



**North Glen Hills, Preliminary Plan Amendment for Forest Conservation Plan Purposes, 11998050A**

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*RAW* Rich Weaver, Acting Chief, Area 3; [richard.weaver@montgomeryplanning.org](mailto:richard.weaver@montgomeryplanning.org), 301-495-4544

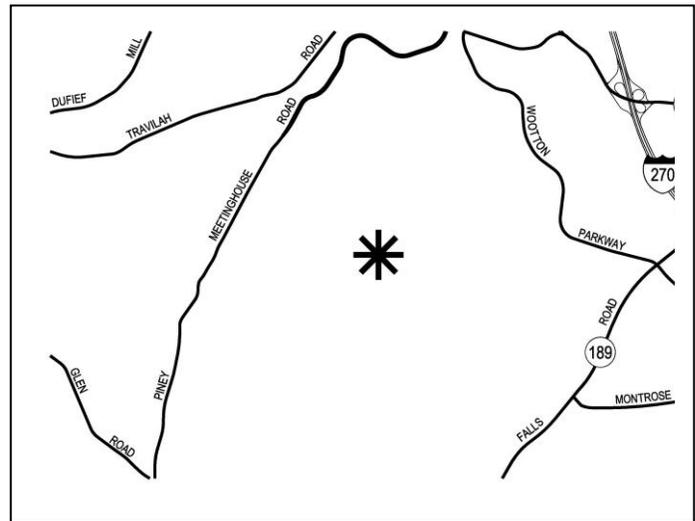
**Completed: 03/16/17**

**Description**

**North Glen Hills: Preliminary Plan No. 11998050A**  
Application to remove 12,496 square feet of Category II Conservation Easement, revise the limits of disturbance (“LOD”), demolish the existing single-family detached residential structure and outbuilding, rebuild a single-family detached residential structure; Located at 12925 Circle Drive, Rockville, MD; 1.15 acres; Zoned RE-1; 2002 Potomac Subregion Master Plan.

Staff Recommendation: **Approval with Conditions**

**Applicant:** Ryan and Katie Mollet  
**Submittal Date:** January 16, 2017  
**Review Basis:** Chapter 22A



**Summary**

- Staff Recommendation: **Approval with Conditions**
- Proposal to remove approximately 12,496 square feet (0.30 acres) of Category II Conservation Easement and revise the approved LOD.
- Application satisfies the afforestation requirements of Chapter 22A, Forest Conservation Law by proposing to purchase off-site forest credits in a forest conservation bank.
- Staff has received a citizen phone complaint about this amendment.
- The adjoining property owner has not provided any comments on this application.

## SECTION 1 – RECOMMENDATIONS AND CONDITION

**PRELIMINARY PLAN NO. 11998050A:** Staff recommends approval of the limited amendment to the Preliminary Plan for Forest Conservation Plan purposes, subject to the following conditions:

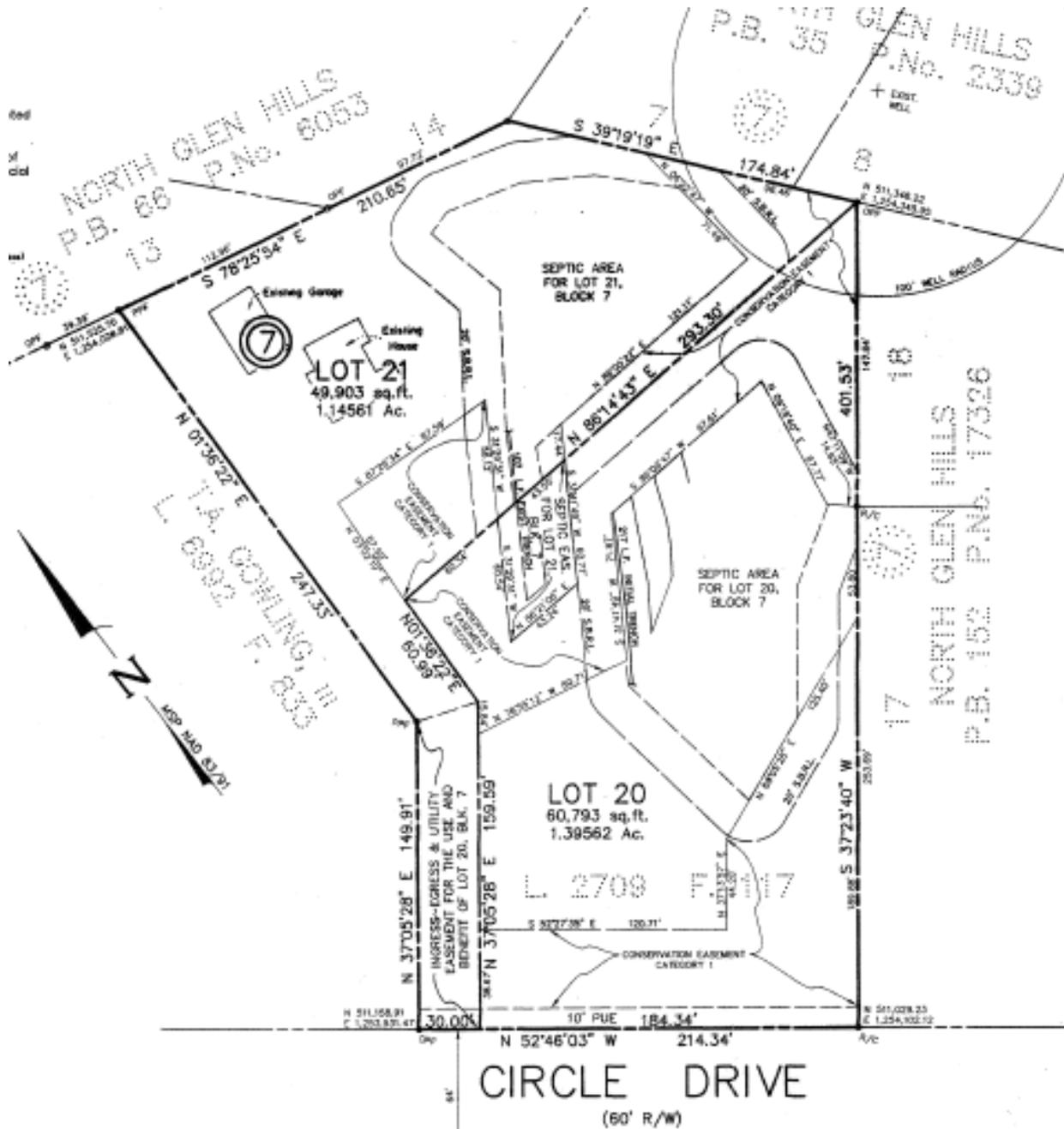
### **CONDITIONS:**

1. All other conditions of Preliminary Plan No. 119980500 as contained in the Montgomery County Planning Board’s Resolution mailed May 6, 1998 that were not modified herein, remain in full force and effect.
2. The Applicant must comply with the conditions of approval for the Amended Final Forest Conservation Plan No. 11998050A, including:
  - a. Applicant must install the eight 3” caliper mitigation trees shown on the amended FFCP by May 15, 2017.
  - b. Applicant must install permanent forest conservation easement signage along the perimeter of the existing Category I Conservation Easements by May 15, 2017 at the direction of the M-NCPPC Forest Conservation Inspector.
  - c. Applicant must have all required site inspections performed by M-NCPPC staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
  - d. Prior to any clearing, grading or construction on the project site the Applicant must record an M-NCPPC approved Certificate of Compliance in an M-NCPPC approved off-site forest bank to satisfy the afforestation requirement for a total of 24,992 square feet.
  - e. The Applicant must comply with all tree protection and tree save measures shown on the approved FFCP. Tree save measures not specified on the FFCP may be required by the M-NCPPC Forest Conservation Inspector.
  - f. The limits of disturbance (“LOD”) on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Amended Final Forest Conservation Plan.

