVED BY THE MONTGOMERY COUNTY PLANNING BOARD ARE INTENDED TO SURVIVE AND NOT BE EXTINGUISHED BY THE RECORDATION OF THIS PLAT. THE OFFICIAL PUBLIC FILES FOR ANY SUCH PLAN ARE MAINTAINED BY THE PLANNING BOARD AND ARE AVAILABLE FOR PUBLIC VIEWING DURING NORMAL BUSINESS HOURS.
6. THIS PLAT IS NOT INTENDED TO SHOW EVERY MATTER AFFECTING OR RESTRICTING THE OWNERSHIP AND USE OF THE PROPERTY. THIS PLAT IS NOT INTENDED TO REPLACE AN EXAMINATION OF TITLE OR TO DEPICT OR NOTE ALL MATTERS AFFECTING TITLE.
7. PROPERTY FOUND ON MONTGOMERY COUNTY TAX MAP DR53 AND W.S.S.C. 219NW15.
8. RURAL CLUSTER DEVELOPMENT REQUIRES THAT OPEN SPACE BE PROVIDED FOR THE USE OF ALL LOT OWNERS WITHIN THE DEVELOPMENT. THE OPEN SPACE ON THE SUBJECT PROPERTY LIES WITHIN THE CATEGORY 1 CONSERVATION EASEMENT AND IS SUBJECT TO THE USES PERMITTED BY THE RECORDED AGREEMENT.
9. SEPTIC FIELD BUILDING RESTRICTION LINE SUBJECT TO CHANGE UPON RE-APPROVAL BY MONTGOMERY COUNTY DEPARTMENT OF PERMITTING SERVICES / WELL AND SEPTIC SECTION.
10. THE 100 YEAR FLOOD PLAIN SHOWN HEREON IS BASED ON A STUDY PREPARED BY L R ENGINEERS AND APPROVED BY MONTGOMERY COUNTY DPS ON MAY 9, 2003.



FILED JUL 10 2003 Clerk of the Court Montgomery County, Md.

Table with columns: LINE, BEARING, HORIZ DIST. Lists lines L1 through L16 with their respective bearings and distances.

SUBDIVISION RECORD PLAT LOTS 45 AND 46 HARLOW SUBDIVISION ELECTION DISTRICT NO. 6 MONTGOMERY COUNTY, MARYLAND SCALE: 1" = 100' MARCH 2003

THOMAS A. MADDOX PROFESSIONAL LAND SURVEYOR 8933 SHADY GROVE COURT GAITHERSBURG, MARYLAND 20877 (301) 964 - 5804

Approval boxes from THE MARYLAND - NATIONAL CAPITAL PARK AND PLANNING COMMISSION MONTGOMERY COUNTY PLANNING BOARD (APPROVED April 10, 2003) and MONTGOMERY COUNTY DEPARTMENT OF PERMITTING SERVICES (APPROVED JUNE 19, 2003).

LF 13178.412

CONSERVATION EASEMENT AGREEMENT

Category I

DEFINITIONS

Grantor: Fee simple owner of real property subject to a:
(i) Plan approval conditioned on compliance with a FCP; or
(ii) Plan approval conditioned on compliance with a conservation easement agreement (issued pursuant to Chapter 50 or 59, Montgomery County Code).

Grantee: Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission ("Commission").

Planning Board: Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission.

Planning Director: Director of the Montgomery County Planning Department of the Maryland-National Capital Park and Planning Commission, Montgomery County, or the Director's designee.

Plan: Sediment control permit approved pursuant to Montgomery County Code Chapter 19; preliminary plan approved under Montgomery County Code Chapter 50; site plan, development plan, planned unit development or special exception application approved under Montgomery County Code Chapter 59; mandatory referral reviewed pursuant to Article 28 of Maryland State Code Annotated; approved major utility construction (as defined by Washington Suburban Sanitary Commission's regulations).

Forest Conservation Plan ("FCP"): Forest Conservation Plan approved by the Planning Board or Planning Director pursuant to Chapter 22A, Montgomery County Code.

Exhibit A:

- (i) FCP approved as a condition of receiving any of approval noted above; or
(ii) Approved and signed Plan referencing this Agreement.

THE FILING FEE \$ 0.00
RECORDING FEE \$ 0.00
TOTAL \$ 0.00
RECORDED AT 13178.412
MGR JBJ 11/19
Dec 30 1994 12:24 pm

WITNESSETH

This Agreement reflects a grant of easement by Grantor to the Grantee.

WHEREAS Grantor (or Grantor's agent) has obtained authority to develop pursuant to a Plan in accordance with Montgomery County, Maryland laws; and

WHEREAS, the Planning Board or other approving authority approved Grantor's Plan conditioned upon a requirement that development occur in strict accordance with a FCP approved by the Planning Board after full review of the FCP pursuant to the

94 DEC 30 P 12:27.1

FILED
MOLLY D. RUHL
CLERKS OFFICE
MONTGOMERY COUNTY

provisions of Montgomery County Code Chapter 22A (Forest Conservation); Chapter 50 (Subdivision Regulations); and/or Chapter 59 (Zoning Ordinance); and/or

the Planning Board approved Grantor's Plan conditioned upon Grantor subjecting the property to be developed ("Property") or a portion of the property to be developed to a conservation easement pursuant to the provisions of Montgomery County Code Chapter 50 (Subdivision Regulations), and/or Chapter 59 (Zoning Ordinance); and

WHEREAS, the location of this easement ("Easement") is as shown on Exhibit A (incorporated by reference into the terms of this Agreement); and

WHEREAS, the purpose of this Easement is to protect existing and future forest cover; individual trees; streams and adjacent buffer areas, wetlands and other sensitive natural features; and to maintain existing natural conditions to protect plant habitats, water quality and wildlife; and

WHEREAS, the purpose includes preservation of the natural beauty of the property subject to the Easement and prevention of any alteration, construction or destruction that will tend to mar or detract from such natural beauty; and

WHEREAS, the purpose also includes the protection and preservation of natural features within the area of the Easement which efforts are consistent with the terms and conditions of the approved plan and applicable law; and

WHEREAS, the Parties intend for the conditions and covenants contained in this Easement Agreement to run with the land in perpetuity and to be binding on all subsequent owners and occupants of the Property; and

WHEREAS, the Parties intend that a servitude be placed upon the Property to create a conservation benefit in favor of the Planning Board.

NOW, THEREFORE, the Grantor has executed this agreement for no monetary consideration but for the purpose of ensuring compliance with development standards imposed in accordance with Montgomery County law as a condition of development approval. The Grantor does hereby grant and convey unto the Planning Board, in perpetuity, an Easement on the Property of the size and location described in Exhibit A, and further described on the applicable record plat(s), of the nature and character described herein. This Easement constitutes a covenant real running with the title of the land, and is granted to preserve, protect and maintain the general topography and natural character of the land. Grantor, its heirs, successors and assigns covenant to abide by the following restrictions within the Easement:

1. The foregoing recitals are agreed to and incorporated herein and shall be binding upon the parties.

2. No living trees or shrubs (of any size or type) shall be cut down, removed or destroyed without prior written consent from the Planning Board. Diseased or hazardous trees or limbs may be removed to prevent personal injury or property damage after reasonable notice to the Planning Board, unless such notice is not practical in an emergency situation or is undertaken pursuant to a forest management plan approved by the Planning Director or Maryland's Department of Natural Resources ("DNR").

3. No plant materials (including, but not limited to brush, saplings, undergrowth, or non-woody vegetation) shall be mowed or cut down, dug up removed or destroyed unless removed pursuant to the terms and conditions of an approved forest management plan. Noxious weeds (limited to weeds defined as "noxious" under Maryland State or Montgomery County laws or regulations and "exotic or invasive plants" in the Montgomery County Trees Technical Manual) may be removed as required by law or according to an approved management plan, but the method of removal must be consistent with the limitations contained within this Agreement. Vegetation removal shall be limited to noxious, exotic or invasive weeds only, and protective measures must be taken to protect nearby trees and shrubs.

4. No mowing, agricultural activities, or cultivation shall occur. Grantor may replace dead trees or undergrowth provided that new plantings are characteristic of trees or undergrowth native to Maryland.

5. Nothing in this Agreement precludes activities necessary to implement or maintain afforestation or reforestation efforts pursued pursuant to an approved forest conservation plan or maintenance agreement implemented under Chapters 19 or 22A of the Montgomery County Code.

6. The following activities may not occur at any time within the Easement Area:

- a. Construction, excavation or grading (except for afforestation and reforestation efforts conducted in compliance with an approved forest conservation plan).
- b. Erection of any building or structural improvements on or above ground, including (but not limited to) sheds, dog pens, play equipment and retaining walls.
- c. Construction of any roadway or private drive.
- d. Activities which in any way could alter or interfere with the natural ground cover or drainage

(including alteration of stream channels, stream currents or stream flow).

- e. Industrial or commercial activities.
- f. Timber cutting, unless conducted pursuant to a forest management plan approved by DNR.
- g. Location of any component of a septic system or wells.
- h. Excavation, dredging, or removal of loam, gravel, soil, rock, sand and other materials.
- i. Diking, dredging, filling or removal of wetlands.
- j. Pasturing of livestock (including horses) and storage of manure or any other suit.
- k. Alteration of stream.

7. Nothing in this Agreement shall prevent construction or maintenance of stormwater structures and/or facilities or other utilities, including, but not limited to water and sewer lines, on, over, or under the Easement Area, if said structures, facilities or utilities are (i) required to implement the Plan, (ii) shown on the approved FCP, and (iii) approved by the appropriate governing bodies or agencies in accordance with applicable laws and regulations.

8. No dumping of unsightly or offensive material, including trash, ashes, sawdust or grass clippings shall occur. Natural biodegradable materials may be allowed in a properly located, designed, managed and maintained compost pile, provided the activity does not damage adjacent trees. Upon prior written approval of the Planning Director, suitable heavy fill and other stabilization measures may be placed to control and prevent erosion, provided that the fill is covered by arable soil or humus and properly stabilized.

9. Fences consistent with the purposes of the Easement may be erected within the Easement Area only after written approval from the Planning Director

10. Unpaved paths or trails consistent with the purposes of the Easement may be created within the Easement Area if shown on the FCP or with prior written approval from the Planning Director.

11. All rights reserved by or not prohibited to Grantor shall be exercised so as to prevent or minimize damage to the forest and trees, streams and water quality, plant and wildlife habitats, and the natural topographic character of the land within the Easement.

12. Grantor authorizes Planning Board representatives to

enter the Property and Easement at their own risk and at reasonable hours for the purpose of making periodic inspections to ascertain whether the Grantor, its heirs, successors or assigns have complied with the restrictions, conditions, and easements established herein. This Easement does not convey to the general public the right to enter the Property or Easement for any purpose. The Easement does not restrict or enlarge access to the general public in common open space held under community or homeowner association control beyond any access rights created by applicable community or homeowner association covenants and by-laws.

13. Grantor further agrees to make specific reference to this Easement in a separate paragraph of any subsequent deed, sales contract, mortgage, lease or other legal instrument by which any interest in the Property is conveyed.

14. No failure on the part of the Planning Board to enforce any covenant or provision herein shall waive the Planning Board's right to enforce any covenant within this agreement.

15. Upon finding a violation of any of the restrictions, conditions, covenants and easements established by this Agreement, the Planning Board shall have the right to enforce such provisions in accordance with any statutory authority (including, if applicable, the imposition of civil monetary fines or penalties in amounts and by such means as may be promulgated from time to time). The Planning Board also may seek injunctive or other appropriate relief in any court of competent jurisdiction, including the right to recover damages in an amount sufficient to restore the property to its original natural state, and Grantor agrees to pay for court costs and reasonable attorney fees if the Planning Board successfully seeks judicial relief.

16. All written notices required by this Agreement shall be sent to the Planning Director, M-NCPPC, 8787 Georgia Avenue, Silver Spring, Maryland 20910.

TO HAVE AND TO HOLD unto the Planning Board, its successors and assigns forever, this Grant shall be binding upon the heirs, successors and assigns of the Grantor in perpetuity and shall constitute a covenant real running with the title of the Property.

* * * * *

This is to certify that the within instrument has been prepared under the supervision of the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland.

Michele Rosenfeld
Michele Rosenfeld
Associate General Counsel
M-NCPPC

Citation No. EPD 000207

Issued with FAQs

Administrative Citation
Forest Conservation
The Maryland-National Capital Park and Planning Commission

vs.

