

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

Item # **6**
MCPB 5-08-08

MEMORANDUM

Date: April 22, 2008
TO: Montgomery County Planning Board
VIA: Gwen Wright, Chief, Countywide Planning *[Signature]*
Stephen Federline, Supervisor, Environmental Planning *[Signature]*
FROM: Josh Penn, Senior Planner, Environmental Planning *[Signature]*
REVIEW TYPE: Forest Conservation Plan Review
APPLYING FOR: Amendment to a Final Forest Conservation Plan (FCP) – Proposal to remove an additional 4,861 square feet (0.11–acres) of Forest.
PLAN NAME: Cloverleaf Center
PLAN NUMBER: 119881560
REVIEW BASIS: Forest Conservation Regulations, Section 113.A.(1), Regulation No. 1-01AM (COMCOR) 18-01AM
ZONE: I-3
LOCATION: Located northeast of the corner of Father Hurley Boulevard and Crystal Rock Drive in Germantown
APPLICANT: Montgomery County Department of Public Works and Transportation
ENGINEER: Dewberry
HEARING DATE: May 8, 2008

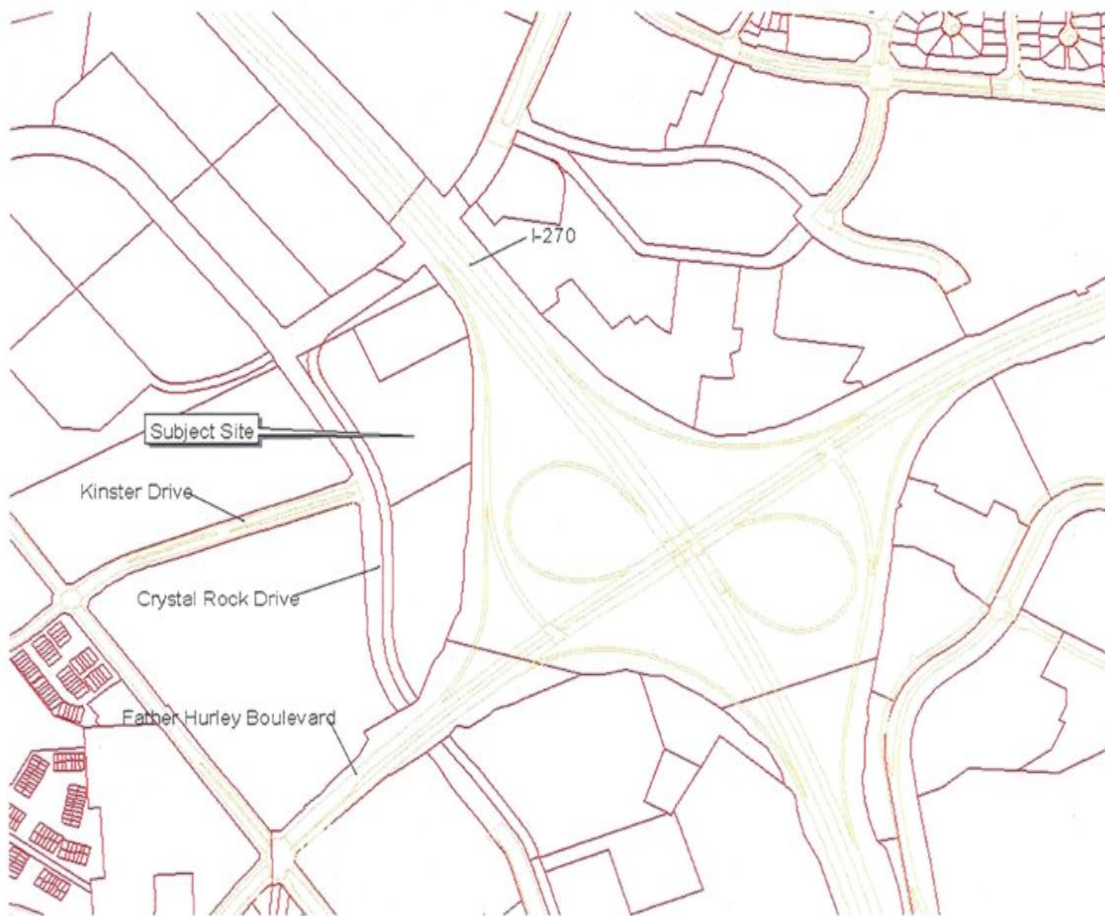
STAFF RECOMMENDATION: Staff recommends approval of the amendment to Preliminary Forest Conservation Plan 119881560, dated April 8, 2008, subject to the following conditions:

1. The Montgomery County Planning Board shall approve a Plat of Correction removing the Forest Conservation Easement prior to issuance of the Sediment Control permit for the project.
2. The applicant shall compensate for the removal of the forest conservation easement by planting an area twice as large as the existing forest conservation easement. Compensation may occur at an approved Forest Conservation Mitigation Bank if an offsite planting area is not available in the watershed.
3. Applicant to submit an offsite location and planting plan to Environmental Planning for approval, with appropriate notes, easements and bonding, or the applicant may submit a certificate of compliance to use an approved Forest Conservation Mitigation bank, prior to issuance of the Sediment Control Permit for the roadway project.

SITE DESCRIPTION

The site is located at the northeast quadrant of Father Hurley Boulevard and Crystal Rock Drive, in Germantown. The Planning Board approved Preliminary Plan 119881560, with conditions, on July 21, 1994.

Vicinity Map



PROPOSED FOREST CONSERVATION PLAN CHANGES

This is an application to amend Final FCP 119881560. The applicant proposes to remove an additional 4,861 square feet (0.11-acre) of forest within the conservation easement. The planting must occur off-site, since there is no on-site location. The applicant proposes to compensate for the removal of the forest conservation easement at a 2:1 ratio.

BACKGROUND

The Montgomery County Planning Board approved preliminary plan 119881560 in May 4 1989. There is a pending site plan for these parcels. The original site development created afforestation, reforestation and retention areas all placed into conservation easements. These conservation areas were approved and plat recorded as a Category I forest conservation easement. (Attachment A)

The retention area directly west and adjacent to Century Boulevard will need to be reduced by 0.11 acres. The request to amend FCP 119881560 is a direct response to Maryland Department of the Environment (MDE) requirements to use a different type of culvert. The culvert type changed when the original MDE plans expired and the project is now being held to current standards. The applicant making the request to amend the Cloverleaf Center FCP (119881560) is Montgomery County Department of Public Works and Transportation as the applicant for the Mandatory referral.

A previous amendment to the forest conservation plan was approved as a minor amendment by Mark Pfefferle on January 9, 2007. This amendment sought to remove an additional 4,858 square feet of existing forest to accommodate a previous culvert and roadway design. The new amendment would be for 4,861 square feet and would replace the January 9, 2007 amendment.

PLANNING BOARD REVIEW AUTHORITY

The Forest Conservation Regulation requires Planning Board action of certain types of modifications to an approved FCP. Section 113.A.(1) of the Forest Conservation Regulation states:

Minor amendments which do not result in more than a total of 5000 square feet of additional forest clearing may be approved by the Planning Directory on a case by case basis. These minor amendments may include field modifications and substituting one area of forest, for retention of another of equal or greater size and value.

This amendment proposes the removal of 4,861 square feet (0.11-acres) of existing forest in a forest conservation easement and could be considered a minor amendment., However the Mandatory Referral is being reviewed by the Planning Board and staff thought it appropriate that both plans go before the Board together.

REVIEW ISSUES

Applicant's Position

Subsequent to the approval of the original FCP in January 2007, major changes to the stream crossing component of the project were made to satisfy conditions placed on the project by DPW&T and the MDE Nontidal Wetlands & Waterways Division. Essentially, the original crossing design consisted of a 3-pipe traditional culvert design, which had been accepted/approved by the agencies in the 1990's; however, this type of stream crossing design is no longer preferred/acceptable. When the applicant requested a permit reauthorization of the

project from MDE for the stream and wetland impacts, MDE required that the design be modified to conform to current standards. At roughly the same time, DPW&T also stipulated that this design change was needed to meet their current requirements. The decision to revise the stream crossing design to a more environmentally sensitive bottomless arch crossing was made in mid-2007. The revised FFCP resubmittal was delayed until the engineering and related reviews as well as the reviews at MDE were completed, so that we knew we had a finalized plan which would not require further tweaks or changes to the FFCP. In preparing the revised plans, Dewberry & Ecotone Consultants coordinated closely to insure that the total proposed forest clearing in excess of that approved in the PFCP did not exceed 5,000 square feet.