## SECTION 2 – SITE LOCATION AND DESCRIPTION

### Site Location

The subject property is located at 12925 Circle Drive, Rockville, MD, Lot 21, Block 7 on Plat No. 20769, Tax Map FR341 (Figure 1 and Attachment A) with a total lot area of 1.15 acres (“Subject Property” or “Property”). The Property is zoned RE-1 and located outside of the corporate city limits of Rockville, in the North Potomac Community Area of the 2002 Potomac Subregion Master Plan.



*Figure 1 – Record Plat No. 20796*

### Site Vicinity

The Subject Property is situated within the larger area bounded by Piney Meetinghouse Road on the west, Muddy Branch Stream Channel on the east, and the City of Rockville generally to the north and northeast. The Subject Property is surrounded by residential lots of a similar nature in size, shape and orientation (Figure 2).



*Figure 2 – Site Vicinity*

## Site Description

The Property is a 1.15 acre flag-lot with access off of Circle Drive. The Property currently has a one-story single family residential structure with separate outbuilding. The project site is mostly open area with a scattering of trees along the property lines. Until recently, this site did contain a 65" diameter breast height (DBH) White Ash (*Fraxinus americana*) tree, shown as a 59" DBH tree on the Final Forest Conservation Plan ("FFCP") dated June 11, 1998 (Attachment B).



*Figure 3 – 2015 Aerial Photograph of Site*

## SECTION 3 – APPLICATION AND PROPOSAL

### Previously Approved Application

#### Preliminary Plan 119980500

The Montgomery County Planning Board approved Preliminary Plan No. 119980500 "North Glen Hills" on April 30, 1998 and a written Planning Board Opinion was issued on May 6, 1998 ("Opinion"). As part of the approval process for the Preliminary Plan of Subdivision, a Preliminary Forest Conservation Plan (PFCP) was also required and approved by the Planning Board on the same date.

Preliminary Plan No. 119980500 created the subject property and the adjacent Lot 20, Block 7 and recorded by Plat No. 20769 on July 22, 1998. A FFCP was submitted and approved by staff on June 11, 1998. The record plat and the FFCP provided 0.54 acres of reforestation and 0.26 acres of forest protection both placed within Category I Conservation Easements. The record plat and the FFCP also included notes that specify protecting an existing 59" White Ash tree with a Category II Conservation Easement containing 12,469 square feet (0.3 acres) of critical root zone. A second tree, a 33" White Ash, located near the 59" White Ash may have been included in this easement. However, the second tree is not mentioned on the plat or FFCP.

On September 29, 2005, an amendment to the approved FFCP was brought before the Planning Board. This amendment proposed to demolish the existing house, construct a new house and protect the specimen White Ash tree. During the Board hearing a significant amount of public testimony in opposition to this amendment was taken into the record. The testimony centered around the damage that would be caused to the specimen White Ash tree if development were to move forward as proposed. The hearing ended with the applicant requesting and the Board approving a deferral of the case. No further action was taken on the Property until this Application.

A Natural Resource Inventory/Forest Stand Delineation (“NRI/FSD”) plan no. 419890900 identified both of the large specimen trees. These specimen trees are shown on the NRI/FSD as Tree #43, which was a 33” White Ash, and Tree #44 a 59” White Ash. Tree #44 is shown on the currently amended FFCP as Tree #481. Tree #43 was removed some time ago by a previous homeowner. M-NCPPC has no record of this tree’s removal.

In August 2016 Tree # 481 (formerly Tree #44) was measured and found to be 65” DBH. An arborist’s report dated August 8, 2016 was submitted to M-NCPPC outlining the condition of this tree. On August 18, 2016, an M-NCPPC forest conservation inspector went to the site, reviewed the Tree Risk Assessment Report, performed a visual inspection and agreed with the results of the report. The Tree Risk Assessment Report and the M-NCPPC visual inspection classified this tree as a hazard tree due to its poor condition with a large cavity at the base of the tree which extended for five feet beneath the tree and a few feet up the tree, there was evidence of Emerald Ash Borer damage and approximately 40 percent of the root structure was decayed. Permission was then granted for the removal of the Tree #481 (Attachment D). Mitigation was required for the removal of this tree in the form of planting five 3” caliper MD native overstory trees on-site.

Given that the original purpose for the placement of the Category II Conservation Easement was to protect the two specimen trees and not to protect sensitive environmental features like existing forest, wetlands, etc. and since those two trees no longer exist, this application is updating the FFCP to show the removal of the easement, the removal of Tree #481 and the replacement plantings.

### **Current Application**

#### Preliminary Plan 11998050A

The Property is currently being reviewed as an Amendment to the Preliminary Plan for Forest Conservation Plan purposes under Plan No. 11998050A (Attachment C). This Application requests to remove the existing Category II Conservation Easement, proposes to raze the existing house and construct a new single-family detached home. The LOD on the subject property is also revised to allow for construction of a single-family residence, a portion of new driveway and a new septic system.

## SECTION 4 – ANALYSIS AND FINDINGS

The Analysis and Findings are limited only to those revisions contained within this Application and do not alter any other approval finding of Preliminary Plan No. 119980500.

### Environmental

#### Forest Conservation Plan

The originally approved FFCP showed a reforestation requirement of 0.80 acres. This was satisfied by planting 0.50 acres of new on-site forest and obtaining credit of 0.3 acres (12,496 square feet) for the protection of the CRZ of the two large White Ash trees. The current Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law by retaining the existing Category I Conservation Easements and compensating for the loss of the 0.3 acres (12,496 sq. ft.) by purchasing the appropriate forest bank credits in an off-site forest bank. As of October 2008, it has been the Planning Board’s policy to require at least 2:1 mitigation for removal of any conservation easement.

