



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

MCPB
Item No.: 4
Date: 12-8-16

Beall's Mount: Preliminary Plan No. 120160230

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Staff Report Date: 11/28/16

Description

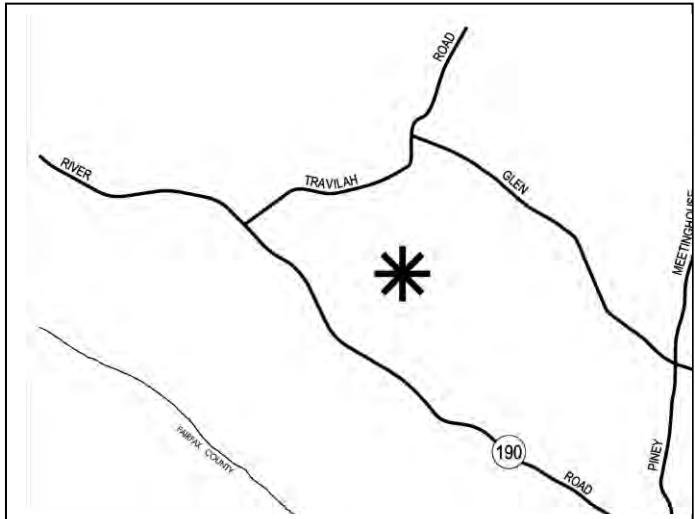
Beall's Mount: Preliminary Plan No. 120160230

Request to subdivide an unrecorded parcel to create three lots for three detached single-family dwellings; located at 12220 Stoney Creek Road, 500 feet south of Meadow Farm Road; 21.59 acres; RE-2 zone; 2002 *Potomac Subregion Master Plan*.

Submitted date: March 14, 2016

Applicant: Rod Escobar/ The Robert & Florence Sanders Farm Trust
Chapter 50, Chapter 22A

Staff Recommendation: Approval with conditions.



Summary

- Staff recommends **approval** with conditions.
- The Application includes a Forest Conservation Plan and a Chapter 22A variance for the impact to six trees that are 30 inches or greater diameter at breast height ("DBH").
- The Application includes Stream Valley Buffer Averaging in accordance with the *Environmental Guidelines*.
- The Application is consistent with the recommendations of the 2002 *Potomac Subregion Master Plan*.
- The proposed lots meet the standards of development in the RE-2 Zone.
- Stoney Creek Road is a Rustic Road.

SECTION 1 – RECOMMENDATION AND CONDITIONS

Preliminary Plan No. 120160230: Staff recommends approval of the Preliminary Plan and associated Preliminary Forest Conservation Plan, subject to the following conditions:

- 1) This Preliminary Plan is limited to three lots for three, single-family detached dwelling units.
- 2) The Applicant must include the stormwater management concept approval letter and Preliminary Plan Resolution on the Certified Preliminary Plan approval or cover sheet(s).
- 3) The Applicant must comply with the following conditions of approval for the Preliminary Forest Conservation Plan No. 120160230 (“FCP”), approved as part of this Preliminary Plan:
 - a. A Final Forest Conservation Plan must be approved by M-NCPPC Staff prior to recordation of the plat and address the following conditions:
 - i. The Final Forest Conservation Plan must be consistent with the approved Preliminary Forest Conservation Plan.
 - ii. Tree protection measures must be shown on the plan for existing trees to remain.
 - b. Applicant must have all required site inspections performed by M-NCPPC staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
 - c. The Applicant must record a Category I Conservation Easement (“Easement”) over all areas of forest retention, forest plantings and environmental buffers as specified on the approved Forest Conservation Plan. The Category I Conservation Easement approved by the M-NCPPC Office of the General Counsel must be recorded in the Montgomery County Land Records by deed prior to the start of any demolition, clearing, or grading on the Subject Property, and the Liber Folio for the easement must be referenced on the record plat.
 - d. The Applicant must execute a two-year Maintenance and Management Agreement approved by the M-NCPPC Office of General Counsel prior to the start of any demolition, clearing or grading on the Property. The maintenance and management agreement is required for all forest planting areas credited toward meeting the requirements of the Forest Conservation Plan, including the reforestation of environmental buffers.
 - e. The Applicant must provide financial surety to the M-NCPPC Planning Department for the 2.30 acres of new forest planting prior to the start of any demolition, clearing, or grading on the Property.
 - f. The Applicant must install permanent forest conservation easement signage along the perimeter of the conservation easements in all areas, as shown on the forest conservation plan, or as amended by the M-NCPPC forest conservation inspector.
 - g. The Applicant must comply with all tree protection and tree save measures shown on the approved FCP. Tree save measures not specified on the FCP may be required by the M-NCPPC forest conservation inspector.
 - h. The limits of disturbance (LOD) on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.
- 4) The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated August 4, 2016, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the

recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

- 5) Prior to issuance of access permits, the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
- 6) Entrances on Stoney Creek Road must be constructed in the same locations identified on the Certified Preliminary Plan.
- 7) The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated July 15, 2016, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 8) The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service (“MCDPS”) – Well and Septic Section in its letter dated September 20, 2016, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Well and Septic Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 9) The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS) Fire Code Enforcement Section in its letter dated June 16, 2016, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Fire Code Enforcement Section provided that the amendments do not conflict with other conditions of Preliminary Plan approval.
- 10) The Applicant must dedicate and show on the record plat(s) dedication for Stoney Creek Road, as shown on the Preliminary Plan.
- 11) The certified Preliminary Plan must contain the following note:

“Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of building permit(s) approval. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board’s approval.”

- 12) The record plat must show necessary easements.
- 13) The Adequate Public Facility (“APF”) review for the Preliminary Plan will remain valid for 85 months from the date of mailing of this Planning Board Resolution.

14) The Subject Property is within the Churchill High School cluster area. The Applicant must make a School Facilities Payment to MCDPS at the high school level at the single-family detached unit rate for all units for which a building permit is issued and a School Facilities Payment is applicable. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.

SECTION 2 – PROPERTY LOCATION AND DESCRIPTION

The subject property is located at 12220 Stoney Creek Road, 500 feet south of Meadow Farm Road and consists of a 21.59 acre unplatted parcel (P835, Tax Map EQ343) zoned RE-2 ("Property" or "Subject Property"). The Subject Property is located north of Bracken Hill Lane and south of Meadow Farm Road within the "Travilah" community area of the 2002 Potomac Subregion Master Plan ("Master Plan").

The area surrounding the Subject Property is developed with single-family detached houses in the RE-2 zone. The Property is improved with an existing house, detached garage and associated outbuildings, which will remain on one of the three proposed lots. The Subject Property fronts on and has access to Stoney Creek Road, a rustic road, with an existing 50-foot-wide right-of-way and a pavement width of approximately 20 feet.



Figure A – Vicinity

The Property slopes at approximately 4.4% from the east along Stoney Creek Road, west to the existing house. The average slope increases to about 17.1% from the rear of the house, west, where a stream and a farm pond exist. There are pockets of slopes steeper than 25% and highly erodible soils within this overall area behind the house. The Property also contains 5.57 acres of stream valley buffer of which 2.02 acres

contains forest. The Subject Property is within the Watts Branch watershed; a Use I-P watershed. The Countywide Stream Protection Strategy rates the condition of streams in this watershed as fair.



Figure B – Aerial

SECTION 3 – PROPOSAL

Proposal

Preliminary plan application No. 120160230, Beall's Mount ("Application" or "Preliminary Plan") proposes to subdivide the Subject Property into three lots. The existing house and outbuildings will remain on the largest lot and two new single-family detached homes will be constructed on the other two lots (Figure C). The Property has an existing driveway on Stoney Creek Road which will remain in its current configuration where it intersects the roadway. Two additional driveways will be constructed on Stoney Creek Road. All three lots will be served by an on-site private well and septic system, to be constructed in the locations shown on the Preliminary Plan (Attachment 1). The use of private well and septic is consistent the Property's W-6 and S-6 category. The well and septic system serving the existing house will remain; alternative well and septic locations have been identified in accordance with MCDPS requirements in case one of the existing systems fail. Stormwater quantity and quality will be managed

on each lot via dry wells and non-rooftop disconnect. This Application also includes a forest conservation plan and a tree variance for impact to six specimen trees on the Property.