Staff Analysis/Position

Staff supports the request for an additional 4,861 square feet of forest removal with 2/1 replacement. This is only slightly larger (3 square feet) than the amendment granted on January 9, 2007 by Mark Pfefferle, and would supersede the earlier amendment. The amendment is being sought solely to comply with governmental agency requirements.

STAFF FINDING


Staff finds the forest removal and removal of the forest conservation easement is necessary to implement the project.

ATTACHMENTS

- Attachment A- Partial Record Plat 19305 (Showing culvert and easement area)
- Attachment B – Montgomery County Planning Board Opinion for Preliminary Plan 119881560 mailed on June 7, 1994
- Attachment C– Letter from Mark Pfefferle, Environmental Planning, dated January 9, 2007 approving a minor amendment for an additional 4,858 square feet of forest removal
- Attachment D – Amended Final Forest Conservation Plan for Seneca Highlands 819940270

NOTE: 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 TO BE EXTINGUISHED BY THE RECORDATION OF THIS PLAT, UNLESS EXPRESSLY DISAPPEARED BY THE PLAN AS APPROVED. THE OFFICIAL PUBLIC FILES FOR ANY SUCH PLAN ARE MAINTAINED BY THE PLANNING BOARD AND ARE AVAILABLE FOR PUBLIC REVIEW DURING NORMAL BUSINESS HOURS.

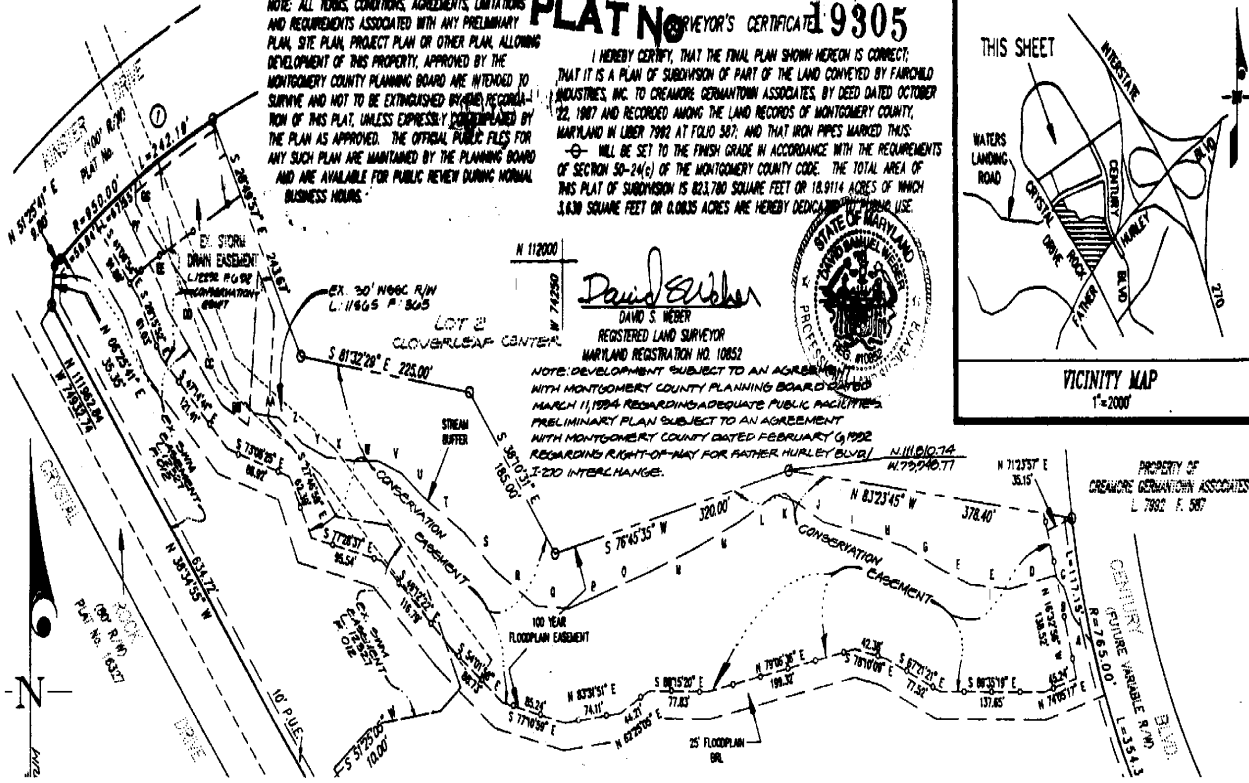
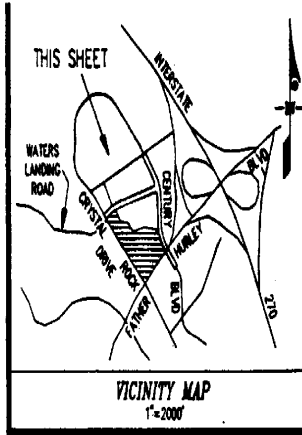
PLAT No. 19305