#### Forest Conservation Variance

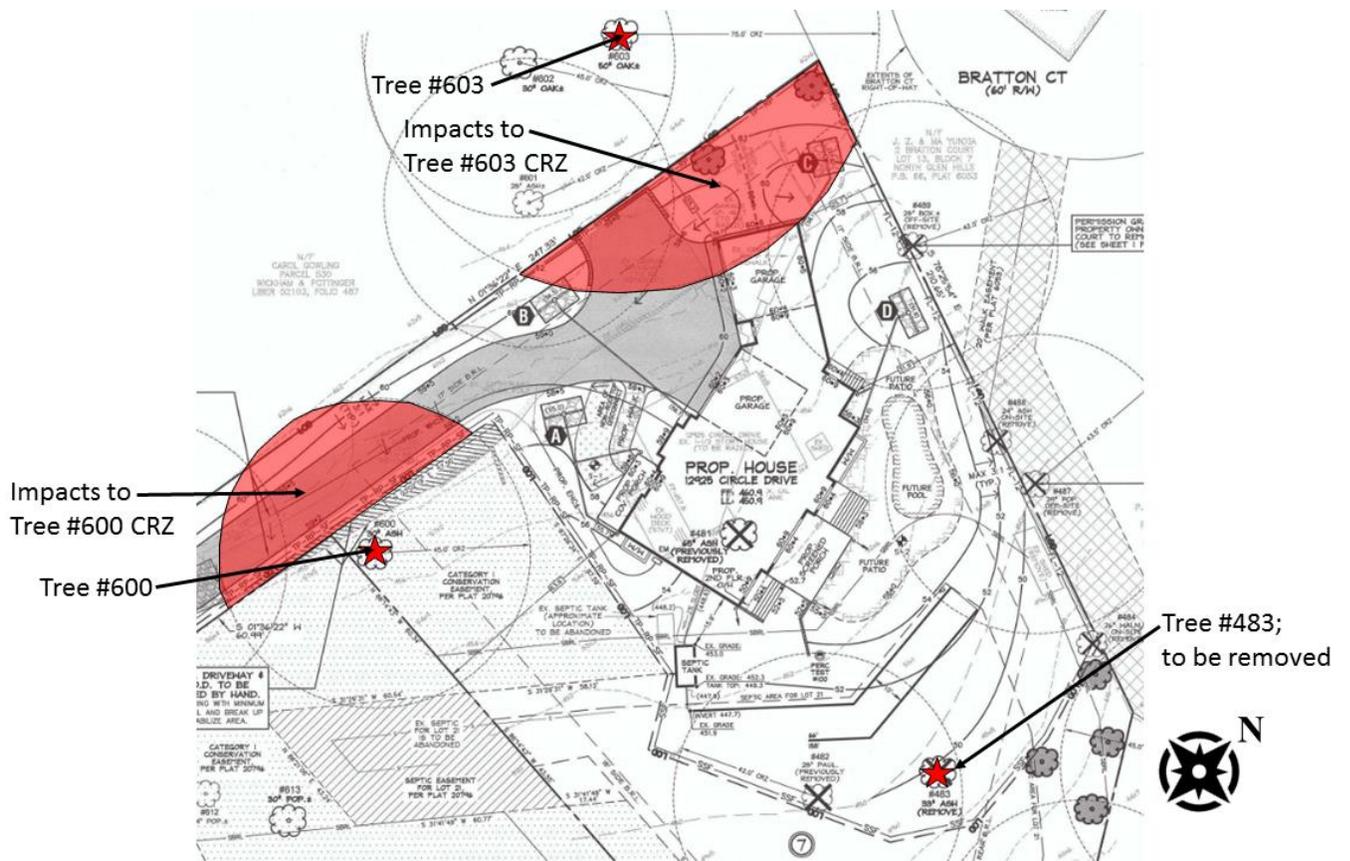
Section 22A-12(b)(3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees and other vegetation as high priority for retention and protection. The law requires that there be no impact to: trees that measure 30 inches or greater DBH; are part of an historic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

#### Variance Request

This site contains two specimen trees that will be removed or impacted and one off-site specimen tree to be impacted by the proposed construction. The Applicant submitted a variance request dated January 11, 2017 (Attachment E). The Applicant proposes to remove one specimen tree and impact two additional specimen trees that are 30 inches or greater DBH.

Tree Number	Species	DBH Inches	Status
483	White Ash ( <i>Fraxinus americana</i> )	33”	On-site. To be removed. Tree is in poor condition within LOD.
600	White Ash ( <i>Fraxinus americana</i> )	30”	On-site. To be impacted. Tree is in good condition. Approximately 32% of the CRZ will be impacted.
603	Norway Maple ( <i>Acer plantanoides</i> )	50”	Off-site. Tree is in fair condition with some included bark. Only 16% of CRZ to be impacted.

**Table 1: Variance Trees to be impacted or removed**



**Figure 4 – Variance Trees and Site Constraints**

Unwarranted Hardship Basis

Per Section 22A-21(a), an applicant may request a variance from Chapter 22A if the applicant can demonstrate that enforcement of Chapter 22A would result in an unwarranted hardship.

In this case, the Applicant is faced with having to remove 1 specimen tree and impact two others. Two of these trees are located on the Property and one is on an adjoining lot. Tree #483 is located toward the rear of the property, within the septic area and is proposed to be removed. Tree #600 is located adjacent to the proposed entry drive, but within the existing Category I Conservation Easement and will be impacted by the extension of the existing driveway. Tree #603 is located on an adjoining property just off of the northern property line for this project and will be impacted by the proposed construction of the house (Figure 4).

Staff has determined that the impacts to these trees for the proposed construction on this lot are unavoidable. The available building area is very constrained by the shape of the lot, the location of the only access to Circle Drive, the location of the septic area and the location of the existing Category I Conservation Easements. These restrictions limit the buildable area to a small area in the northwestern corner of the lot.

Tree #483 is located behind the proposed house, within the septic area for this lot and in close proximity to the necessary septic system field expansion. The existing septic field for Lot 21 is on Lot 20. This septic field is being abandoned and relocated onto Lot 21. Some of the necessary site grading for the new septic field impacts approximately 50 percent of its CRZ. Given its current condition and the amount of impact to this tree it is felt that this tree will become a hazard tree and removal of this tree is recommended in the interest of the health, safety and welfare of the future residents.

Trees #600 and #603 are located close to the proposed construction and will have their respective CRZs impacted. Tree #600 will have approximately 30 percent of its CRZ impacted due to the extension of the existing driveway. Tree #603 is off-site, but its CRZ extends onto the Property and will have approximately 16 percent of its CRZ impacted by the construction of the driveway and garage for the house. The adjoining property owner has not provided any comments on this application.

The arboriculture industry standard for construction impacts to trees is to limit those impacts to no more than approximately 30 percent of the CRZ. More than 30 percent impact to the CRZ and the overall healthy viability of the tree comes into question. Trees #600 is proposed to have approximately 32 percent of its CRZ impacted while Tree #603 will have approximately 16 of its CRZ impacted. Mitigation and preventative measures will be applied to these two trees. Given the current condition of both trees they are expected to recover from the impacts of construction.

As a result, not being able to request a variance would constitute an unwarranted hardship on this Applicant to develop this site by not allowing an extension of the existing access drive to access this property, build the house and install the septic field. Therefore, Staff concurs that the Applicant has a sufficient unwarranted hardship to justify a variance request.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. M-NCPCC staff ("Staff") has made the following determinations based upon the required findings in the review of the variance request and the Forest Conservation Plan:

Variance Findings

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

Granting the variance will not confer a special privilege on the Applicant as the removal of the one tree and impact to two others is due to the location of the trees and necessary site design requirements. The Applicant proposes removal of the one tree with mitigation. Therefore, Staff believes that the granting of this variance is not a special privilege that would be denied to other applicants.

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

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon the existing site conditions and necessary design requirements of this Application. The request is based on the fact that the building envelope for the proposed home is constrained with little room to vary its location.

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

The requested variance is a result of the existing conditions and not as a result of land or building use on a neighboring property.

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

The variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen tree being removed is not located within a stream buffer. The Application proposes mitigation for the removal of this one tree by planting three larger caliper trees on-site. The three mitigation trees will eventually provide more shade and more groundwater uptake than what the existing tree currently provide. Therefore, Staff concurs that the project will not violate State water quality standards or cause measurable degradation in water quality.

#### *Mitigation for Trees Subject to the Variance Provision*

There is one (1) tree proposed for removal in this variance request resulting in a total of 33 inches of DBH being removed. For removal of specimen trees associated with a variance request, Staff recommends mitigation for the tree loss by replacing the total number of DBH removed with  $\frac{1}{4}$  of the amount of inches replanted. This results in a total mitigation of 8.25 inches of replanted trees. In this case, the Applicant proposes to plant three 3" caliper overstory trees native to the Piedmont Region of Maryland on the Property outside of any rights-of-way and outside of any utility easements to mitigate for the removal of Tree #483. In addition to these three trees, the Applicant is also required to plant five 3" caliper trees to compensate for the removal of the 65" White Ash. This results in a total of eight 3" caliper trees being planted on-site.

#### *County Arborist's Recommendation on the Variance*

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was forwarded to the County Arborist on February 14, 2017. The County Arborist responded with a recommendation to approve the Applicant's tree variance request on March 1, 2017 (Attachment F).