Name: Shawn P McConnell
Company/Position: Property owner of 14701 Poplar Hill Rd
Address: 14701 Poplar Hill Rd Germantown, MD 20874-3623
Phone Number: 301-915-6810 Fax Number: Email:

Location and Description of Violation:
Address/location of site: the Category I Conservation Easement on 14701 Poplar Hill Rd, the area of conservation easement along the driveway

Pursuant of the M-NCPPC's authority under Chapter 22A of the Montgomery County Code, it is formally charged that the above named defendant on 01/30/2014 (date) at the stated site location did commit the following:
Constructed a private driveway, cut trees and buried plants, dumped dirt, construction material and cut wood, altered and altered existing drainage within a Category I Conservation Easement

In violation of:
 Montgomery County Code, Chapter 22A Approved Preliminary Forest Conservation Plan
 Other: Montgomery County Code, Chapter 50


Civil Fine and Compliance:
1. (a) You shall pay a fine of \$ 1,000.00 by 02/27/2014 (date) and complete the remedial action listed below
(b) You shall pay a daily fine of \$ _____ if the original fine has not been paid. by _____ (date). The daily fine shall accrue (until the original fine is paid).
2. You shall pay a daily fine of \$ _____ until the remedial action listed below is completed. This fine shall be paid within 15 days of completion of all remedial action.

Checks should be made payable to M-NCPPC and shall be paid during normal business hours at the information Counter of M-NCPPC's Montgomery Regional Office located at 8787 Georgia Avenue, 2nd Floor, Silver Spring, MD 20910, 301-495-4610. Failure to comply with this citation may result in further enforcement proceedings and/or issuance of additional citations including additional fines. You may also request a hearing before the Planning Board or the Board's designee. If you elect to request a hearing, you must notify the M-NCPPC Office of the General Counsel, in writing, at 8787 Georgia Avenue, Suite 205, Silver Spring, MD 20910, within 15 days of the citation.

Remedial Action:
1. 1) By April 7, 2014 submit to M-NCPPC for review and approval a final forest conservation plan for 14701 Poplar Hill Rd, This final forest conservation plan is to show restoration of the affected Category I Conservation Easement. Restoration is to include removal of all dirt dumped in the conservation easement and a reforestation planting
2) Implement the final forest conservation plan after M-NCPPC approval
If remedial action is not completed by _____ (date), you shall pay a daily fine of \$ _____ a day until work is completed.

2. You have violated Chapter 22A of the Montgomery County Code, and may be subject to an Administrative Civil Penalty and additional corrective measures.

Acknowledgment:
I sign my name as a receipt of a copy of this Citation and not as an admission of guilt. I will comply with the requirements set forth in this Citation. I have a right to request a hearing for the offense(s) charged. If I do not exercise my right to a hearing, I agree to entry by the court judgment on affidavit for the amount of the fine.

Defendant's Signature:  Date: 2/5/14

Affirmation:
I solemnly affirm under the penalties of perjury, and upon personal knowledge or based on the affidavit, that the contents of this citation are true to the best of my knowledge, information and belief and that I am competent to testify on these matters.
Inspector's Signature: Stephen Peck Date: 02/05/2014
Print Name: Stephen Peck Phone Number: 301-495-4564

Citation No. EPD 000208

Administrative Citation
Forest Conservation
The Maryland-National Capital Park and Planning Commission

Issued with FAQs

Name: Shawn P McConnell
Company/Position: Property owner of 14901 Poplar Hill Rd
Address: 14901 Poplar Hill Rd Germantown, MD 20894-3623
Phone Number: 301-915-6810 Fax Number: _____ Email: _____

Location and Description of Violation:

Address/location of site: The Category I Conservation Easement on 14901 Poplar Hill Rd, The area of conservation easement between the pool and the property line

Pursuant of the M-NCPPC's authority under Chapter 22A of the Montgomery County Code, it is formally charged that the above named defendant on 01/30/2014 (date) at the stated site location did commit the following:

Within an approximate 2,000 square foot area of Category I conservation easement, altered natural ground cover by dumping and grading dirt and planted and maintained grass

In violation of:

Montgomery County Code, Chapter 22A
 Approval of 120030100 Plan No. Preliminary Forest Conservation Plan Other: Montgomery County Code Chapter 50

Civil Fine and Compliance:

1. (a) You shall pay a fine of \$ \$1,000.00 by 02/27/2014 (date) and complete the remedial action listed below
(b) You shall pay a daily fine of \$ _____ if the original fine has not been paid, by _____ (date). The daily fine shall accrue (until the original fine is paid).
2. You shall pay a daily fine of \$ _____ until the remedial action listed below is completed. This fine shall be paid within 15 days of completion of all remedial action.

Checks should be made payable to M-NCPPC and shall be paid during normal business hours at the information Counter of M-NCPPC's Montgomery Regional Office located at 8787 Georgia Avenue, 2nd Floor, Silver Spring, MD 20910, 301-495-4610. Failure to comply with this citation may result in further enforcement proceedings and/or issuance of additional citations including additional fines. You may also request a hearing before the Planning Board or the Board's designee. If you elect to request a hearing, you must notify the M-NCPPC Office of the General Counsel, in writing, at 8787 Georgia Avenue, Suite 205, Silver Spring, MD 20910, within 15 days of the citation.

Remedial Action:

- 1) Stop mowing within Category I conservation easement
2) By April 9, 2014 submit to M-NCPPC for review a final forest conservation plan for 14901 Poplar Hill Road. Final forest conservation plan is to show removal of fill dirt, to mitigate damage done to tree roots and is to include a planting of the affected conservation easement
3) Implement this final forest conservation plan after M-NCPPC approval
by _____ (date)
If remedial action is not completed by _____ (date), you shall pay a daily fine of \$ _____ a day until work is completed.

2. You have violated Chapter 22A of the Montgomery County Code, and may be subject to an Administrative Civil Penalty and additional corrective measures.

Acknowledgment:

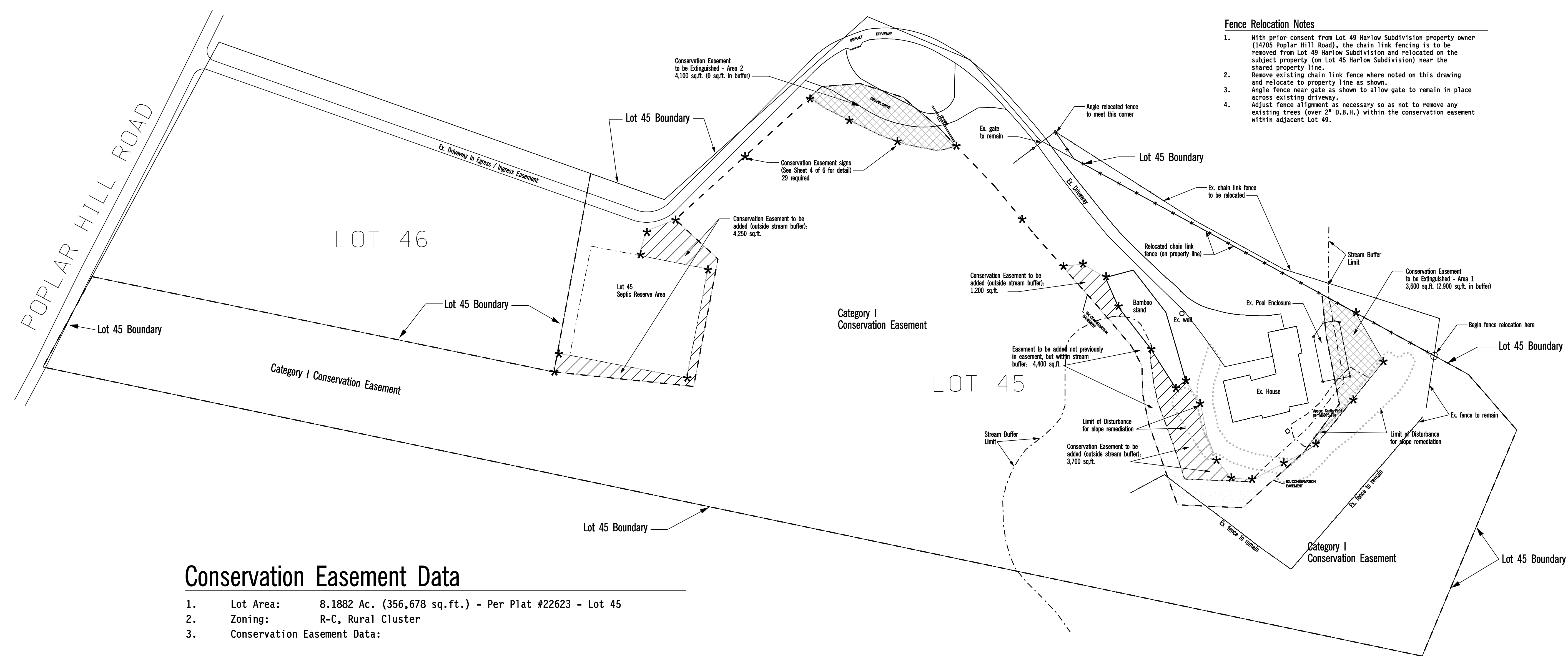
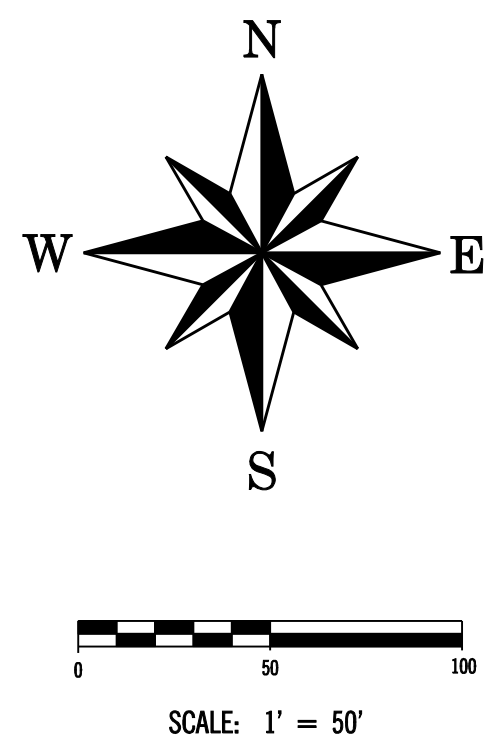
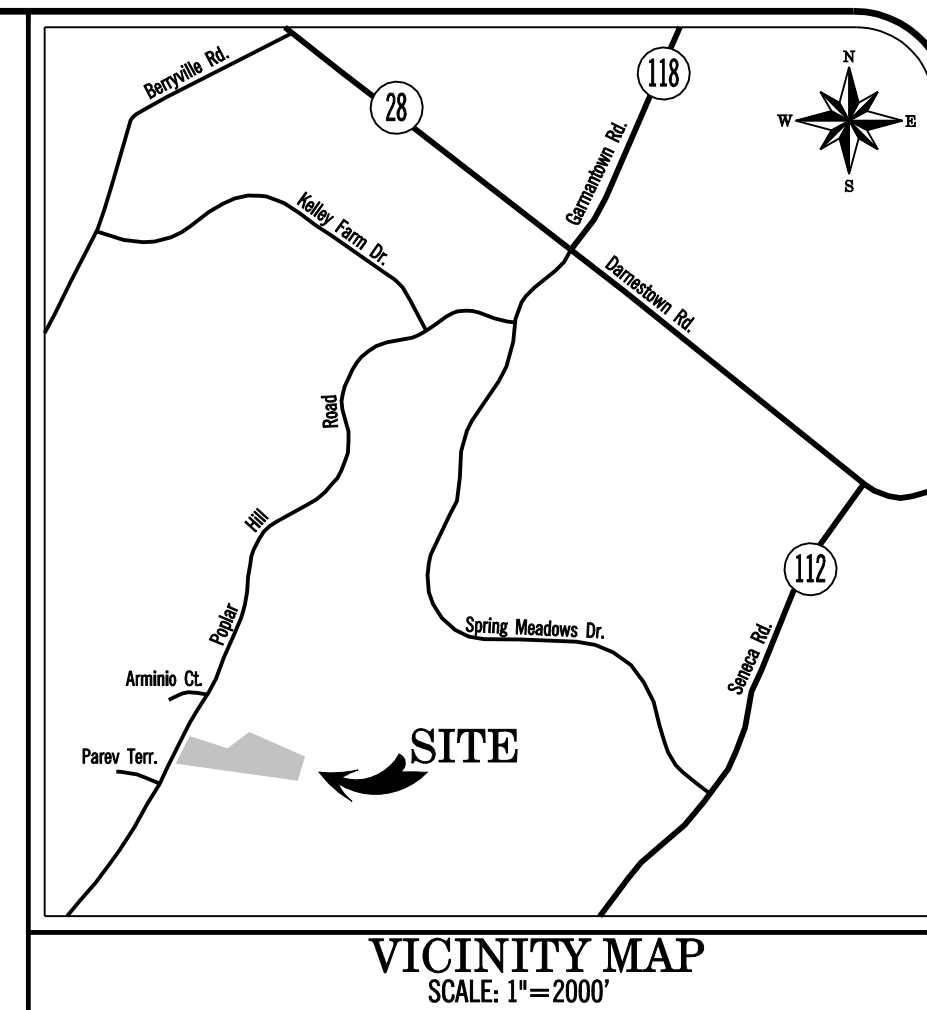
I sign my name as a receipt of a copy of this Citation and not as an admission of guilt. I will comply with the requirements set forth in this Citation. I have a right to request a hearing for the offense(s) charged. If I do not exercise my right to a hearing, I agree to entry by the court judgment on affidavit for the amount of the fine.