I HEREBY CERTIFY THAT THE FINAL PLAN SHOWN HEREON IS CORRECT; THAT IT IS A PLAN OF SUBDIVISION OF PART OF THE LAND CONVEYED BY FAIRCHILD INDUSTRIES, INC. TO CREAMORE GERBANTOWN ASSOCIATES, BY DEED DATED OCTOBER 22, 1987 AND RECORDED AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND IN LIBER 7992 AT FOLIO 587; AND THAT IRON PIPES MARKED THIS:  WILL BE SET TO THE FINISH GRADE IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 50-24(c) OF THE MONTGOMERY COUNTY CODE. THE TOTAL AREA OF THIS PLAT OF SUBDIVISION IS 823,780 SQUARE FEET OR 18,911.4 ACRES OF WHICH 3,630 SQUARE FEET OR 0.0835 ACRES ARE HEREBY DEDICATED TO PUBLIC USE.

David S. Weber
 DAVID S. WEBER
 REGISTERED LAND SURVEYOR
 MARYLAND REGISTRATION NO. 10852



NOTE: DEVELOPMENT SUBJECT TO AN AGREEMENT WITH MONTGOMERY COUNTY PLANNING BOARD DATED MARCH 11, 1994 REGARDING ADEQUATE PUBLIC FACILITIES. PRELIMINARY PLAN SUBJECT TO AN AGREEMENT WITH MONTGOMERY COUNTY DATED FEBRUARY 6, 1992 REGARDING RIGHT-OF-WAY FOR FATHER HURLEY BLVD. INTERCHANGE.



PROPERTY OF
 CREAMORE GERBANTOWN ASSOCIATES
 L. 7882 F. 587

CENTURY BOULEVARD E.W.P.
 R. 765.00'
 L. 551.5'

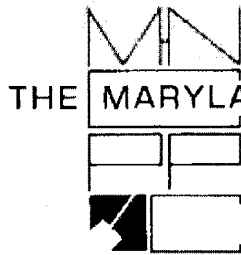
Final FCP 119881560

Cloverleaf Center (Century Boulevard)

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Attachment B – Planning Board Opinion June 7, 1994

Date of Mailing: June 7, 1994



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
8787 Georgia Avenue • Silver Spring, Maryland 20910-3760

Action: Approved Staff Recommendation
(Motion of Comm. Floreen, seconded by Comm. Bauman, with
a vote of 5-0; Comms. Floreen, Bauman, Aron, Floreen and
Richardson voting in favor).