#### *Variance Recommendation*

Staff recommends approval of the variance request.

### **PLANNING BOARD REVIEW AUTHORITY**

The Forest Conservation Regulations require Planning Board action on certain types of modifications to an approved FFCP. COMCOR 22A.00.01.13 A (2), the Forest Conservation Regulations, state:

*Major amendments which entail more than a total of 5000 square feet of additional forest clearing must be approved by the Planning Board or the Planning Director (depending on who approved the original plan).*

The applicants propose to remove a category II conservation easement on the subject site, which is 12,496 square feet (0.3 acre) in size, but it has been Planning Board practice to review all plans that remove or significantly change a conservation easement.

**NOTIFICATION and OUTREACH**

The subject property was properly signed with notification of the upcoming Preliminary Plan amendment prior to the January 16, 2017 submission. All adjoining and confronting property owners, civic associations, and other registered interested parties will be notified of the upcoming public hearing on the proposed amendment. As of the date of this report, Staff has received one telephone call from the West Montgomery County Citizens Association in which opposition was voiced against removal of Tree #481. Staff clarified that the tree has already been removed due to poor health and being in a hazardous condition, and that this application is only for the removal of the Category II Conservation Easement and revision of the LOD. No formal correspondence has been received outlining the points of opposition.

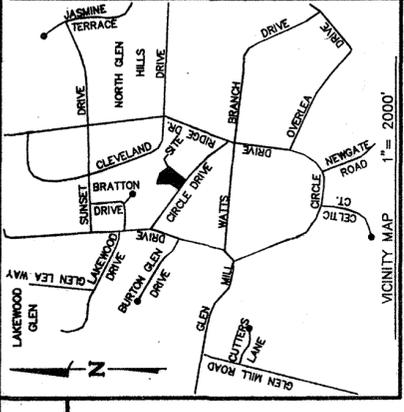
**RECOMMENDATION**

Staff recommends that the Planning Board approve this Amended Final Forest Conservation Plan with the conditions specified above.

**ATTACHMENTS**

- A. Plat No. 20796
- B. Original FFCP dated 6/11/1998
- C. Amended FFCP dated 2/10/2017
- D. M-NCPPC tree removal letter dated 8/19/2016
- E. Variance Request Letter
- F. County Arborist's Response Letter

PLAT No. 20796



# ATTACHMENT A

## SURVEYOR'S CERTIFICATE

We hereby certify that the plat shown hereon is correct; that it is a subdivision of all the land conveyed by Deed to Beall and Charles William Beall to Marion J. Bryant, Charles William Bryant, by deed February 11, 1960 and recorded among the Land Records of Montgomery County, Maryland, in Liber 2709 at Folio 117. We hereby certify that once engaged as described in the owner's dedication hereon, all monuments and all markers and other boundary markers will be set as delineated hereon in accordance with the provisions of Section 50-24(e) of the Montgomery County Code. There is no street dedication by this plat. The total area included on this plat is 110,696 square feet or 2.54123 acres.

5/26/98 Date  
 Douglas H. Riggs, III  
 By: Douglas H. Riggs, III  
 Professional Land Surveyor  
 Md. Reg. No. 10712



## OWNER'S DEDICATION

Harold C. Smith, Jr., Personal Representative of the Estate of Charles William Bryant, who died January 02, 1997 per Administration W-20711 Charles William Bryant being the surviving T/E of Marion J. Bryant (deceased per Will of Charles William Bryant) owner of the property shown hereon, hereby adopts this plat of subdivision; establishes and grants to Montgomery County, Maryland or other appropriate agency, temporary slope easements twenty-five (25) feet wide over the lots shown hereon, adjacent, contiguous, and parallel to the street lines, the slope easements shall be extinguished after all required public improvements in adjacent roadways have been accepted for maintenance by Montgomery County, Maryland or other appropriate agency; hereby grants a Public Utilities Easement (P.U.E.) as shown hereon to the parties named in a document entitled "Terms and Provisions of Public Utility Easements" as recorded in Liber 3834 at Folio 457 among the Land Records of Montgomery County, Maryland, subject to all current and applicable regulations of all federal, state, and local governing agencies; hereby grant a Conservation Easement as shown hereon to the parties named in a document entitled "Conservation Easement Agreement, Category I" as recorded in Liber 13178 at Folio 412 among the Land Records of Montgomery County, Maryland, subject to the terms set forth therein. As owner of this subdivision, I, my successors and assigns, 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)(2) of the Montgomery County Code.

There are no suits, liens, leases, mortgages, or trusts, affecting the property included in this plat of subdivision.

5/14/98 Date  
 Harold C. Smith, Jr., Personal Representative  
 of the Estate of Charles William Bryant

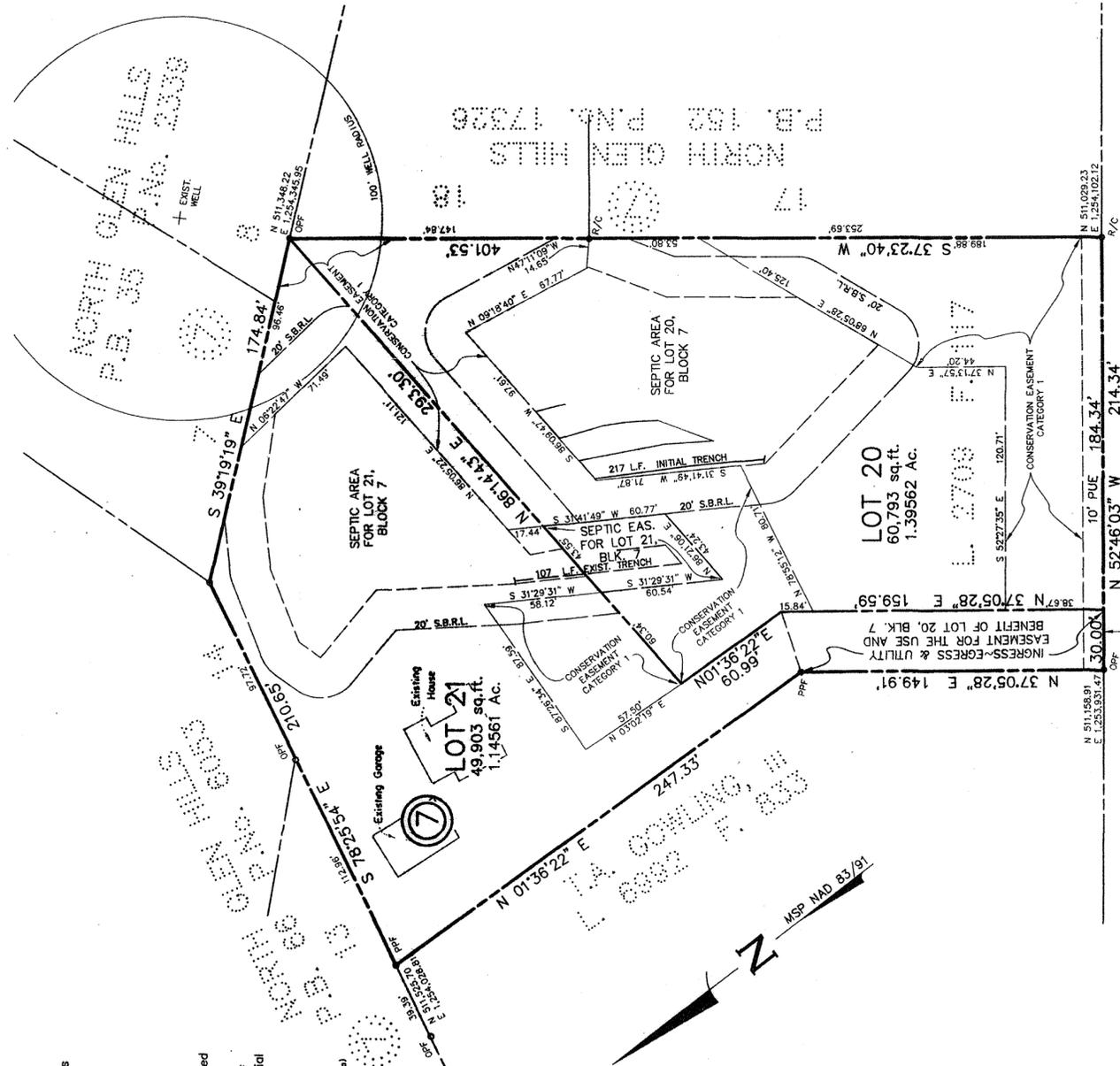
FILED  
 JUL 2 2 1998  
 PLAT OF SUBDIVISION  
 LOTS 20 & 21, BLOCK 7  
 NORTH GLEN HILLS  
 ELECTION DISTRICT No. 4  
 MONTGOMERY COUNTY, MARYLAND  
 SCALE: 1" = 50'  
 MAY, 1998