Defendant's Signature: Shawn McConnell Date: 2/5/14

Affirmation:

I solemnly affirm under the penalties of perjury, and upon personal knowledge or based on the affidavit, that the contents of this citation are true to the best of my knowledge, information and belief and that I am competent to testify on these matters.

Inspector's Signature: Stephen Peck Date: 02/05/2014
Print Name: Stephen Peck Phone Number: 301-495-4564



Fence Relocation Notes

1. With prior consent from Lot 49 Harlow Subdivision property owner (14705 Poplar Hill Road), the chain link fencing is to be removed from Lot 49 Harlow Subdivision and relocated on the subject property (on Lot 45 Harlow Subdivision) near the shared property line.
2. Remove existing chain link fence where noted on this drawing and relocate to property line as shown.
3. Angle fence near gate as shown to allow gate to remain in place across existing driveway.
4. Adjust fence alignment as necessary so as not to remove any existing trees (over 2" D.B.H.) within the conservation easement within adjacent Lot 49.

LEGEND

	Category I Conservation Area to be Extinguished
	Category I Conservation Area to be Added
	Category I Conservation Area to be Added Not previously within easement but within stream buffer
	Limit of Disturbance for Slope Remediation
	Stream Buffer Limit
	Existing Category I Conservation Easement Limit
	Approximate Ex. Septic Field (Per MCDPS)
	Conservation Easement Marker Sign Locations

Conservation Easement Data

1. Lot Area: 8.1882 Ac. (356,678 sq.ft.) - Per Plat #22623 - Lot 45
2. Zoning: R-C, Rural Cluster
3. Conservation Easement Data:
 - A. Easement to be Extinguished: 7,700 sq.ft., as follows:
 - Removed within Stream Buffer = 2,900 sq.ft. (Mitigate at 1.5:1)
 - Removed outside Stream Buffer = 4,800 sq.ft. (Mitigate at 1:1)
 - B. Easement to be Added not previously in easement, but within stream buffer: 4,400 sq.ft.
 - C. Easement to be Added Outside Stream Buffer: 9,150 sq.ft., as follows:
 - 2,900 sq.ft. @ 1.5:1 Mitigation = 4,350 sq.ft.
 - 4,800 sq.ft. @ 1:1 Mitigation = 4,800 sq.ft.
 - Total to be Added for Mitigation = 9,150 sq.ft.

Signature & Seal of Qualified Preparer
 Donald W. Robinson, II Md. R.L.A. #491
 Date _____ SEAL _____

DEVELOPER'S CERTIFICATE

The Undersigned agrees to execute all the features of the Approved Final Forest Conservation Plan No. 120030108, including financial bonding, forest planting, maintenance, and all other applicable agreements.

Developer's Name: N/A
 Fictitious Company Name: _____
 Contact Person or Owner: Shawn P. McConnell
 Printed Name: _____
 Address: 14701 Poplar Hill Road, Germantown, Md. 20874
 Phone and Email: (301) 557-8524 mconmellthvac@gmail.com
 Signature: _____

SSI SITE SOLUTIONS, INC.
 20410 Observation Drive Suite 205
 Germantown, Maryland 20876-4000
 (301) 640-7890 Fax (301) 640-7891
 Planning Landscape Architects
 Engineering Surveying

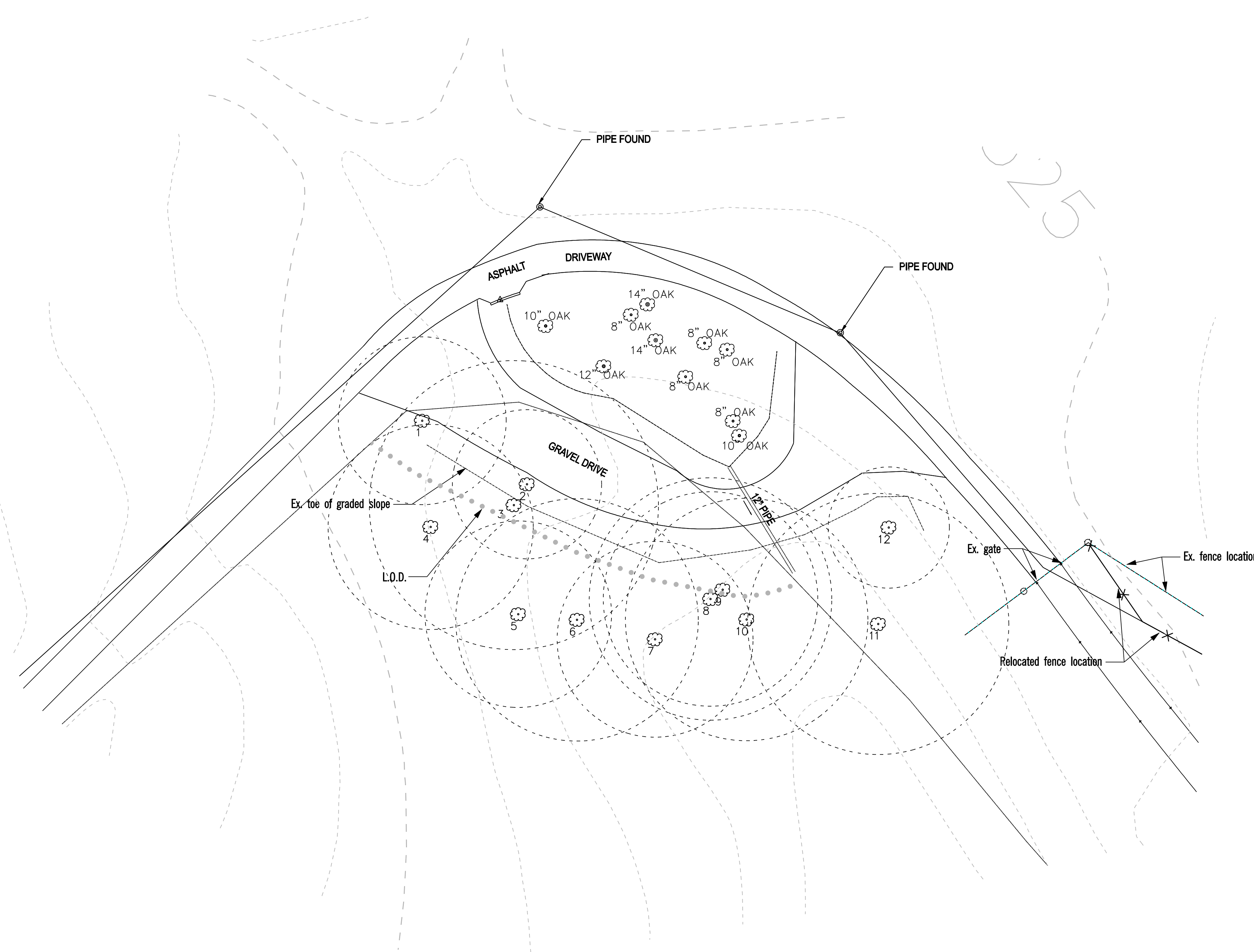
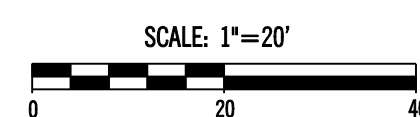
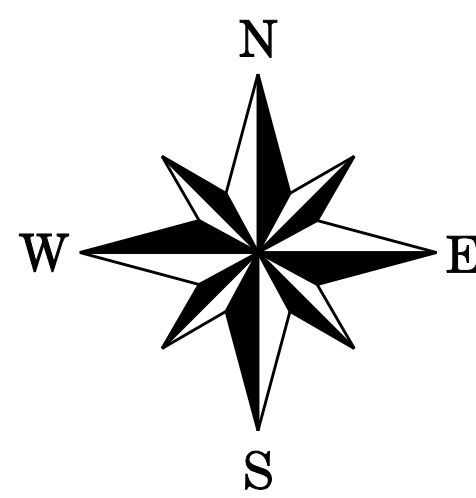
NO	REVISION	DATE

OWNER / APPLICANT:
 Shawn P. & Dianne McConnell
 14701 Poplar Hill Road
 Germantown, Md. 20874

FOREST CONSERVATION PLAN - CONSERVATION EASEMENT AREAS
14701 POPLAR HILL ROAD
 Lot 45, Harlow Subdivision
 ELECTION DISTRICT #6
 MONTGOMERY COUNTY, MARYLAND

DWR DESIGN	SCALE	1" = 50'
CHECKED	SHEET	1 OF 6
PLOT DATE	PROJ. No.	12/22/2014 1939

ESP - CONSERVATION EASEMENT AREAS
 14701 Poplar Hill Road
 SITE SOLUTIONS, INC.



Existing Tree List - This Sheet Only

Key #	Botanical Name	Common Name	DBH	CRZ Area	CRZ % Undisturbed
1	Liriodendron tulipifera	Tulip Poplar	18"	2,290 s.f.	60%
2	Quercus rubra	Red Oak	16"	1,810 s.f.	40%
3	Liriodendron tulipifera	Tulip Poplar	31"	6,793 s.f.	55%
4	Liriodendron tulipifera	Tulip Poplar	22"	3,421 s.f.	89%
5	Liriodendron tulipifera	Tulip Poplar (Db1.)	18/20"	2,827 s.f.	100%
6	Carya spp.	Hickory	26"	4,778 s.f.	91%
7	Quercus alba	White Oak	21"	3,117 s.f.	97%
8	Liriodendron tulipifera	Tulip Poplar	26"	4,778 s.f.	75%
9	Liriodendron tulipifera	Tulip Poplar	23"	3,739 s.f.	77%
10	Liriodendron tulipifera	Tulip Poplar	26"	4,778 s.f.	85%
11	Liriodendron tulipifera	Tulip Poplar	28"	5,542 s.f.	95%
12	Carya spp.	Hickory	13"	1,195 s.f.	67%

SEE
Forest Conservation Planning
Maintenance & Management Notes
and
Forest Conservation Inspection Schedule
on
Sheet 4 of 6

Signature & Seal of Qualified Preparer

Donald W. Rohrbaugh, II Md. R.L.A. #491

Date

SEAL

DEVELOPER'S CERTIFICATE

The Undersigned agrees to execute all the features of the Approved Final Forest Conservation Plan No. 10030104 including financial bonding, forest planting, maintenance, and all other applicable agreements.