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-88156
NAME OF PLAN: CLOVERLEAF CENTER GERMANTOWN

On 7-13-93, CREAMORE GERMANTOWN ASSOC., submitted a request to revise a previously approved preliminary plan of subdivision of property in the I-3 Zone. On 12-2-93, Preliminary Plan 1-88156 was brought before the Montgomery County Planning Board for a public hearing to consider a revision to the approved conditions. 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 Boards finds Revised Preliminary Plan 1-88156 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-88156, subject to the following conditions:

The Planning Board voted to revise Condition #6 to require that certain area depicted on the plan be dedicated and certain area be placed in reservation. These areas will accommodate future transit service in the I-270 Corridor. In voting to revise this preliminary plan, the Board was mindful of the unique facts and circumstances relative to the treatment of the subject property in the Approved and Adopted Germantown Master Plan and in prior zoning actions. Simultaneous with the Board's action on the preliminary plan, the Board voted to adopt M-NCPPC Resolution 93-23, placing in reservation that certain property contemplated in the revision.

1. Agreement with Planning Board to limit development to 1,384,007 square feet of office space and 881 multi-family dwelling units to be developed in three phases. Phase I includes 403,657 square feet of office space in accordance with Transportation Division memo of 4-28-89 as revised on 9-16-91 and 9-19-91. Phase II includes 881 multi-family dwelling units. Phase III includes 980,350 square feet of office space. Applicant shall not receive any building permits until the necessary road improvements outlined in 6-24-91 Transportation Division memo, as revised on 7-12-91, 9-16-91 and 9-19-91 associated with the phases of development are under construction. Construction means all right-of-way acquired, all contract let with notice to

proceed issues, all bonds posted and necessary PIA's entered into.

2. Dedication along Waters Landing Drive and Century Boulevard in accordance with Germantown Master Plan. Dedication along Crystal Rock Drive and provision for bike path construction along Crystal Rock Drive and Father Hurley Boulevard to be determined at site plan.
3. The applicant shall enter into an agreement with MCDOT and all parties affected by this agreement to either dedicate and/or reimburse the County within a specified time frame for a pro rata share of the planning, design, supervision and acquisition costs related to the need by the County to obtain all necessary rights-of-way as needed for the interchange of Father Hurley Boulevard and I-270. Such agreement must be signed by the applicant within three months of the date of the preliminary plan approval, but in any event prior to any site plan review by the Planning Board. Full compliance with this condition will be confirmed by the Planning Board staff. Failure on the part of the applicant to fully execute the agreement in a timely manner shall make approval of this preliminary plan as to Phases II, III and the additional development in Phase I (209,157 square feet) null and void.
4. Applicant shall conform to the trip reduction guidelines for the I-3 zone as required by Section 59-C-5.43 of the Montgomery County Zoning Ordinance.
5. No driveway to Crystal Rock Drive south of Father Hurley Boulevard unless approved at site plan.
6. (a) Creamore will dedicate a 50 foot wide strip of property adjoining the east side of Century Blvd. to serve as the right-of-way for the Corridor Cities Transitway at or before the time of initial record plat recordation for Phase III. Creamore acknowledges that this 50' strip will separate from Century Blvd. at the southwest corner of lot to provide an approximate 195 foot radius at the curve to follow the alignment of Master Plan Road I-4.

(b) Creamore will revise the preliminary plan to show that a 3.2812 acre portion of the property consisting of Parcel "P" and Outparcel "S" as shown on the Corridor Cities Transitway Plat of Reservation dated 9-23-93 and prepared by Gutschick, Little & Weber, P.A., will be placed into reservation for a proposed transit parking area and/or possible transit station if not included in the dedicated right-of-way for the Corridor Cities Transitway ("Transitway") which may include the interim Transitway approved for said Transitway. The term of the reservation shall expire June 30, 1996. Creamore

may agree to continue the property in reservation for additional periods of time as Creamore may elect.