MACRIS, HENDRICKS & GLASCOCK, P.A.  
 ENGINEERS • PLANNERS • SURVEYORS  
 9220 WIGHTMAN ROAD, SUITE 120  
 GAITHERSBURG, MD 20879-1226  
 (301) 670-0840

MSA SSU 1049-7537  
 95-341  
 606-94

- Notes:
- This property is zoned RE-1.
  - The approval of this plat is predicated on the availability of public water prior to the construction of homes.
  - Septic Building Restriction Lines subject to change only with the Montgomery County Department of Permitting Services reapproval. Septic areas are designed for a 6 bedroom house, except Lot 21, Block 7 which is designed for a 4 bedroom house.
  - Coordinates shown hereon are based on the Maryland State NAD 83/91 Datum as projected by WSSC. Stations used are No. 19566 with coordinates of North 510,278.655 feet and East 1,254,216.304 feet and No. 19567 with coordinates of North 510,184.491 feet and East 1,254,903.127 feet. The scale factor for this site is 0.999939232.
  - 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.\*
  - 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 recording of this plat, unless expressly contemplated by the plan as approved. The official public files for any such plan are maintained by the Planning Board and available for public review during normal business hours.

- \* ADDENDUM TO NOTE 5:  
 And also: On Lot 21, Block 7, including the preservation of the 50' White Ash (Fraxinus americana) enhanced through a Category II Conservation Easement (L13178 F. 421)
- The existing well on Lot 21 needs to be properly abandoned prior to building permit approval for Lot 20.
  - This plat is subject to a covenant recording payment for future construction or reconstruction of Circle Drive filed in the Montgomery County Land Records in Liber 5965 at Folio 237.



CIRCLE DRIVE  
 (60' R/W)

### PLAT TABULATION

Number of Lots	= 2
Area of Lots	= 110,696 sq. ft.
Area of Street	= 0 sq. ft.
Dedication	= 110,696 square feet
Total Area	or 2.54123 acres

FOR PUBLIC WATER AND PRIVATE SEPTIC SYSTEMS ONLY 199821919805040000

THE MARYLAND-NATIONAL CAPITAL PARK & PLANNING COMMISSION  
 MONTGOMERY COUNTY PLANNING BOARD

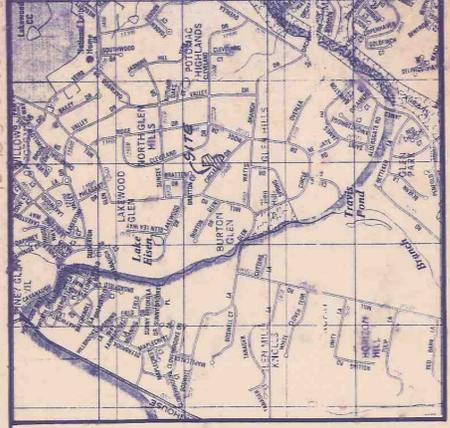
APPROVED: MAY 14, 1998  
 Chairman: *Ministry Fennell*  
 Asst. Secretary/Treasurer: *606-94*

APPROVED: JUNE 14, 1998  
 Director: *606-94*

MONTGOMERY COUNTY DEPARTMENT OF PERMITTING SERVICES

DATE: \_\_\_\_\_  
 Plat Book: \_\_\_\_\_  
 Plat No.: \_\_\_\_\_

# ATTACHMENT B



VICINITY MAP  
1" = 2000'

Notes: Remove exit fence - stop moving in easement

- NOTES:
1. Topography taken from M&P & PC Topo Sheet 84-209. The contour interval is 10 feet. The boundary location from sheets and plots recorded among the land records of Montgomery County, Maryland.
  2. The property is zoned R8-1 (Residential Estate - 1 acre min. lot).
  3. Water and sewer category 8-1 and 8-6, respectively.
  4. Area tabulation:  
Site Area = 2.64 ac.  
Area of Street Dedication = 0.00 ac.  
Net Site Area = 2.64 ac.
  5. Number of lots proposed by this plan is 2.
  6. Lot lines and lot areas are sealed for informational purposes only and are subject to change upon final completion.
  7. Proposed land use is single family detached residential units.
  8. Soil on-site consists of blacktop clayey silt loam (maping unit 11C) according to sheet 19 of the Soil Survey for Montgomery County, Maryland (interim report dated July, 1995).
  9. This site is within the Potomac Subregion Master Plan.
  10. A Natural Resources Inventory Map/Forest Stand Delimitation Plan has been approved by the M&P & PC Environmental Planning Division, referenced no. 2-28200.
  11. The entire site drains to the Matta Branch Waterway. The State of Maryland has designated this portion of the Matta Branch Watershed as Class I Watershed.
  12. Stormwater management standard waiver category request: APPROVED FEB. 15, 1996.
  13. Servicing utility companies are:  
- Potomac Electric Power Co. (Electric)  
- Bell Atlantic (Telephone)  
- Wash. Gas (Natural Gas)  
- W.S.S.C. (Water)
  14. EX WELL ON LOT 1 TO BE ABANDONED AND SEALED BY A LICENSED WELL DRILLER PRIOR TO BUILDING PERMIT APPROVAL FOR LOT 2.
  15. EX SEPTIC TRENCH ON LOT 1 TO BE ABANDONED AND NEW SEPTIC INSTALLED AND APPROVED PRIOR TO SUBMITTING MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION LOT 2.