Developer's Name: N/A
Printed Company Name: _____

Contact Person or Owner: Shawn F. McConnell
Printed Name: _____

Address: 14701 Poplar Hill Road, Germantown, Md. 20874

Phone and Email: (301)537-8524 mconnellshawn@gmail.com

Signature: _____

SSI SITE SOLUTIONS, INC.
20410 Observation Drive Suite 205
Germantown, Maryland 20876-4000
(301) 640-7890 Fax (301) 640-7891
Planning Landscape Architecture
Engineering Surveying

OWNER / APPLICANT:
Shawn P. & Dianne McConnell
14701 Poplar Hill Road
Germantown, Md. 20874

AREA #2 - FINAL FOREST CONSERVATION PLAN
14701 POPLAR HILL ROAD
Lot 45, Harlow Subdivision
ELECTION DISTRICT #6
MONTGOMERY COUNTY, MARYLAND

DWR DESIGN	SCALE	1" = 20'
CHECKED	SHEET	3 of 6
SOATES PLOT DATE	PROJ. No.	1939 E-

NO	REVISION	DATE

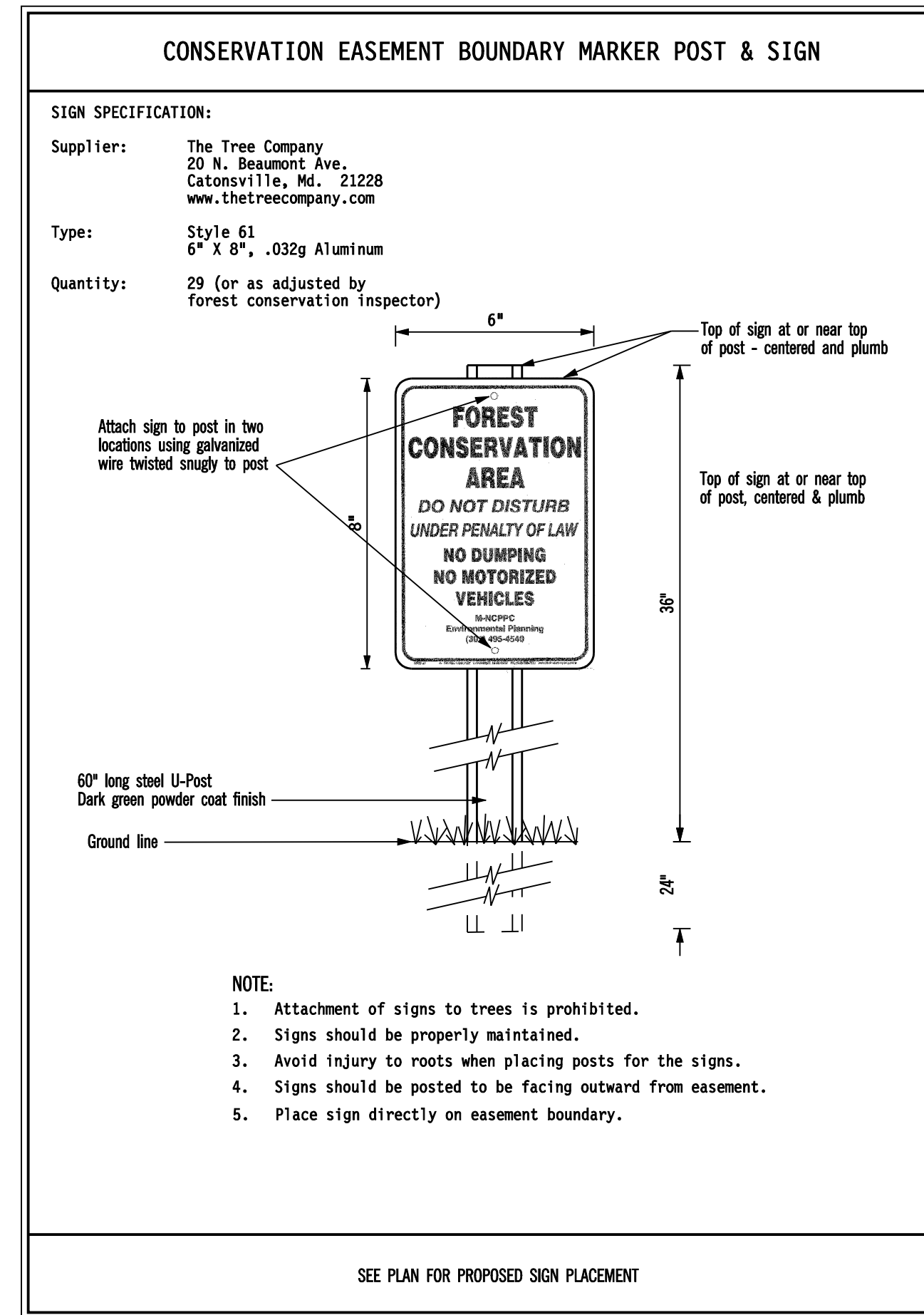
14701 Poplar Hill Road AREA #2 - FINAL ECP SITE SOLUTIONS, INC.

Forest Conservation Planting Maintenance & Management Notes

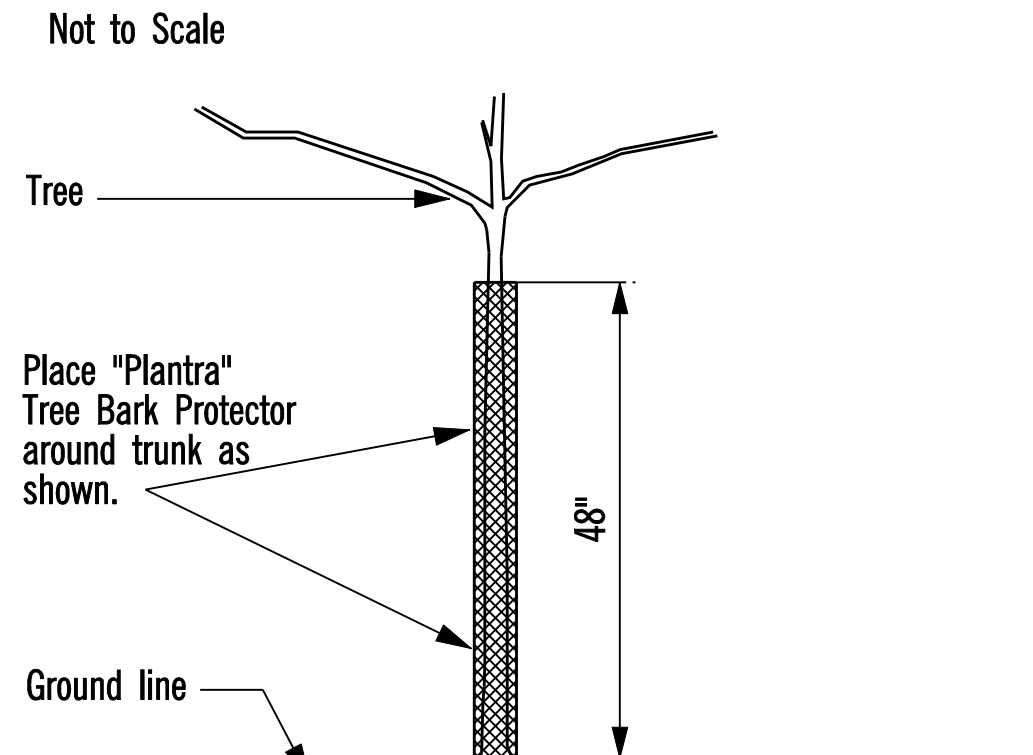
LOT 45, HARLOW SUBDIVISION FOREST CONSERVATION PLANTING MAINTENANCE AND MANAGEMENT NOTES

As part of the attached Final Forest Conservation Plan, the Owner of Lot 45, Harlow Subdivision agrees to the following terms and conditions:

- The forestation shall be planted by Shawn McConnell (the landowner or an agent of the landowner responsible for performing tree planting and care), in accordance with the final specifications of the Plan (Final Forest Conservation Plan), attached and incorporated herein.
- The Owner shall provide the Board (the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission), or its designee, reasonable access to the Property (Lot 45, Harlow Subdivision) to make routine inspections from the execution of this Agreement continuing through the end of the two-year maintenance period to the areas of the afforestation and/or reforestation for the purpose of inspection or for the purposes of maintenance should the owner default.
- Upon completion of all required plantings, the Owner shall notify the Board's Forest Conservation Inspector "Inspector" to schedule a post planting inspection for Plan compliance. Upon acceptance of the plantings, the Inspector will provide the Owner with written notice of the maintenance and management commencement date.
- The Owner shall maintain and manage the forest plantings in accordance with the Plan. This shall include but not be limited to:
 - planting native plant species compatible with the existing habitat,
 - watering, fertilizing, controlling competing vegetation and protecting plants from disease, pests and mechanical injury during the initial planting and through the two-year maintenance period as necessary,
 - providing protection devices such as fencing, retaining walls, raised sidewalks and interpretive signs as necessary to prevent destruction or degradation of the planting site,
 - all planting shall be installed in accordance with ANSI standards for proper planting
 - all planted trees and shrubs require deer protection measures in accordance with this Plan
- The Owner shall monitor the forestation site of the property for two years and the Owner shall replace any plantings that die within that two year period to a minimum standard of 100 trees per acre or at least 75% of the total trees planted per acre (whichever is greater), so as to ensure compliance with survival requirements as stated in the Forest Conservation Regulations.
- The Owner is required to provide, on a semiannual basis, evidence of Plan compliance and that the financial security is in full force and effect.
- The Owner must notify the Board's Inspector at the end of the two year maintenance period to schedule a Final inspection. After verifying Plan compliance, the Inspector shall issue to the Owner a written notice of completion.
- The Owner shall provide financial security in the form of a letter of credit or bond in a form approved by the Board's Office of the General Counsel, in an amount to be determined by M-NCPPC forestry staff, and estimated to cover the cost of plantings, installation and maintenance for two years. The security must be posted prior to any clearing or land disturbing activities on the Property.
- Up to half of the security may be released after the planting has been completed if, the Board has determined that the planting plan has been followed and the stock is properly planted and in good condition.
- After the second year, if the forest conservation Inspector has determined that the survival requirements have been met, the financial security may be released upon final inspection.



DEER RUB PROTECTION for DECIDUOUS TREES

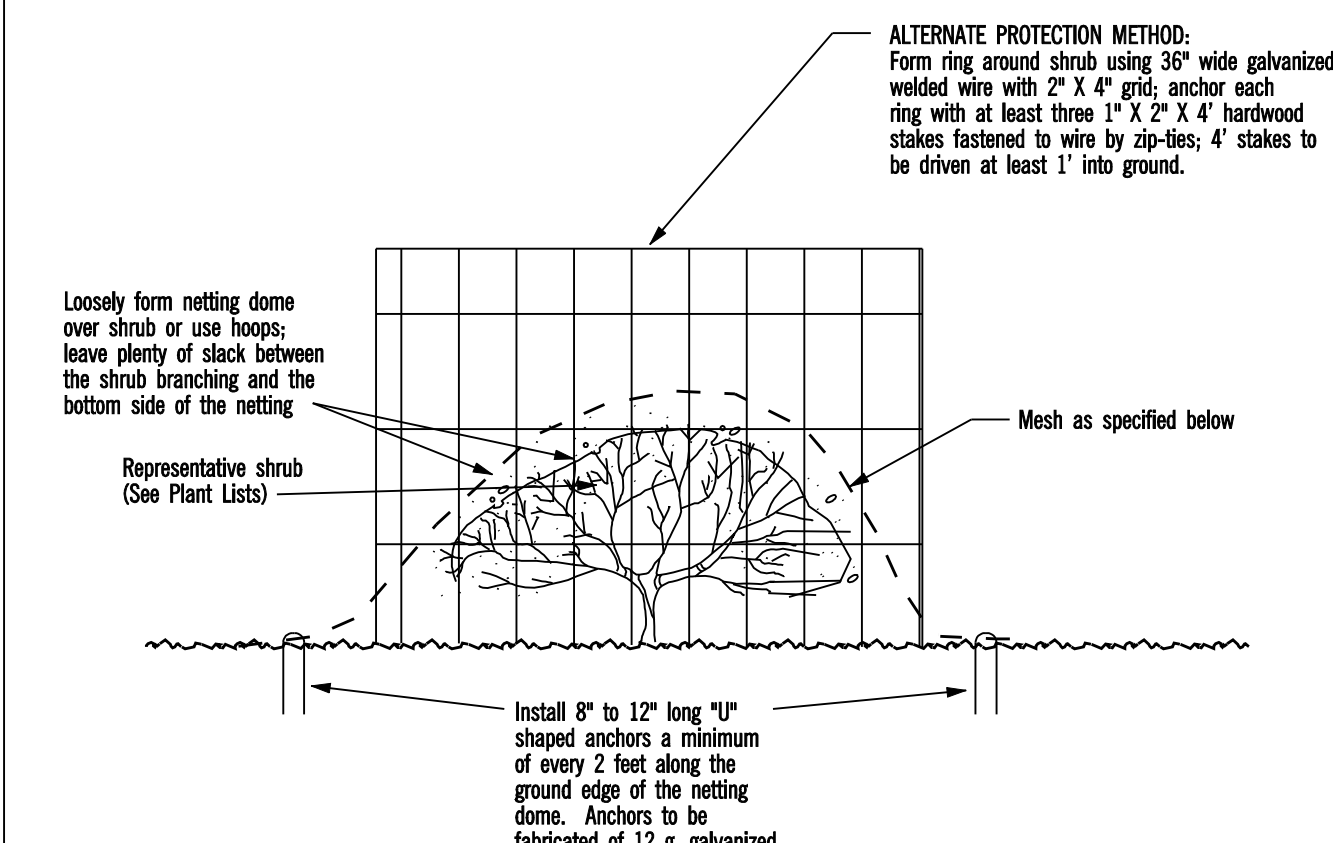


Each deciduous tree to be protected with tree bark protector device per the above detail. Use 4 ft. length product. No ties or staples are needed. Product is pre-formed and retains shape.