- (c) The terms and conditions set forth in applicants counsel letter dated July 13, 1993 concerning the required dedication and reservation shall be incorporated herein.
7. No clearing, grading or recording of plat(s) prior to site plan approval. A plan for the design of the regional stormwater management pond to be located in the west boundary of Phase II may be submitted prior to site plan review for approval by the Planning Board.
 8. Conditions of DEP stormwater management concept approval dated 6-20-91.
 9. Address environmental issues outlined in Environmental Division comments dated 6-10-91 (as revised on 7-16-91) and 6-21-91.
 10. Record plat to reflect delineation of 100-year floodplain and stream buffer.
 11. Necessary easements
 12. (a) With respect to all lots/parcels, except Lot P and Lot O, shown on the approved plan, this preliminary plan will remain valid until April 8, 1997. Prior to the expiration of this validity period, a final record plat for all property, except Lot P and Lot O as delineated on the approved preliminary plan must be recorded or a request for an extension must be filed.

(b) With respect to Lot P and Lot O shown on the approved plan, the validity period shall not begin to commence until June 30, 1996 (i.e., the expiration of the reservation term per Condition No. 6 or the expiration of any additional reservation term requested by the Planning Board if agreed to by Creamore ("Determination Date"). The validity period for Lot P and Lot O shall run for a period of three (3) years from the Determination Date. Prior to the expiration of the validity period, a final record plat for all property delineated on the approved preliminary plan as Lot P and Lot O must be recorded or a request for an extension must be filed.

Final FCP 119881560

Cloverleaf Center (Century Boulevard)

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Attachment C – Previous Amendment Letter

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

January 9, 2007

Elliot Totah
Oxbridge Development
600 Jefferson Plaza
Suite 500
Rockville, MD 20852

Re: Final Forest Conservation Plan – Amendment
Property Name: Century Boulevard Extended
Plan Number: 119881560

Dear Elliot:

Based on the review by Environmental Planning staff of the Maryland National Capital Park and Planning Commission, the amended Final Forest Conservation Plan submitted to M-NCPPC on December 18 and November 30, 2006 for the plan identified above, is approved. The amended final forest conservation plan includes an additional removal of 4,858 additional square feet of existing forest. Since there is not practical location on site to mediate the lost forest, the use of a forest conservation bank is acceptable. Please submit a certificate of compliance to use the offsite bank identified on the amended forest conservation plan prior to construction on the roadway.

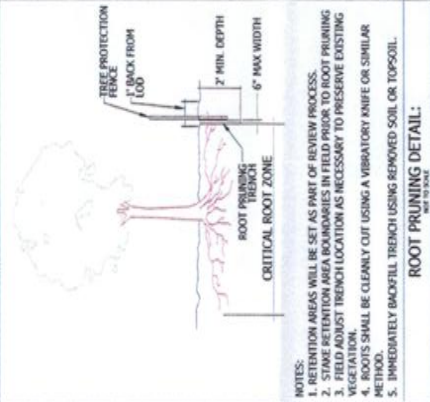
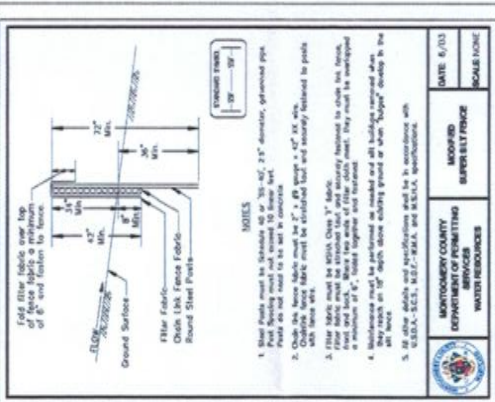
This letter must appear on all reproduced copies of the approved Final Forest Conservation Plan. Any changes from the approved Final Forest Conservation Plan may constitute grounds to rescind or amend any approval actions taken, and to re-evaluate the site for additional or amended plantings. If there are any subsequent additions or modification planned for this development, a separate amendment must be submitted to M-NCPPC for review and approval prior to those changes occurring. If you have any questions regarding these actions, please feel free to contact me at 301-495-4730.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Mark Pfefferle', is written over a faint, larger version of the signature.