FINAL FOREST CONSERVATION PLAN  
**APPROVAL**

Plan No. 1-98050  
Date: 6/1/98  
Signature: [Signature]

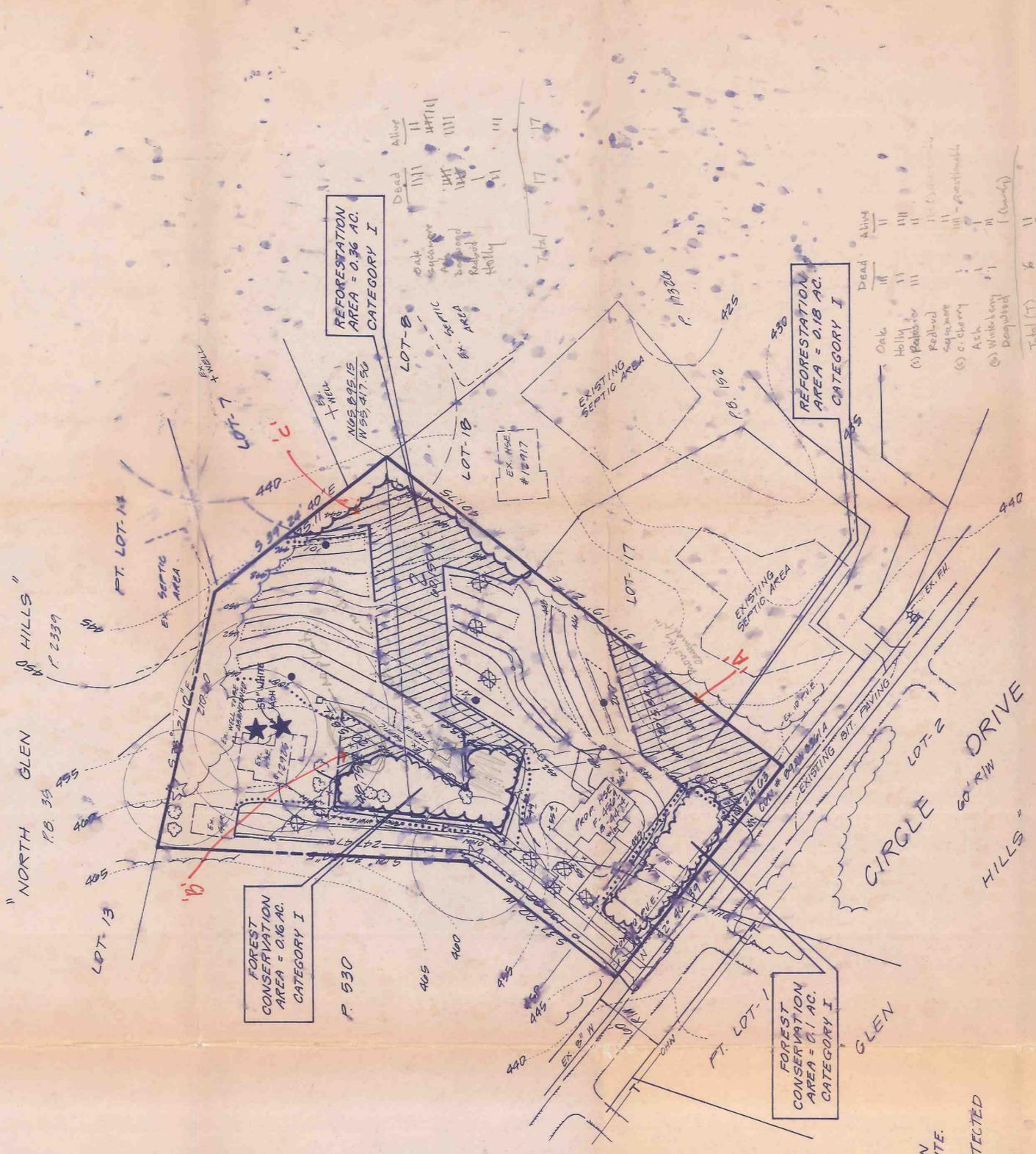
TAX MAP FR 341  
M&P.C. 217 NW 10

FOREST CONSERVATION PLAN  
F. 528

**NORTH GLEN HILLS**  
4TH ELECTION DISTRICT  
MONTGOMERY COUNTY, MARYLAND

**Macris, Hendricks and Glascock, P.A.**  
Engineers • Planners • Surveyors  
Suite 120  
9220 Wightman Road  
Gaithersburg, Maryland 20879  
(301)670-0840

Drawn: CHK  
Date: 4/6/98  
Job No.: 95-341  
Sheet: 1 of 2



PREPARED FOR:  
MR. KEVIN SMART  
2801 RESEARCH BLVD. SUITE 320  
ROCKVILLE, MD. 20850  
301/940-5100 FAX: 301/975-9020

REVISIONS

SURVEYOR'S CERTIFICATE  
I hereby certify that the boundary shown hereon is correct based on existing deeds and plots recorded among the Land Records of Montgomery County, Maryland, subject to change upon completion of a final survey. Topography from sources noted hereon.

Oct 31, 1997  
Date

[Signature]  
Professional Land Surveyor  
Md. Reg. No. 10712

- KEY
- ★ SPECIMEN TREE TO REMAIN AND BE PROTECTED
  - ☆ SPECIMEN TREE TO REMAIN IF POSSIBLE
  - TREE TO REMAIN
  - ⊗ TREE TO BE REMOVED
  - ~ EXISTING FOREST BOUNDARY
  - ~ FOREST TO REMAIN
  - ▨ REFORESTATION AREA
  - ▤ TREE PROTECTION FENCE
  - ~ PRUNING TRENCH
  - ~ CRITICAL TOIT ZONE

FOREST CONSERVATION WORKSHEET

A. Total area of tract:	2.64 ac.
B. Area within 100 year flood plain:	0.0 ac.
C. Area of land to be used for agriculture:	0.0 ac.
D. Area within WSC or RCOT row/easement responsibility:	2.5 ac.
E. Net tract area:	0.1 ac.
F. Land use category thresholds:	20
G. Net tract area =	0.5 ac.
H. Conservation thresholds:	25 % of net tract area =
I. Existing forest cover:	0.7 ac.
J. Forest cover above afforestation threshold:	0.2 ac.
K. Forest cover above conservation threshold:	0.1 ac.
L. Calculation of marks-even point:	0.6 ac.
M. Forest area to be retained:	0.3 ac.
N. Total area of forest to be cleared:	0.4 ac.
O. Calculation of afforestation requirement:	0.0 ac.
P. Afforestation requirement:	0.0 ac.
Q. Calculation of reforestation requirement:	0.1 ac.
R. Area of forest above conservation threshold to be cleared:	0.4 ac.
S. Forest area below conservation threshold to be saved:	0.0 ac.
T. Planting required for clearing above threshold:	0.0 ac.
U. Credit for forest saved above conservation threshold:	0.0 ac.
V. Credit for forest saved above afforestation threshold:	0.0 ac.
W. Total reforestation requirement:	0.8 ac.
X. Total planting requirement:	0.8 ac.
Y. Afforestation and reforestation:	0.0 ac.
Z. Landscaped areas:	0.0 ac.
Individual/Street Trees:	
Full credit:	0.0 ac.
1/4 credit:	0.0 ac.
Specimen/Champion trees:	0.0 ac.
Total credit:	0.0 ac.
Total forest planting requirement:	0.8 ac.

NOTE: ALL FOREST CONSERVATION REQUIREMENTS MET ON-SITE.

59" WHITE ASH TO BE PROTECTED

#1-98050



# ATTACHMENT D



## MONTGOMEROCOUNTY PLANNING DEPARTMENT THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

August 19, 2016

Kevin Smart  
12915 Circle Drive  
Rockville, MD 20850

Re: 12925 Circle Drive (North Glen Hills Lot 21, Block 7)  
Approved Final Forest Conservation Plan No. 119880500  
Protected White Ash Tree

Dear Kevin Smart:

At the request of a prospective buyer of your property, 12925 Circle Drive, I recently inspected the large white ash tree on 12925 Circle Drive. The tree which is situated next to the home is shown on approved Forest Conservation Plan No. 119880500 as a protected 59 inch DBH (diameter at 4.5 feet above ground) white ash tree. The current size of the tree is 65 inches DBH. Approved Record Plat No. 20796 which includes the property notes that this tree is preserved through a Category II Conservation Easement (Liber 13178 Folio 421). This Conservation Easement requires prior M-NCPPC permission before cutting a tree 6 inches in DBH or greater.