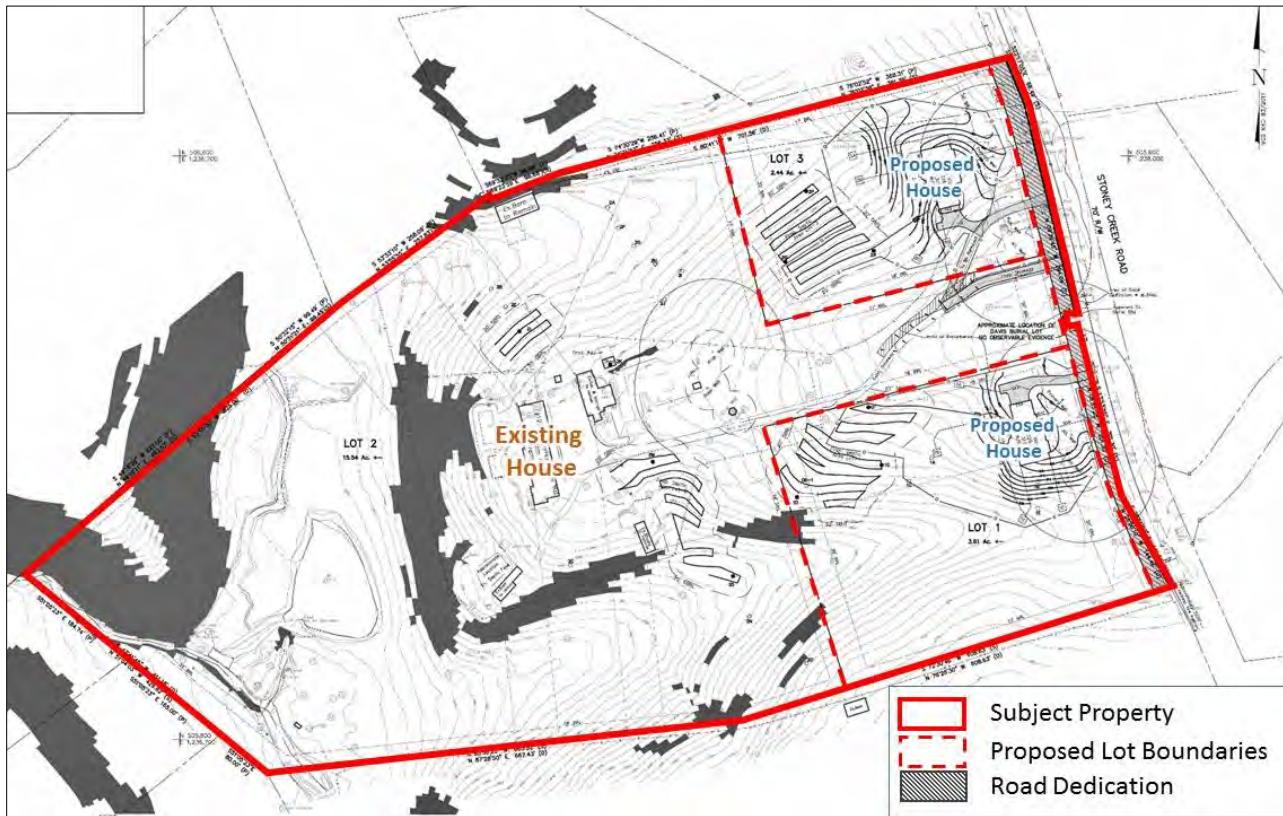


Figure C – Preliminary Plan

SECTION 4 – ANALYSIS AND FINDINGS

Conformance to the Master Plan

2002 Potomac Subregion Master Plan

The Property is in the Travilah Community, which is described in the 2002 Potomac Subregion Master Plan. The Master Plan is silent on this specific Property, but describes the Travilah community thus:

"This central and southern portion of the Potomac Subregion is a low-density area that acts as a transition from the higher densities of Potomac and North Potomac to lower densities in Darnestown and the natural environment of the Potomac River. This community is under intense development pressure and contains natural features of County and State significance.... Like Darnestown, Travilah is a more rural portion of the Subregion, and the area's dependence on septic

systems has ensured low-density residential neighborhoods...The area is dominated by low-density, single-family detached residential development in the R-200, RE-1, RE-2, and RE-2C Zones, (p. 80)".