Mark Pfefferle, Planner Coordinator
Environmental Planning, Countywide Planning

Cc: FCP File 119881560
Jim Morris (Ecotone)



NOTES:

1. RETENTION AREAS WILL BE SET AS PART OF REVIEW PROCESS.
2. STAKE RETENTION AREA BOUNDARIES IN FIELD PRIOR TO ROOT PRUNING
3. FIELD ADJUST TRENCH LOCATION AS NECESSARY TO PRESERVE EXISTING METHODS.
4. ROOTS SHALL BE CLEANLY CUT USING A VIBRATORY KNIFE OR SIMILAR METHOD.
5. IMMEDIATELY BACKFILL TRENCH USING REMOVED SOIL OR TOPSOIL.

ROOT PRUNING DETAIL:

4.861 Request

reforestation (2:1): 0.22

Reforestation Tabulation for Additional Proposed Clearing

Additional Proposed Clearing: 4.861 Request

reforestation (2:1): 0.22

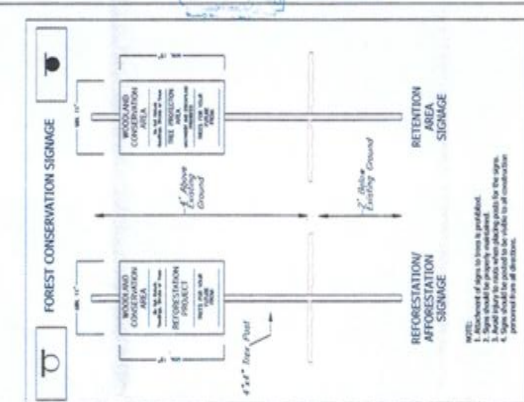
****NOTE:** Due to the highly-constrained nature of the subject site, on-site reforestation for the additional clearing is not practicable. Required off-site reforestation will be met through purchase of required credit at the Parcel A, Hollow Subdivision Forest Mitigation Bank operated by Specific Investments Corporation. A Forest Mitigation Bank Contribution Escrow Agreement has been executed between the bank operator and the Montgomery County Planning Board and recorded in Liber 14422 at folio 162 in the Land Records of Montgomery County, Maryland.

GENERAL COMMENTS

1. This Forest Conservation Plan is provided in accordance with the requirements set forth by the Montgomery County Forest Law, "Trees: Approved Technical Manual", and "Guidelines for Environmental Management of Development in Montgomery County", and in accordance with the EOP requirements established by the approved Preliminary Forest Conservation Plan for the overall "Century Boulevard" Center Corridor, Phase 2 & 3 site prepared by ESA, Inc. and approved by MDCPC on 02/11/2009.
2. Existing and proposed condition plan information was provided by Dominion.
3. Any required staking of topsoil will be performed within the limits of disturbance on site or on designated off-site, non forested locations and established per settlement and erosion control requirements. Topsoil stockpiles that are not located in wetlands or floodplains and shall not disturb any forest preservation areas or settlement and erosion control requirements.
4. Erosion and sedimentation control measures shall be installed and maintained as shown on this plan.
5. Final study area (area within 100' for Final EOP is 29.83 acres).
6. The proposed plan is not intended to be used for any other purpose than that shown on this plan. Any other use shall be determined by the applicant. Refer to Sheet 1 of this plan set for exhibit showing this information.