Plantra Tree Bark Protector
For protection against deer rub:
Plantra, Inc.
2508 Northland Drive
Mendota Heights, MN. 55120
(800)951-3806
www.plantra.com

Note: Alternative deer protection product or measures may be approved by the M-NCPPC Inspector.

DEER BROWSE PROTECTION for INDIVIDUAL SHRUBS

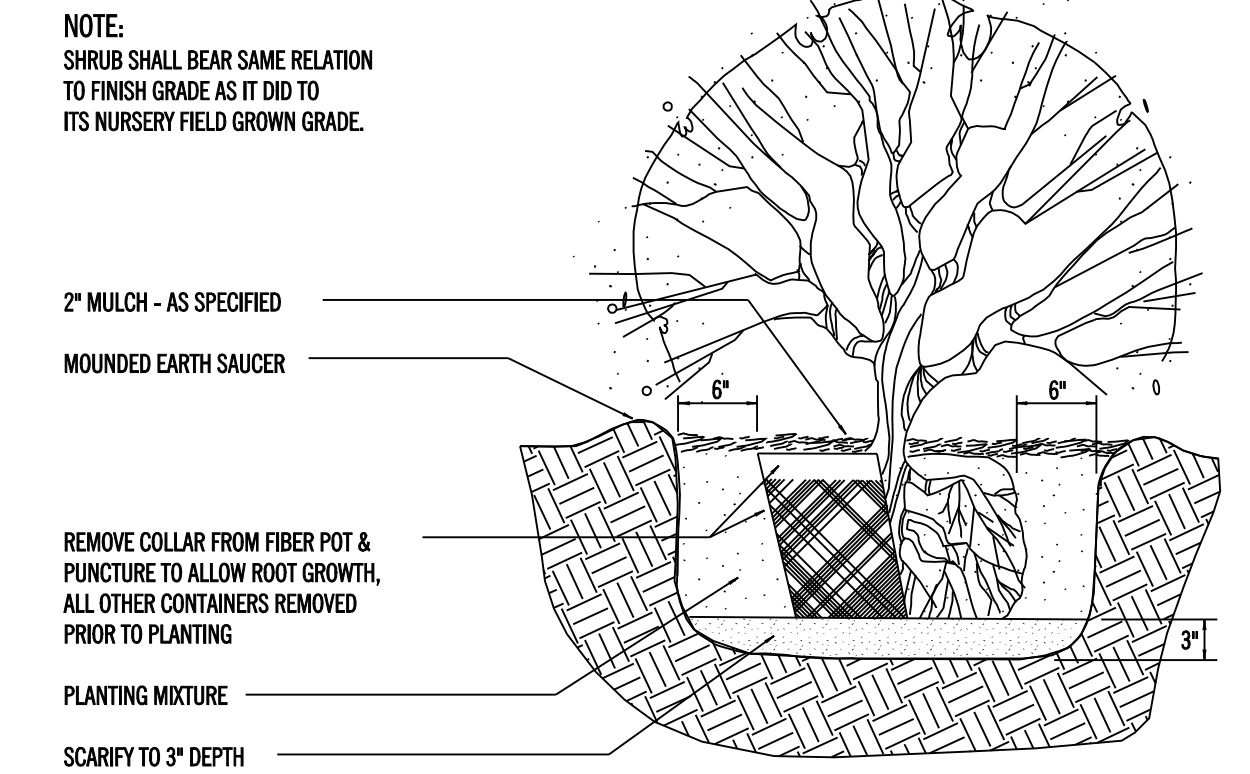


Netting Specification:
Netting to be extruded polyethylene mesh;
Mesh to be approximately 2" x 2" grid;
Color to be black;
Breaking strength to be minimum of 500 lbs. / sq. ft. OR EQUAL APPROVED BY M-NCPPC FORESTRY INSPECTOR

Representative Supplier:
Distributor: www.deertesters.com
9735A Bethel Road
Frederick, MD. 21702
(888)422-3337

Note: Protection method for individual shrubs to be determined by forestry inspector prior to plant installation.

Attachment 7 4of6



NOTE: SHRUB SHALL BEAR SAME RELATION TO FINISH GRADE AS IT DID TO ITS NURSERY FIELD GROWN GRADE.

Deer Protection Details

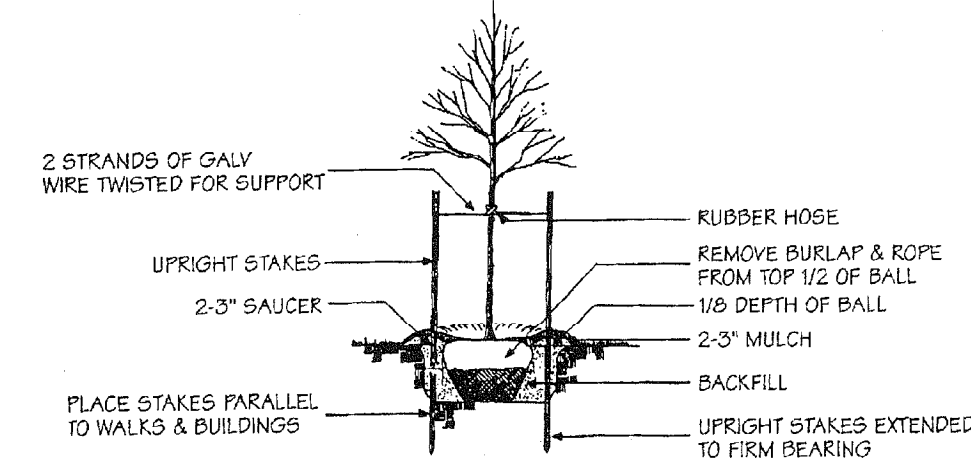
TREE PLANTING AND MAINTENANCE CALENDAR

TASKS	MONTHS											
	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
TRANSPLANT OF 2" DBH OR GREATER												
PLANTING SEEDLINGS, WHIPS												
MINIMUM MONITORING				*			*					*
FERTILIZER + OF NEEDED												
WATER ++												
PRUNING												

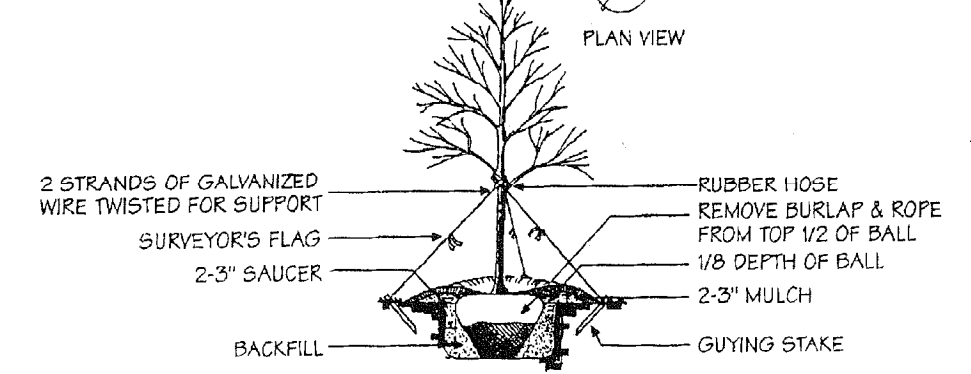
KEY
* ACTIVITIES DURING THESE MONTHS ARE DEPENDENT UPON GROUND CONDITIONS
GREATLY RECOMMENDED
RECOMMENDED WITH ADDITIONAL CARE
RECOMMENDED
+ DEFENDANT UPON SITE CONDITIONS
++ DEFENDANT UPON SITE CONDITIONS; WEEKLY WATERING IS GREATLY RECOMMENDED FROM MAY THROUGH OCTOBER UNLESS WEEKLY RAINFALL EQUALS 1"

SOURCE: adapted from the Maryland State FOREST CONSERVATION MANUAL

Typical Upright Staking Detail



Typical Tree Guying Detail



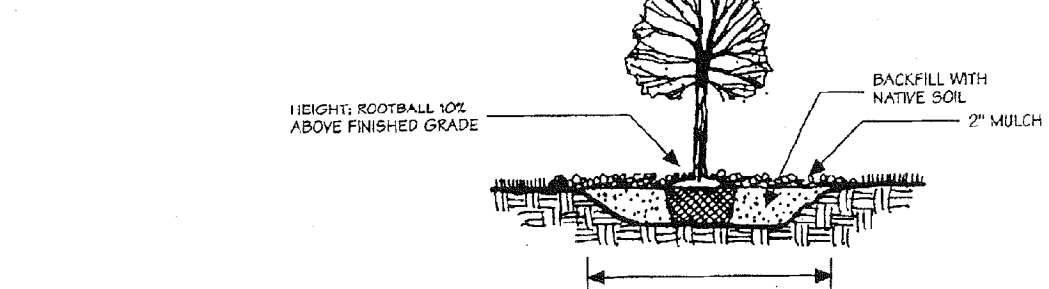
Tree Size Height	Tree Stalk Caliper	Stakes	#	Wire or Cable	Hoop
6-10'	1" to 1-1/2"	5-6' upright	2	14 gauge wire	1/2"
10-12'	2" to 2-1/2"	7-8' upright	2	14 gauge wire	1/2"
12-14'	2-1/2" to 3"	2' guy	3	12 gauge wire	1/2"
14-16'	3-4"	2' guy	3	12 gauge wire	3/4"

Source: Adapted from Forest Conservation Manual, 1997

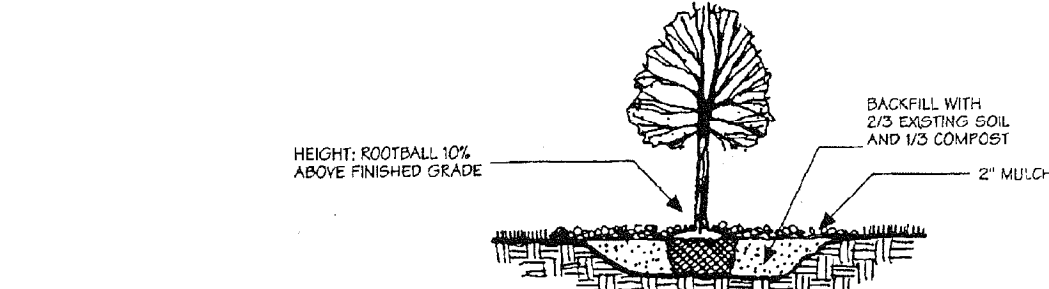
Tree Staking and Guying Specifications

From Maryland State Forest Conservation Manual

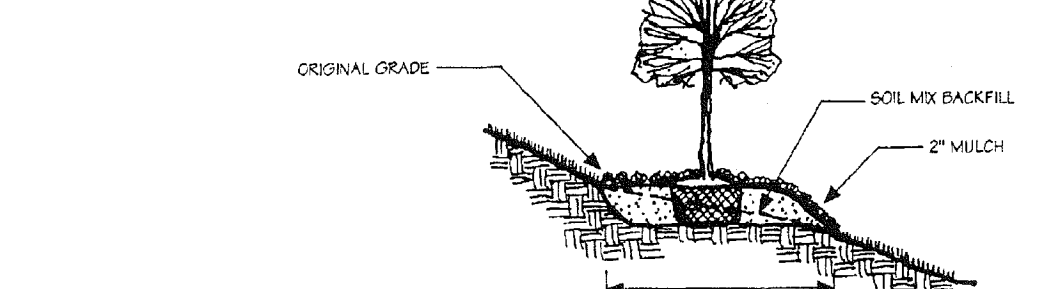
Undisturbed Soil



Disturbed Soil



Planting on Slope



Source: Adapted from Forest Conservation Manual, 1991

Container Grown and B&B Planting Techniques

From Maryland State Forest Conservation Manual

DEVELOPER'S CERTIFICATE

The Undersigned agrees to execute all the features of the Approved Final Forest Conservation Plan No. 1200331A, including financial bonding, forest planting, maintenance, and all other applicable agreements.