The stream that runs through the eastern side on the Property is part of Sandy Branch, a tributary of the Watts Branch. The Master Plan states:

"Protecting the Subregion's water resources is critical. The area contains several exceptionally healthy aquatic ecosystems. In addition, the Watts Branch drains to the Potomac River just north and upstream of the WSSC Potomac Water Filtration Plant, directly affecting raw water quality, (p. 13)."

Of the Watts Branch Watershed, the Master Plan states:

"Watts Branch has the highest concentration of unique environmental features in the Subregion. Although Watts Branch watershed has its headwaters outside the Subregion, it has three significant tributaries—Piney Branch, Greenbriar Branch, and Sandy Branch—that are large, highly sensitive, and whose headwaters lie entirely within the Subregion. Water quality in Watts Branch is generally fair with the exception of two subsheds in Piney Branch and Lower Sandy Branch which have good water quality, (p. 16)".

The Preliminary Plan includes three lots for three single-family detached dwellings on private well and septic systems, which is consistent with the low-density development recommended in the Master Plan. The land use and density proposed for this Property is consistent with the RE-2 zoning in place and the recommendations of the *2002 Potomac Subregion Master Plan*. The three lots proposed are well below the maximum density of ten lots permitted on the Property under the RE-2 zone. Proposed Lot 3 is at the western side of the Property, and includes the on-site stream and stream valley buffer. Based on the recommendations of the Master Plan for projects in the Watts Branch watershed and the Sandy Branch tributary, protective measures are being implemented to protect the Subregion's water resources. As conditioned, the stream valley buffer and existing forest will be placed in a conservation easement and the Applicant will reforest 2.30 acres of stream valley buffer as described in the environmental section below. As proposed the Application substantially conforms with the recommendations adopted in the *2002 Potomac Subregion Master Plan*.

Rustic Roads Functional Master Plan (1996)

The Rustic Roads Advisory Committee ("RRAC") has reviewed the Application to determine if it has any effect on Stoney Creek Road, a rustic road. The Applicant presented the RRAC with two development options for them to review, one with a shared driveway and the current proposal with three separate driveways accessing Stoney Creek Road. In its letter dated June 7, 2016, (Attachment 2) the RRAC expressed that it preferred the option that preserved the existing driveway with two additional driveways accessing Stoney Creek Way.



Figure D – Existing Entrance on Stoney Creek Road (facing south)

The RRAC believed that a fire department compliant shared driveway would have undesirable results. The option recommended by the RRAC and proposed by the Applicant better preserves the rustic entry (Figure D) features and hedgerow lining the existing driveway. The new single driveways are narrower than what would be required for a shared driveway and will access Stoney Creek Road at points that minimize impacts to the rustic road. As proposed, the Preliminary Plan is consistent with recommendations in the *2001 Potomac Subregion Master Plan* and *1996 Rustic Road Functional Master Plan*.

Public Facilities

Roads and Transportation Facilities

The Subject Property is located on the west side of Stoney Creek Road in Potomac. The three proposed lots will have their own driveways on Stoney Creek Road. Vehicle parking is provided on-site on driveways and/or in garages.

According to the *Rustic Roads Functional Master Plan*, a rustic road must have a 70-foot-wide right-of-way, therefore, the Preliminary Plan shows dedication 35 feet from the centerline of Stoney Creek Road, to accommodate half of the recommended minimum 70-foot-wide right-of-way. A sidewalk is not required along the Property frontage because of the rustic road designation.

Local Area Transportation Review (LATR)

A traffic study is not required to satisfy the LATR test because the development of two new single-family detached units will generate fewer than 30 trips during the weekday morning (6:30 to 9:30 a.m.) and evening (4:00 to 7:00 p.m.) peak-hour.

Transportation Policy Area Review (TPAR)

The Property is in the Rural West Policy Area. According to the 2012-2016 Subdivision Staging Policy, the Rural West Policy Area is exempt from the TPAR roadway test and transit test; therefore, no TPAR General District Transportation Impact Tax payment is required.

The Application has been reviewed by the MCDOT who determined that the Property has adequate vehicular access and sight distance by transmittal letter dated, August 4, 2014 (Attachment 3). The proposed access to the Subject Property and the individual lots, as shown on the Preliminary Plan, is adequate to serve the proposed development.