SEQUENCE OF FOREST CONSERVATION

1. An on-site construction site plan shall be prepared after the limits of disturbance have been defined and approved, but before any clearing or grading begins. The plan shall include a site plan showing the limits of disturbance and erosion control measures. The plan shall also include a site plan showing the limits of disturbance and erosion control measures. The plan shall also include a site plan showing the limits of disturbance and erosion control measures.
2. The clearing and grading shall begin before erosion control measures have been implemented. Appropriate erosion control measures shall include, but are not limited to:
 - a. Root pruning
 - b. Crown reduction or pruning
 - c. Fertilizing
 - d. Mulching
 - e. Vertical mulching
 - f. Root collar excavation
3. A State of Maryland Licensed Tree Expert, or an International Society of Arboriculture certified arborist shall perform all stress reduction measures. Documentation of stress reduction measures must be either observed by the MDCPC Inspector or sent to the MDCPC Inspector at 8187 Georgia Avenue, Silver Spring, MD 20910. The State of Maryland Licensed Tree Expert shall provide a written report to the MDCPC Inspector at the time of the final site plan. The report shall include:
 - a. A list of trees to be removed or reduced.
 - b. A list of trees to be retained.
 - c. A list of trees to be pruned.
 - d. A list of trees to be fertilized.
 - e. A list of trees to be mulched.
 - f. A list of trees to be vertically mulched.
 - g. A list of trees to be root pruned.
 - h. A list of trees to be crown reduced.
 - i. A list of trees to be pruned.
 - j. A list of trees to be pruned.
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 - w. A list of trees to be pruned.
 - x. A list of trees to be pruned.
 - y. A list of trees to be pruned.
 - z. A list of trees to be pruned.
4. Temporary tree protection devices shall be installed per the Forest Conservation Plan and prior to any construction activities. Tree protection devices shall be installed prior to the pre construction meeting. The MDCPC Inspector, in coordination with the EOP settlement control inspectors, may make field adjustments to increase the suitability of trees and forest down as based on the approved plan. Temporary tree protection devices may include:
 - a. Snow fence (four foot high)
 - b. Super tall fence
 - c. Flashing
 - d. Flashing
 - e. Flashing
 - f. Flashing
 - g. Flashing
 - h. Flashing
 - i. Flashing
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 - y. Flashing
 - z. Flashing
5. After construction is completed, an inspection shall be requested. Corrective measures which may be required include:
 - a. Pruning of dead or declining limbs
 - b. Pruning of dead or declining limbs
 - c. Pruning of dead or declining limbs
 - d. Pruning of dead or declining limbs
 - e. Pruning of dead or declining limbs
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 - u. Pruning of dead or declining limbs
 - v. Pruning of dead or declining limbs
 - w. Pruning of dead or declining limbs
 - x. Pruning of dead or declining limbs
 - y. Pruning of dead or declining limbs
 - z. Pruning of dead or declining limbs



FOREST CONSERVATION SIGNAGE

REFORESTATION/AFFORESTATION SIGNAGE

RETENTION AREA SIGNAGE

NOTES:

1. Attachment of signs to trees is prohibited.
2. Signs shall be installed in accordance with the approved plan.
3. Signs shall be maintained in accordance with the approved plan.
4. Signs shall be removed in accordance with the approved plan.
5. Signs shall be replaced in accordance with the approved plan.

MONTEGOMERY COUNTY DEPARTMENT OF PERMITTING AND INSPECTION SERVICES

LANDSCAPE SUPERVISOR

DATE: 6/11/13

SCALE: NONE

THE MONTGOMERY COUNTY DEPARTMENT OF PERMITTING AND INSPECTION SERVICES

LANDSCAPE SUPERVISOR

DATE: 6/11/13

SCALE: NONE

CENTURY BOULEVARD EXTENDED	PLAN PREPARED FOR: OSBERGE DEVELOPMENT AT CLOVERBEE, L.L.C. 600 JOHNSON PLAZA, SUITE 550 ROCKVILLE, MARYLAND 20852
SECOND SECTION DISTRICT	APRIL 2008
FINAL FOREST CONSERVATION PLAN	Ecotone Project 0622

SHEET 2 OF 2

Ecotone Inc.
 Environmental, Cultural, Historical, & Stream Reformation
 Forestry & Wetland Creation, & Stream Reformation
 P.O. Box 11048 Beltsville, MD 20740-1104
 Phone: 301-261-2222 Fax: 301-261-2227 www.ecotone.com

THE MONTGOMERY COUNTY DEPARTMENT OF PERMITTING AND INSPECTION SERVICES

LANDSCAPE SUPERVISOR

DATE: 6/11/13

SCALE: NONE

THE MONTGOMERY COUNTY DEPARTMENT OF PERMITTING AND INSPECTION SERVICES

LANDSCAPE SUPERVISOR

DATE: 6/11/13

SCALE: NONE

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SCALE: NONE

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DATE: 6/11/13

SCALE: NONE