Developer's Name: N/A
Printed Company Name: _____

Contact Person or Owner: Shawn P. McConnell
Printed Name: _____

Address: 14701 Poplar Hill Road, Germantown, MD. 20874

Phone and Email: (301)537-8524 mccomell@msc.com

Signature: _____

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

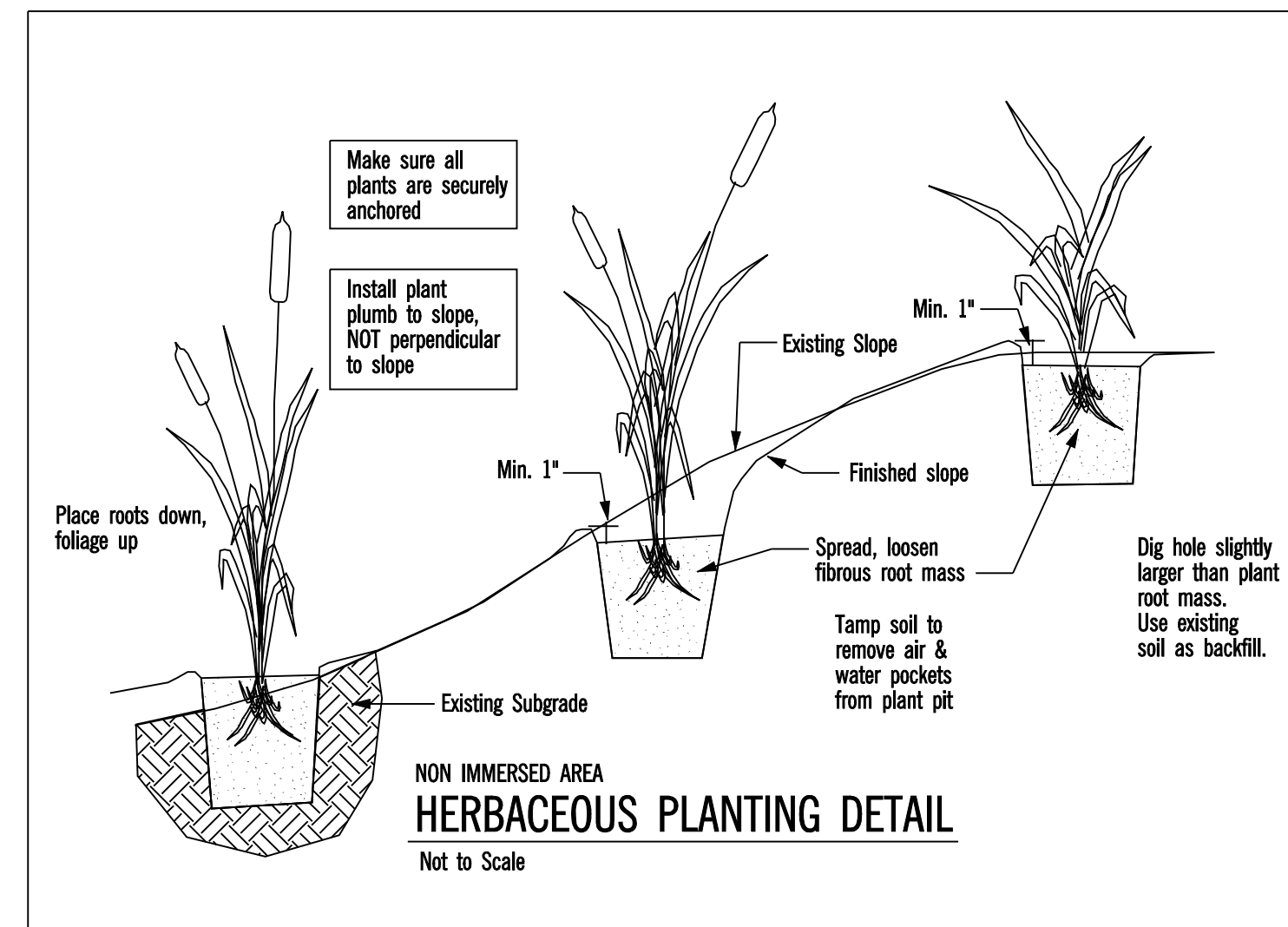
Pre-Construction

- An on-site pre-construction meeting is required after the limits of disturbance have been staked and flagged, but before any clearing or grading begins. The property owner should contact the Montgomery County Planning Department inspection staff before construction to verify the limits of disturbance and discuss tree protection and tree care measures. The developer's representative, construction superintendent, ISA certified arborist or Maryland-licensed tree expert that will implement the tree protection measures, forest conservation inspector, and Department of Permitting Services (DPS) sediment control inspector should attend this pre-construction meeting.
- No clearing or grading shall begin before stress-reduction measures have been implemented. Appropriate measures may include, but are not limited to:
 - Root pruning
 - Crown reduction or pruning
 - Watering
 - Fertilizing
 - Vertical mulching
 - Root aeration matting
 Measures not specified on the forest conservation plan may be required as determined by the forest conservation inspector in coordination with the arborist.
- A Maryland-licensed tree expert or an International Society of Arboriculture-certified arborist must perform all stress reduction measures. Documentation of stress reduction measures must be either observed by the forest conservation inspector or sent to the inspector at 8787 Georgia Avenue, Silver Spring, MD 20910. The forest conservation inspector will determine the exact method to convey the stress reduction measures during the pre-construction meeting.
- Temporary tree protection devices shall be installed per the Forest Conservation Plan/Tree Save Plan and prior to any construction activities. Tree protection fencing locations should be staked prior to the pre-construction meeting. The forest conservation inspector, in coordination with the DPS sediment control inspector, may make field adjustments to increase the survivability of trees and forest shown as saved on the approved plan. Temporary tree protect devices may include:
 - Chain link fence (four feet high)

Signature & Seal of Qualified Preparer

Donald W. Rohrbaugh, II Md. R.L.A. #491

Date SEAL



Planting Detail for Ferns

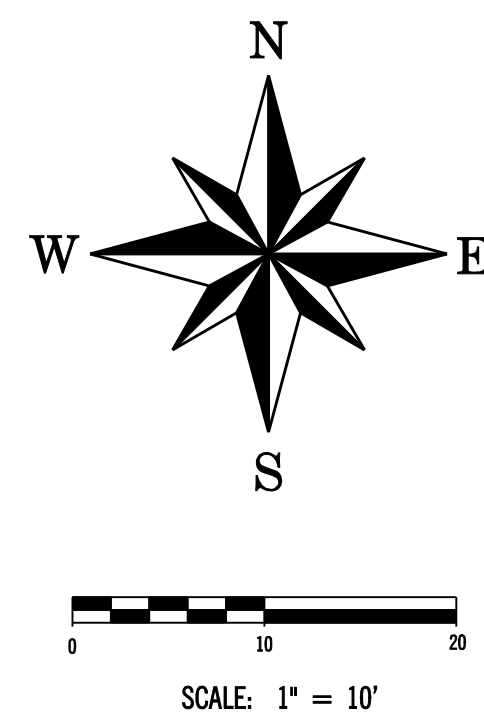
SSI SITE SOLUTIONS, INC.
20410 Observation Drive Suite 205
Germantown, Maryland 20876-4000
(301) 640-7890 Fax (301) 640-7891
Planning Landscape Architecture
Engineering Surveying

OWNER / APPLICANT:
Shawn P. & Dianne McConnell
14701 Poplar Hill Road
Germantown, Md. 20874

FINAL FOREST CONSERVATION PLAN - SUPPLEMENTARY INFORMATION
14701 POPLAR HILL ROAD
Lot 45, Harlow Subdivision
ELECTION DISTRICT #6
MONTGOMERY COUNTY, MARYLAND

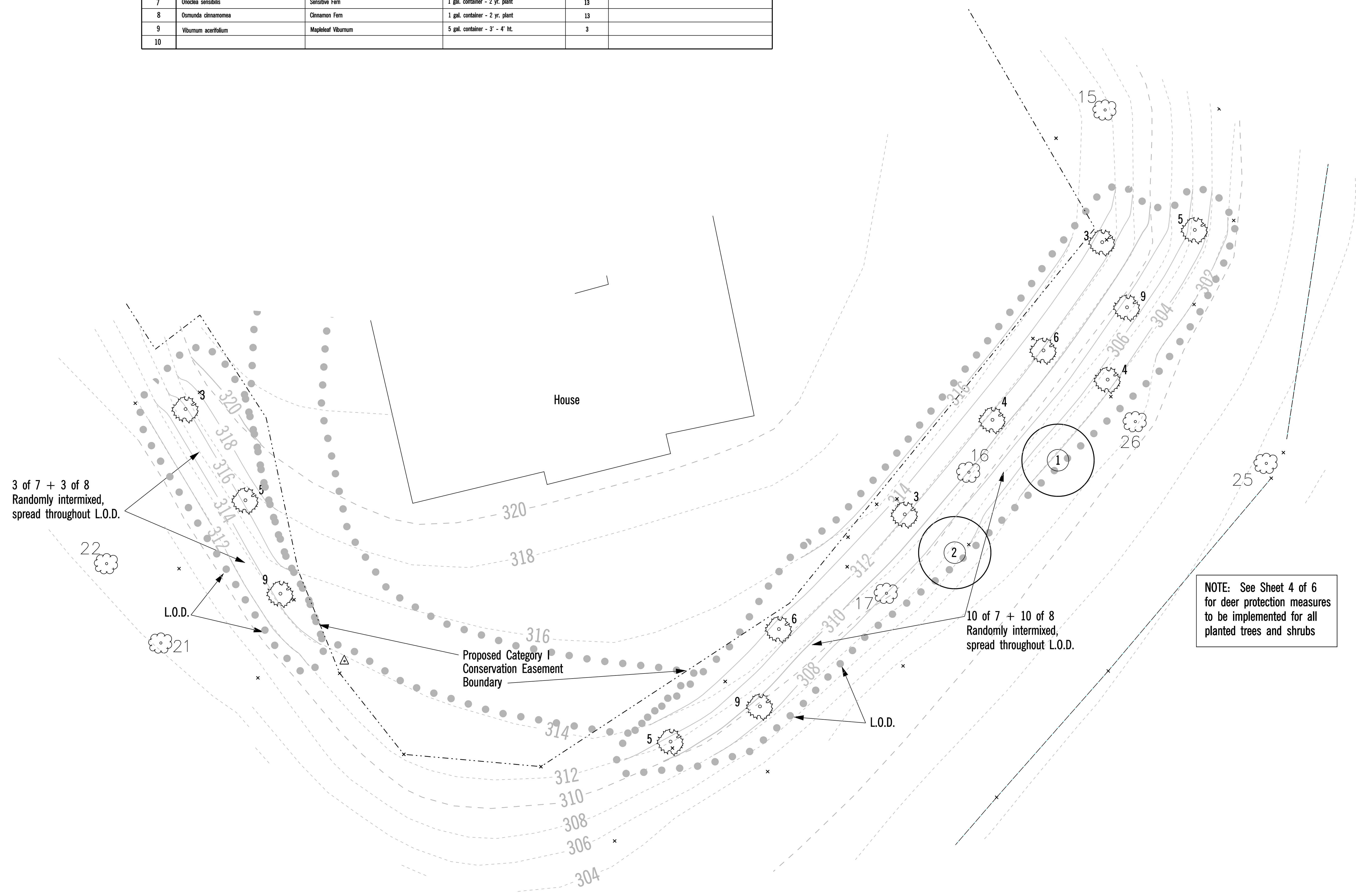
DWR DESIGN SCALE
CHECKED SHEET 4 of 6
DATES PLOT DATE
PROJ. No. 1939 E-

FINAL TOP - SUPPLEMENTARY SITE SOLUTIONS, INC. 14701 Poplar Hill Road



PLANT LIST

KEY #	BOTANICAL NAME	COMMON NAME	SIZE*	QUANTITY	REMARKS
1	<i>Cercis canadensis</i>	Eastern Redbud	2" - 2.5" cal. / 12" - 14" ht.	1	B & B only
2	<i>Cornus florida</i>	Flowering Dogwood	2" - 2.5" cal. / 12" - 14" ht.	1	B & B only
3	<i>Hamamelis virginiana</i>	Witch Hazel	5 gal. container - 3' - 4' ht.	3	
4	<i>Juniperus horizontalis 'Plumosa'</i>	Andorra Juniper	2 gal. container - 18" - 24" spd.	2	
5	<i>Kalmia latifolia</i>	Mountain Laurel	2 gal. container - 24" - 30" ht. & spd.	3	
6	<i>Lindera benzoin</i>	Spicebush	2 gal. container - 24" - 30" ht. & spd.	2	
7	<i>Oreocles sensibilis</i>	Sensitive Fern	1 gal. container - 2 yr. plant	13	
8	<i>Comunda cinamomae</i>	Cinnamon Fern	1 gal. container - 2 yr. plant	13	
9	<i>Viburnum acerifolium</i>	Mapleleaf Viburnum	5 gal. container - 3' - 4' ht.	3	
10					