I have reviewed an ISA Tree Risk Assessment done for the tree on August 8, 2016 by Thomas O. Miles from Titan Tree Care. This report is attached. With this report, I inspected the tree on August 18, 2016. There is a cavity at the base of the tree that extends 5 feet underneath the trunk and a few feet up into the trunk of the tree. There are large limbs over the house with signs of Emerald Ash Borer attack and a few of these branches have weak codominant attachments. Approximately 40% of the root structure and root collar is decayed. I learned that the ash tree has not been treated with insecticide as protection against Emerald Ash Borer. Recently, a tree service company pruned multiple large dead and dying limbs off the tree.

**At this time, M-NCPPC approves the cutting and removal of the 65 inch DBH white ash tree and requires a mitigation planting of five (5), three-inch caliper trees to be planted on the property in spring 2017.** The five trees should consist of white oak, black gum, and hickory. Red oak is an approved substitute. Protective enclosures must be installed around the trees to prevent deer damage. Please contact me at 301-495-4564 for an inspection of these trees.

**Future development activity on the property that requires approval of a sediment control permit, will require a Forest Conservation Plan Amendment to be review and approved. This Amendment will require mitigation for the removal of the property's 0.30-acre specimen tree area.**

Sincerely,

A handwritten signature in blue ink that reads "Stephen Peck".

Stephen Peck  
Forest Conservation Inspector  
ISA Certified Arborist MA-4672A  
Development Applications and Regulatory Coordination  
M-NCPPC - Montgomery County Planning Department

Attachment: Thomas O. Miles, August 8, 2016 Tree Risk Assessment of 65 inch DBH white ash tree

# ISA Basic Tree Risk Assessment Form

Client Ryan Mellot Date 8-8-2016 Time 11:00 am  
 Address/Tree location 12925 Circle Drive, Rockville, MD Tree no. 1 Sheet      of       
 Tree species White Ash (Fraxinus americana) dbh 65" Height 80 ft. Crown spread dia. 100 to 200 ft.  
 Assessor(s) Thomas O. Miles, ISA Certified Arborist, #5280A Time frame 1 year Tools used Tape, 6 ft. long board, rubber mallet

## Target Assessment

Target number	Target description	Target zone			Occupancy rate 1 - rare 2 - occasional 3 - frequent 4 - constant	Practical to move target?	Restriction practical?
		Target within drip line	Target within 1 x Ht.	Target within 1.5 x Ht.			
1	House	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	4	NO	NO
2							
3							
4							

## Site Factors

History of failures Limbs have hit house and were dead Topography Flat  Slope  % Aspect       
 Site changes None  Grade change  Site clearing  Changed soil hydrology  Root cuts  Describe The site will have a new house built  
 Soil conditions Limited volume  Saturated  Shallow  Compacted  Pavement over roots  % Describe Roots under foundation  
 Prevailing wind direction      Common weather Strong winds  Ice  Snow  Heavy rain  Describe     

## Tree Health and Species Profile

Vigor Low  Normal  High  Foliage None (seasonal)  None (dead)  Normal 80 % Chlorotic      % Necrotic 20 %  
 Pests Emerald Ash Borer, Anthracnose Abiotic       
 Species failure profile Branches  Trunk  Roots  Describe Trunk and roots are decaying, very large cavities at root flare, EAB damage

## Load Factors

Wind exposure Protected  Partial  Full  Wind funneling  Relative crown size Small  Medium  Large   
 Crown density Sparse  Normal  Dense  Interior branches Few  Normal  Dense  Vines/Mistletoe/Moss   
 Recent or planned change in load factors     

## Tree Defects and Conditions Affecting the Likelihood of Failure

### — Crown and Branches —

Unbalanced crown  LCR 70 % Cracks  Lightning damage   
 Dead twigs/branches  5 % overall Max. dia. 5 Codominant  codominant limbs w/ included bark Included bark   
 Broken/Hangers Number      Max. dia.      Weak attachments  Cavity/Nest hole      % circ.  
 Over-extended branches  Previous branch failures  limbs hit house Similar branches present   
**Pruning history**  
 Crown cleaned  Thinned  Raised  Dead/Missing bark  Cankers/Galls/Burls  Sapwood damage/decay   
 Reduced  Topped  Lion-tailed  Conks  Heartwood decay   
 Flush cuts  Other      Response growth     

Main concern(s) Very large limbs over house and alot of limbs have included bark. The crown is very large and extends over house and lot. The trunk and root flares have extensive decay and large cavity. The tree is not structurally sound.

Load on defect N/A  Minor  Moderate  Significant  Large crown and root flares/trunk are severely  
 Likelihood of failure Improbable  Possible  Probable  Imminent  decaying. Tree will fail.

### — Trunk —

Dead/Missing bark  Abnormal bark texture/color   
 Codominant stems  Included bark  Cracks   
 Sapwood damage/decay  Cankers/Galls/Burls  Sap ooze   
 Lightning damage  Heartwood decay  Conks/Mushrooms   
 Cavity/Nest hole 40 % circ. Depth +5 ft. Poor taper   
 Lean      ° Corrected?     

Response growth       
 Main concern(s) EAB damage to trunk, large holes/decay at roots flares and lower trunk. Decay is very expansive

Load on defect N/A  Minor  Moderate  Significant   
 Likelihood of failure Improbable  Possible  Probable  Imminent

### — Roots and Root Collar —

Collar buried/Not visible  Depth      Stem girdling   
 Dead  Decay  Conks/Mushrooms   
 Ooze  Cavity  40 % circ.  
 Cracks  Cut/Damaged roots  Distance from trunk       
 Root plate lifting  Soil weakness

Response growth none  
 Main concern(s) Root flares and trunk are severely decayed  
Very large cavity under entire trunk of tree

Load on defect N/A  Minor  Moderate  Significant   
 Likelihood of failure Improbable  Possible  Probable  Imminent



# ATTACHMENT E



Experience you can build on.

corporate office  
10 south bentz street  
frederick, maryland 21701  
office 301.607.8031  
info@casengineering.com  
www.casengineering.com

civil • surveying • land planning

January 11, 2017

M-NCP&PC  
Development Review Division  
8787 Georgia Avenue, 2<sup>nd</sup> Floor  
Silver Spring, MD 20910

Attn: Planning Area 3 Reviewer

Re: **CAS Job No. 16-413**  
**12925 Circle Drive, Rockville, MD 20850**  
**Lot 21, Block 7, North Glen Hills, Tax Map FR341**  
**Preliminary Plan #: 11998050A**  
**Forest Conservation (Chapter 22A) Variance Request**

Dear Planning Area 3 Reviewer:

This letter is intended to serve as the Forest Conservation Variance Request pursuant to Section 22A-21 of the Montgomery County Code. The Final Forest Conservation Plan is attached hereto for your review and approval.

### Variance Justification

The applicants, Ryan and Katie Mollet ("Applicants"), are requesting a variance for the impact to and/or removal of several specimen trees located at 12925 Circle Drive, Rockville, MD 20850 (Lot 21, Block 7, North Glen Hills). The subject property proposed for development is comprised of 1.15 acres (49,903 square feet) of land and is currently improved with a single-family home, shared driveway, detached garage, shed and associated appurtenances. The shape of the subject property is "pipestem" with 30-feet of road frontage on the north side of the 60-ft wide Circle Drive Right-of-Way. The subject property is surrounded by single-family homes. A 30-ft wide ingress/egress & utility easement exists over the "pipestem" of the subject property for the benefit of the adjacent lot (12923 Circle Drive, Lot 20, Block 7, North Glen Hills). The majority of the property slopes to the west to east with the driveway portion of the property sloping from north to south towards the Circle Drive Right-of-Way. The existing house is currently served by public water and a septic system.