NOTE: SEE SHEET 4 FOR PLANTING DETAILS & NOTES

NOTE: See Sheet 4 of 6 for deer protection measures to be implemented for all planted trees and shrubs

Signature & Seal of Qualified Preparer
 Donald W. Rohrbaugh, II MC. R.L.A. #481
 Date _____

SEE
 Forest Conservation Planting
 Maintenance & Management Notes
 and
 Forest Conservation Inspection Schedule
 on
 Sheet 4 of 6

DEVELOPER'S CERTIFICATE

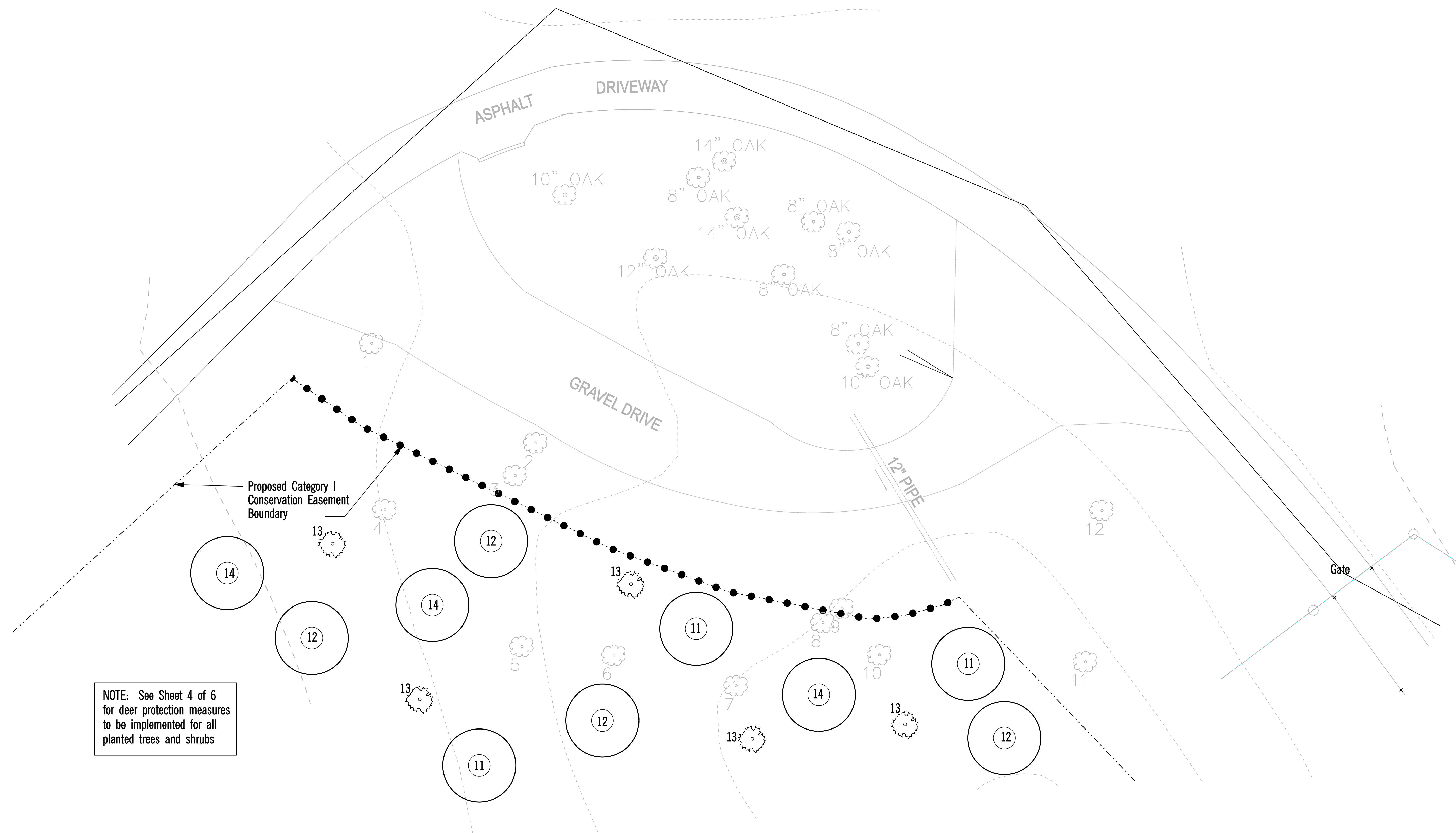
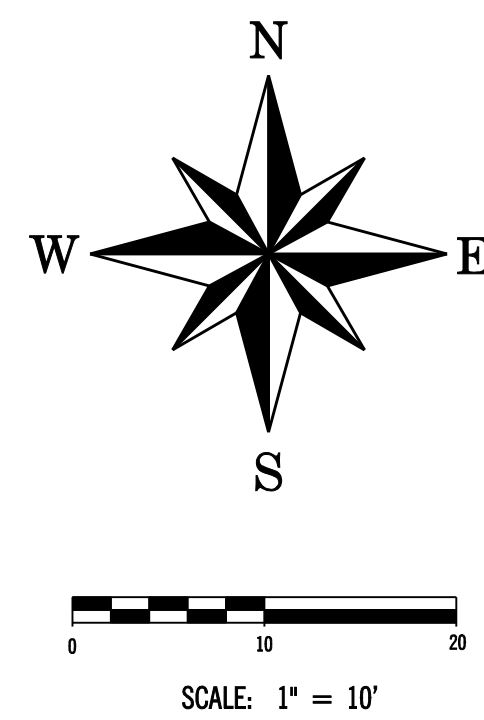
The Undersigned agrees to execute all the features of the Approved Final Forest Conservation Plan No. 1203010A including financial bonding, forest planting, maintenance, and all other applicable agreements.

Developer's Name: N/A
 Printed Company Name: _____
 Contact Person or Owner: Shawn P. McConnell
 Printed Name: _____
 Address: 14701 Poplar Hill Road, Germantown, Md. 20874
 Phone and Email: 301537-8524 mcconnellwpc@gmail.com
 Signature: _____

14701 Poplar Hill Road SITE SOLUTIONS, INC. FINAL FCP - PLANTING PLAN

PLANT LIST

KEY #	BOTANICAL NAME	COMMON NAME	SIZE*	QUANTITY	REMARKS
11	<i>Acer rubrum</i>	Red Maple	2" - 2.5" cal. / 12' - 14' ht.	3	B & B only
12	<i>Nyssa sylvatica</i>	Black Gum	2" - 2.5" cal. / 12' - 14' ht.	4	B & B only
13	<i>Lindera benzoin</i>	Spicebush	5 gal. container - 30" - 36" ht. & spd.	5	
14	<i>Quercus alba</i>	White Oak	2" - 2.5" cal. / 12' - 14' ht.	3	B & B only
15					



NOTE: See Sheet 4 of 6 for deer protection measures to be implemented for all planted trees and shrubs

NOTE: SEE SHEET 4 FOR PLANTING DETAILS & NOTES

Signature & Seal of Qualified Preparer
 Donald W. Rohrbaugh, II MC. R.L.A. #481
 Date _____

SEE
 Forest Conservation Planting
 Maintenance & Management Notes
 and
 Forest Conservation Inspection Schedule
 on
 Sheet 4 of 6

DEVELOPER'S CERTIFICATE
 The Undersigned agrees to execute all the features of the Approved Final Forest Conservation Plan No. 120330.0A including financial bonding, forest planting, maintenance, and all other applicable agreements.
 Developer's Name: N/A
 Contact Person or Owner: Shawn P. McConnell
 Address: 14701 Poplar Hill Road, Germantown, Md. 20874
 Phone and Email: (301) 537-8524 mcconnell@ssc.com

SSI SITE SOLUTIONS, INC.
 20410 Observation Drive Suite 205
 Germantown, Maryland 20876-4000
 (301) 640-7990 Fax (301) 640-7991
 Planning Landscape Architecture
 Engineering Surveying

NO	REVISION	DATE

OWNER / APPLICANT:
 Shawn P. & Dianne McConnell
 14701 Poplar Hill Road
 Germantown, Md. 20874

Driveway Area
 FINAL FOREST CONSERVATION PLAN - PLANTING PLAN
 14701 POPLAR HILL ROAD
 Lot 45, Harlow Subdivision
 ELECTION DISTRICT #6
 MONTGOMERY COUNTY, MARYLAND

DWR DESIGN	SCALE	1" = 10'
CHECKED	SHEET	6 of 6
SOATES PLOT DATE	PROJ. No.	1939 E-

14701 Poplar Hill Road SITE SOLUTIONS, INC. FINAL FCP - PLANTING PLAN

X = Fence
A-77

C.C.H. HSU & B.C.F.H. HSU, ET. AL.
L.7547 F.787

APPROVAL #
MODIFICATION TO
PRELIMINARY PLAN

FILE NO. 1-03010

MONTGOMERY COUNTY PLANNING BOARD

11/17/03

CHAIRMAN OR DESIGNEE

DATE

NO TREES TO BE CLEARED
FOR FENCE INSTALLATION.

- MANKPPC INSPECTOR

MUST BE NOTIFIED FOR
PRE-CONSTRUCTION

MEETING AND

ADJUSTMENT OF

FENCE LOCATION

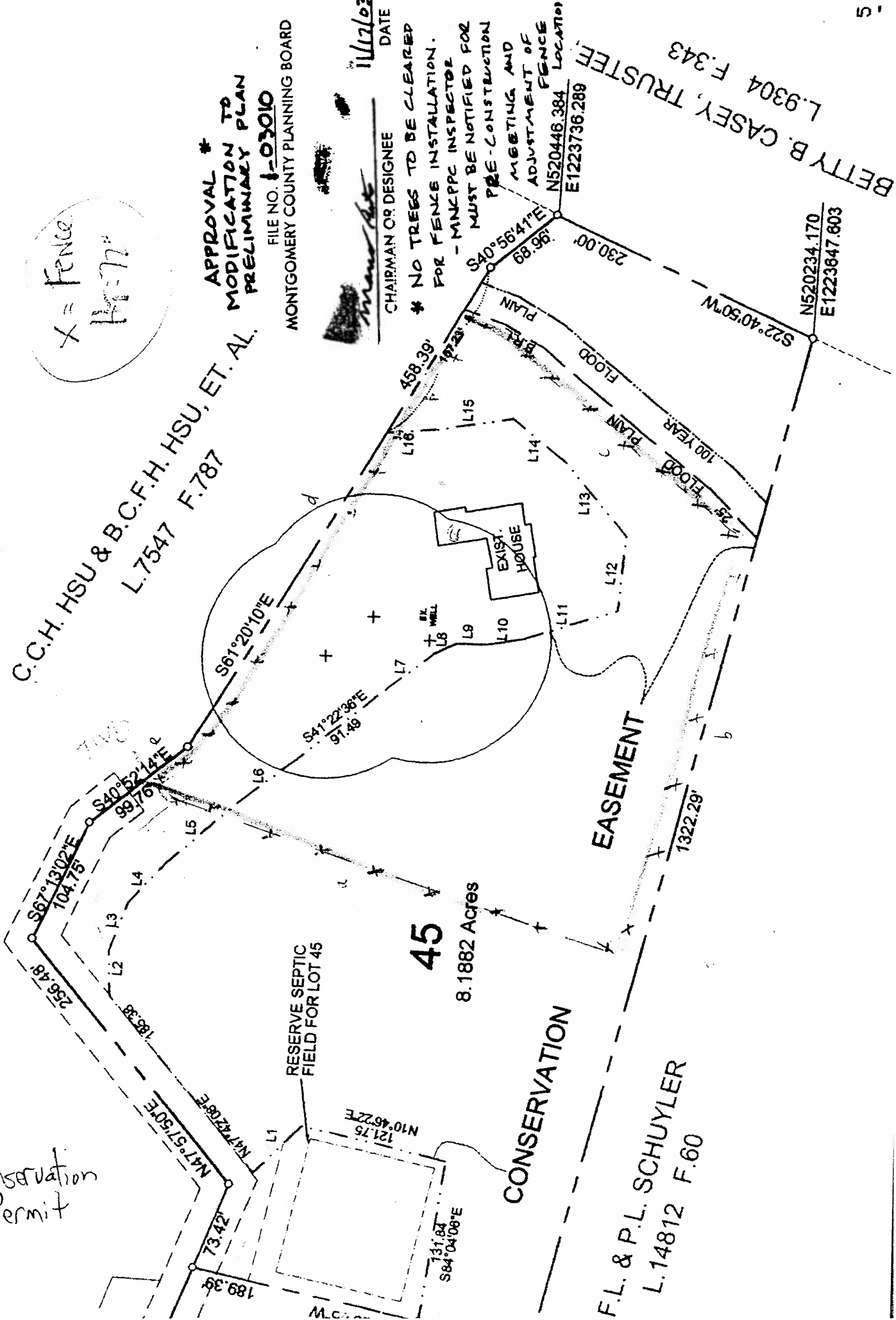
N520446.384

E1223736.289

BETTY B. CASEY, TRUSTEE
L.9304 F.343

N520234.170

E1223647.603



45
8.1882 Acres

CONSERVATION

EASEMENT

F.L. & P.L. SCHUYLER
L.14812 F.60

ence in Conservation
Easement Permit
1 of 4

HP LASERJET 3150
 PRINTER/FAX/COPIER/SCANNER

SEND CONFIRMATION REPORT FOR
 MNCPPC DEV REVIEW
 3014951306
 NOV-18-03 1:53PM

JOB	START TIME	USAGE	PHONE NUMBER/ADDRESS	TYPE	PAGES	MODE	STATUS
198	11/18 1:52PM	1'07"	+ SEND.....		3/ 3	EC120	COMPLETED.....
TOTAL		1'07"	PAGES SENT: 3	PAGES PRINTED: 0			



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
 PARK AND PLANNING COMMISSION

PHONE: 301/495-4595
 FAX: 301/495-1306

8787 Georgia Avenue
 Silver Spring, Maryland 20910-3760

MONTGOMERY COUNTY PLANNING DEPARTMENT
 DEVELOPMENT REVIEW DIVISION

DATE: 11/18/03

TO: LILLIAN R. STEWART
PERMITS COORDINATOR
LONG FENCE

FAX NUMBER: 301-879-5706

FROM: MARCO F.

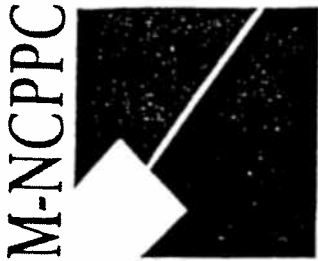
NUMBER OF PAGES, INCLUDING COVER SHEET 3

COMMENTS: BE SURE TO HAVE THE INSTALLATION FOREMAN
CALL ME FOR A SITE MEETING, PRIOR TO INSTAL. OF FENCE.

THANKS

MARCO

fence in Conservation
 Easement Permit
 2 of 4



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PHONE: 301/495-4595
FAX: 301/495-1306

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

MONTGOMERY COUNTY PLANNING DEPARTMENT
DEVELOPMENT REVIEW DIVISION

DATE: 11/18/03

TO: LILLIAN R. STEWART
PERMITS COORDINATOR
LONG FENCE

FAX NUMBER: 301-874-5706

FROM: MARCO F.

NUMBER OF PAGES, INCLUDING COVER SHEET 3

COMMENTS: BE SURE TO HAVE THE INSTALLATION FOREMAN
CALL ME FOR A SITE MEETING, PRIOR TO INSTAL. OF FENCE.

THANKS,

MARCO.

Fence in Conservation Easement
Permit
3 of 4

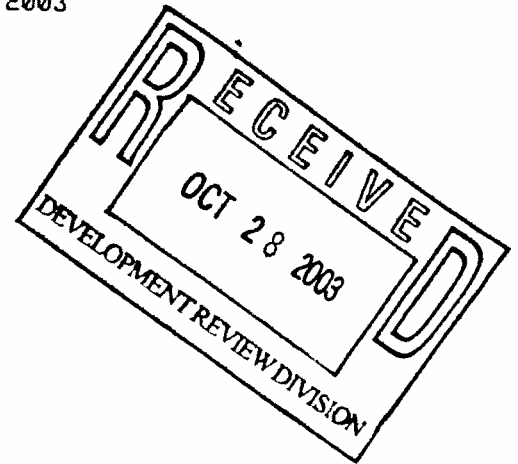


2520 Urbana Pike
Ijamsville, Maryland 21754-8624
(301) 428-9040 (301) 662-1600
Fax: (301) 874-5706
www.longfence.com

October 24, 2003

Attn: Steve Carry
Montgomery County Parks and Planning
Development and Review
8787 Georgia Avenue
Silver Spring, MD 20910

RE: Bausch Residence
14701 Popular Hill Road
Darnestown, MD 20878



Dear Steve:

I am writing regarding the above referenced address. In completing the paper work for a building permit for the above referenced address I noticed that the fence would encroach on a conservation easement.

Enclosed is a drawing depicting the location of the fence, and at this time the homeowner is requesting your permission to build across the easement. The structure would be a 72" high Black Chainlink fence along the side and rear of the property.

Thank you for your consideration.

Should you have any questions regarding this matter, please do not hesitate to contact me at my office 301-428-9040.

Once again, thank you.

Sincerely,

LONG FENCE

Lillian R. Stewart
Permits Coordinator

LS/lrs
Bausch. Oct
enc.

Fence in Conservation Easement
Permit
4 of 4

STATEMENT OF SHAWN P. McCONNELL
FOR A VARIANCE IN ACCORDANCE WITH SECTION 22A-21
OF THE MONTGOMERY COUNTY CODE

14701 POPLAR HILL ROAD

Forest Conservation Plan #12003010A

December, 2014

I. BACKGROUND INFORMATION.

The Applicant for a variance pursuant to the provisions of Section 22A-21 of the Montgomery County Code is Shawn P. McConnell, the owner of the property. The property is a recorded lot, Lot 45, Harlow Subdivision, Record Plat #22623. The lot consists of 8.1882 acres. The property is located along the east side of Poplar Hill Road, 1.3 miles west of Maryland Route 28, west of Germantown. This variance is being submitted at the request of the M-NCPPC environmental reviewer as part of the Final Forest Conservation Plan submission for approval of the Montgomery County Planning Board.

II. APPLICANT'S PROPOSAL.

Attached to this document (e-plans) is a Final Forest Conservation set of drawings that include the existing conditions of the subject property as well as the applicant's proposal to mitigate a number of impacts to existing trees that have occurred prior to the applicant's ownership of the subject property and some impacts that have taken place after the applicant purchased the property. The deficiencies that must be corrected have been brought to the attention of the applicant by the M-NCPPC forestry inspector.

III. EXPLANATION FOR NEED TO IMPACT SIX TREES THAT ARE IDENTIFIED IN STATE LAW FOR PROTECTION (NO PROTECTED TREES TO BE REMOVED).

There are six existing specimen trees of 30" DBH or larger identified on the FCP. The six impacted trees are described as follows (Numbering is as indicated on the drawings):

Tree #3	Tulip Poplar	31" DBH	55% CRZ Saved
Tree #15	Tulip Poplar	34" DBH	84% CRZ Saved
Tree #16	Tulip Poplar	30" DBH	70% CRZ Saved
Tree #17	Red Oak	34" DBH	73% CRZ Saved
Tree #26	Red Oak	39" DBH	77% CRZ Saved

Tree #28 Red Oak 45" DBH 85% CRZ Saved

Please note that the impact to the six trees listed above has already occurred and consists of varying amounts of earth fill being placed on top of the CRZ's of the mentioned trees. The fill dirt has been in place for many years (at least six years). As part of this FCP and variance report, a Maryland Certified Arborist (Matt Madeira, Branches Tree Experts, Kensington, Md.) has been retained to evaluate the six impacted trees and make recommendations for their protection and preservation. The certified arborist's report is attached to this statement as Attachment "A".

IV. SATISFACTION OF THE CRITERIA LISTED IN SECTION 22A-21(b) OF THE MONTGOMERY COUNTY CODE.

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

"(1) describe the special conditions peculiar to the property which caused the unwarranted hardship."

- A. The current property owner, Mr. McConnell, has owned the subject property since June of 2005. The house was constructed in 1973, according to the Maryland SDAT land record. Environmental regulations that established the definition of "stream buffers" was implemented in 1983, under the M-NCPPC "Staff Guidelines for the Protection of Steep Slopes and Stream Valleys". According to historical aerial photography (1979 Montgomery County GIS Orthophoto), the house and swimming pool were in existence in 1979, prior to stream buffer implementation.
- B. In order to establish a more useable rear yard, the applicant installed a quantity of "fill" dirt along the top of the existing slope behind the house to form a terrace. Some of the fill dirt was placed on the CRZ's of trees 15, 16, 17, 26 and 28, listed above. The work proposed with this FCP is to remove as much dirt as possible from the CRZ's of the impacted trees and to groom the slope to be less steep. Currently, the slope is steeper than 2:1 and is subject to erosion. Flattening the slope to 2:1 and providing planting as proposed with this FCP will stabilize the impacted slope area.

"(2) Describe how enforcement of these rules will deprive the owner of rights commonly enjoyed by others in similar areas."

This application is submitted for approval to mitigate damage to trees that has already taken place. The applicant is proposing to implement measures to encourage the recovery of six trees that have been impacted by past events. To deny approval of this variance would only delay rescue measures that are meant to bring the six trees back to a healthy condition.

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

The current steep slope that continues to erode will be stabilized by regrading and planting. This stabilization will contribute to enhancement of the water quality of the stream that lies below the subject property. No measurable degradation of the water quality of the stream will occur after completion of the work of this FCP.

“(4) Provide any other information appropriate to support the request.”

The information set forth above, the Applicant believes, is adequate to justify the requested variance to *impact* the six protected trees on the subject property.

Furthermore, the Applicant’s request for a variance complies with the “minimum criteria” of Section 22A-21(d) for the following reasons:

1. This Applicant will receive no special privileges or benefits by the granting of the requested variance that would not be available to any other applicant.
2. The requested variance is not related in any way to a condition on an adjacent, neighboring property, and
3. Impact on the CRZ’s of the six affected trees will not violate State water quality standards or cause measurable degradation in water quality (which is being improved by the applicant’s overall proposal).

Site Solutions, Inc.
December 10, 2014

ATTACHMENT "A" – Arborist's Report



BRANCHES TREE EXPERTS
ARBORICULTURE • FORESTRY CONSULTING

*Member of: Maryland Arborist Association • National Arborist Association
Landscape Contractors Association • International Society of Arboriculture • Community Association Institute
Mid-Atlantic Association of Golf Course Superintendents • American Society of Landscape Architects*

12/16/2014

To whom it may concern,

I recently met onsite at the 14701 Poplar Hill Rd, Darnestown location where some mitigation for the existing specimen trees is required. There are five trees that have had their root systems partially covered over with back fill, which should be carefully pulled away from the trunks down to the original grade.

Tree #s 3, 15, 16, 17, and 26 from sheets 2 and 3 of the Forest Conservation Plans should all have the fill soil pulled away from the trunks to the original grade in a 10' radius. This should be done using light machinery for the obvious overfill only. Once it becomes unclear where the original grade is, hand digging shall be performed. Since these trees have been covered for an extended period of time, I also feel the use of the growth regulator paclobutrazol will aid in the regrowth of the salvageable root systems for all five trees.

Sincerely,

Matt Madeira

Certified Arborist # MA 4784



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Fariba Kassiri
Acting Director

January 9, 2015

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

RE: Poplar Hill, ePlan 12003010A, application for amendment to FCP accepted on 8/18/2014

Dear Mr. Anderson:

All applications for a variance from the requirements of Chapter 22A of the County Code submitted after October 1, 2009 are subject to Section 22A-12(b)(3). Accordingly, given that the application for the above referenced request was submitted after that date and must comply with Chapter 22A, and the Montgomery County Planning Department ("Planning Department") has completed all review required under applicable law, I am providing the following recommendation pertaining to this request for a variance.

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

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

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

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

Division of Environmental Policy & Compliance

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Casey Anderson
January 9, 2015
Page 2

variance can be granted under this criterion, as long as appropriate mitigation is provided for the resources disturbed.

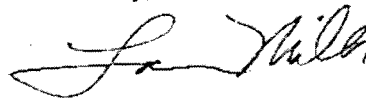
3. The disturbance of trees, or other vegetation, by the applicant does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. Therefore, the variance can be granted under this criterion.
4. The disturbance of trees, or other vegetation,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

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

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

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

Sincerely,



Laura Miller
County Arborist

cc: Stephen Peck, Senior Planner