Preliminary Plan no. 1-19980500 proposed to create the subject property and adjacent Lot 20, Block 7 and was subsequently recorded by Plat No. 20796 on July 22, 1998. A Final Forest Conservation Plan (FFCP) was filed in conjunction with the aforementioned Preliminary Plan and was approved on June 11, 1998. The record plat and previously approved FFCP provided 0.54 acres of reforestation and 0.26 acres of forest conservation. The record plat and FFCP also included A Category II Forest Conservation Easement containing 12,469 square feet (0.3 acres) of critical root zone relating to a 59" White Ash. A second tree, a 33" White Ash, located near the 59" White Ash may have been also included in this easement. However, the second tree is not mentioned on the plat. A Natural Resources Inventory / Forest Stand Delineation Map (#4-19980900) was approved on November 17, 1997 identifying both trees as follows, tree #43 a 33" White Ash

and tree #44 a 59” White Ash. The 33” White Ash was removed some time ago by a previous homeowner. In August of 2016, the formerly identified 59” White Ash was measured and is currently 65” in diameter at breast height (DBH). An August 19, 2016 letter from Stephen Peck, M-NCPPC Forest Conservation Inspector, granted permission to remove the 65” White Ash due to the tree’s poor health and its risk as a hazard tree. The 65” White Ash was removed in December, 2016. Stephen Peck’s letter and additional information about the health of this tree can be found at the end of this letter.

Mitigation planting of five (5), three-inch caliper trees is required for the removal of the 65” White Ash. It is also required that the Final Forest Conservation Plan be amended to extinguish the Category II Forest Conservation Easement in exchange for an equivalent 0.3 acres of offsite forest conservation or through a fee in lieu payment.

The Amended FFCP proposes to raze the existing house and construct a new single-family detached home. The limits of disturbance on the subject property is also revised to allow for construction of a single-family home, driveway and new septic system. Approximately 0.19 acres of Category I Forest Conservation Easement and two specimen trees are located on the property. A contiguous Category I Forest Conservation Easement extends onto the adjacent Lot 20.

Three (3) specimen trees (2 on-site and 1 offsite) are included in this variance request. Tree 483 is onsite and proposed for removal due to its proximity to the proposed septic trench and grading and its poor health. Tree 483 has severe dieback, hollowing, high probability of failure. Trees 600 and 603 will be impacted but will not require removal. Tree 600 is located onsite and is in good condition. Tree 603 is located offsite and could not be accessed for a visual assessment of its health. The following charts indicate the proposed amount of root zone disturbance to each of the three (3) specimen trees.

In summary, the applicant is requesting a variance for the impact to three (3) specimen trees, of which one (1) is proposed for removal.

**Specimen Trees Proposed for Removal**

Tree No.	Common Name	Botanical Name	D.B.H.	C.R.Z. Radius	C.R.Z. Area	% C.R.Z. Area Disturbed	Condition
483	White Ash	<i>Fraxinus Americana</i>	33 in.	50.0 feet	7,854 s.f.	REMOVE	Poor (Remove)

**Specimen Trees to be Saved – Impacted**

Tree No.	Common Name	Botanical Name	D.B.H.	C.R.Z. Radius	C.R.Z. Area	% C.R.Z. Area Disturbed	Condition
600	White Ash	<i>Fraxinus Americana</i>	30 in.	45.0 feet	6,362 s.f.	32.0%	Good (Save)
603	Norway Maple	<i>Acer platanoides</i>	32 in.	48.0 feet	7,238 s.f.	16.3%	N/A (Save)

In accordance with Section 22A-21(b) of the Forest Conservation Law, the following is a description of the application requirements:

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

The one specimen tree (#483) proposed for removal is located in close proximity to the proposed septic trench and grading of the rear yard. Tree 483 is in poor health and has a high probability of failure.

Efforts have been made to preserve on-site specimen tree 600 and off-site specimen tree 603. However, due to their proximity to the proposed development and their large critical root zones, disturbance to these trees is unavoidable. Although these trees are impacted, those impacts have been minimized. Specimen trees impacted by the proposed development can be retained through typical tree preservation techniques, such as root pruning and tree protection fencing. A small area of the existing gravel driveway is located within the existing Category I Forest Conservation Easement and near specimen tree 600. The existing gravel driveway located outside of the limits of disturbance is proposed to be removed by hand so as to protect tree #600 and other nearby trees. This area will be restored by hand as well.

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

The installation of the septic system, construction of the garage and driveway could not be performed without removing specimen tree 483 without impacting specimen trees 600 and 603. The installation of a new septic system is required for the construction of a new home.

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

A Stormwater Management (SWM) Plan will be reviewed and approved by Montgomery County Department of Permitting Services. Applicable SWM requirements will be provided to the maximum extent practicable. Trees proposed for mitigation as well as those trees to be retained will help to improve water quality. None of the subject trees are located within streams, wetlands, floodplains, or associated buffers.

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

The extinguishment of the Category II Forest Conservation easement will be mitigated through a 0.3-acre offsite forest conservation easement or through a fee in lieu payment. Furthermore, eight (8) native trees are proposed as mitigation for the removal of trees 481 and 483. The property is not part of a historic site nor does it contain any historic structures.

In accordance with Section 22A-21(d) of the Forest Conservation Law, the following is a description of the minimum criteria necessary for granting a variance. A variance may not be granted unless the following conditions are achieved. Granting the variance....

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

Granting the variance will not confer a special privilege as the removal and/or disturbance to the specimen trees noted above is the minimum necessary in order to redevelop the property under RE-1 zoning, to provide an adequate onsite septic system, and to meet State and County stormwater management requirements and to ensure proper surface drainage. Furthermore, the loss of certain trees and the need for

a variance is often necessary and unavoidable in order to develop single-family homes on similar sized residential lots containing mature tree cover.

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

The requested variance is not based on conditions or circumstances which are the result of actions by the applicant. The variance is necessitated by RE-1 zoning requirements, passing percolation tests for septic, site topography, required BMP's for stormwater management, necessary grading and reasonable site appurtenances for the use and enjoyment of the property as well as the proximity of subject trees to buildable areas of the lots.

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

The requested variance is necessitated by RE-1 zoning requirements, passing percolation tests and septic system requirements, site topography, required BMP's for stormwater management, necessary grading and reasonable site appurtenances for the use and enjoyment of the property and is not a result of land or building use on a neighboring property.

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

The requested variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen tree being removed or impacted is not within a stream buffer or a special protection area. A Stormwater Management (SWM) Plan will be reviewed and approved by Montgomery County Department of Permitting Services. Furthermore, trees proposed as mitigation will provide shade, water uptake, and water retention.

Should you have any questions or require any additional information, please do not hesitate to contact me.

Sincerely,



Jeffrey A. Robertson  
Branch Manager  
DNR/COMAR 08.19.06.01, Qualified Professional

# ATTACHMENT F



## DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett  
County Executive

Lisa Feldt  
Director

March 1, 2017

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

RE: North Glenn Hills, ePlan 11998050A, FCP amendment application accepted on 1/24/2017

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

---

255 Rockville Pike, Suite 120 • Rockville, Maryland 20850 • 240-777-0311 • 240-777-7715 FAX  
[www.montgomerycountymd.gov/dep](http://www.montgomerycountymd.gov/dep)

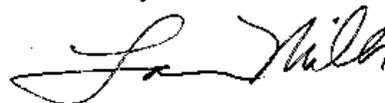
3. The disturbance of trees, or other vegetation, by the applicant does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. Therefore, the variance can be granted under this criterion.
4. The disturbance of trees, or other vegetation, 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 meeting 'conditions of approval' pertaining to variance trees recommended by Planning staff, as well as 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: Doug Johnsen, Senior Planner