Other Public Facilities and Services

Other public facilities and services are available and adequate to serve the proposed lots. On-site well and septic systems are proposed to serve each dwelling unit. The use of individual, on-site well water service and septic systems is consistent with the existing W-6 and S-6 services categories designated for the Property. The Application has been review by MCDPS – Well and Septic Section, who determined the proposed well and septic locations are acceptable as shown on the approved well and septic plan dated September 20, 2016 (Attachment 4).

The Application has been reviewed by the Montgomery County Department of Permitting Services Fire Code Enforcement Section who determined that the Property has adequate access for fire and rescue vehicles as shown on the approved Fire Department Access Plan dated June 16, 2016. (Attachment 5). Other public facilities and services, police stations, and health services are currently operating within the standards set by the Subdivision Staging Policy Resolution currently in effect.

The Application is in the Churchill High School Cluster which is operating at an inadequate level (more than 105 percent utilization) at the high school level (113.5 percent) according to the current Subdivision Staging Policy. Therefore, the Applicant must make a School Facilities Payment to MCDPS at the high school level at the single-family detached unit rate for all units for which a building permit is issued. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.

The MCDPS Stormwater Management Section approved the stormwater management concept for the project on July 15, 2016. The approved concept proposes to meet the required stormwater management goals via drywells and non-rooftop disconnects (Attachment 6). Other public facilities and services are available and adequate to serve the proposed lots.

Environment

Environmental Guidelines

A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) #420161040 for the Property was approved on January 14, 2016. The NRI/FSD identified all the required environmental features on and adjacent to the Property, as further described in the *Environmental Guidelines for Management of Development in Montgomery County* (Environmental Guidelines).

The Property is within the Watts Branch watershed, which is classified by the State of Maryland as Use I-P waters. The Property is not located within a Special Protection Area or the Patuxent River Primary Management Area. The NRI/FSD identified a perennial stream, wetlands, in-stream farm pond (man-made), steep slopes and slopes with highly erodible soils. In addition, the NRI/FSD also identified a high priority existing forest stand of 2.02 acres along the stream at the rear of the Property.

The Property slopes down from the front of the Property along Stoney Creek Road to the existing house at an approximate slope of 4.4%. The average slope increases to about 17.1% from the house to the rear of the Property where a stream and a farm pond exist. There are pockets of slopes steeper than 25% within this overall area behind the house. Additionally, there are highly erodible soils on slopes between 15% and 25% present on most of the slopes adjacent to the existing house and back to the stream channel. The Application will not impact the steep slopes and highly erodible soils identified on the NRI/FSD.

The proposed boundary of the Easement at the rear of the existing house differs in some locations from the approved stream valley buffer (“SVB”) shown on the Preliminary Plan and the NRI/FSD. In this case, the SVB, which is located at the top of the steep slope, would be immediately adjacent to the existing pool and residential structure allowing no spacing between the residential living space and the Easement. Staff recommends creating a 40-foot gap between the existing residential structure and the Easement boundary to reduce any potential Easement violations in the future. To compensate for the amount of SVB not protected by the proposed Easement, the process of buffer averaging was used.

The *Environmental Guidelines, Section V-A1* provides the option for buffer compensation to offset buffer encroachment to be reviewed on a case-by-case basis. One method of compensation is “buffer averaging,” which permanently protects environmentally comparable on-site areas outside the delineated stream buffer in exchange for the allowance of encroachment elsewhere in the delineated buffer. The following criteria must be met:

1. *Reasonable alternative for avoidance of the buffer are not available;*

The existing residential structure was built and the additions were constructed prior to the SVB being identified and located on the approved NRI/FSD. The Applicant has also limited development for the two proposed lots to the front portion of the Property well outside of the SVB.

2. *Encroachment into the buffer has been minimized;*

The Applicant does not propose any encroachments into the approved SVB. The SVB line runs along the top of the steep slope on which the existing structure was placed. The SVB is directly adjacent to the pool structure leaving no gap between the structure and the proposed

conservation easement to allow maintenance or access. To avoid any potential forest conservation easement violation in the future it was decided to place the easement line 40-feet west of the pool structure instead of following the SVB line as is typically done.

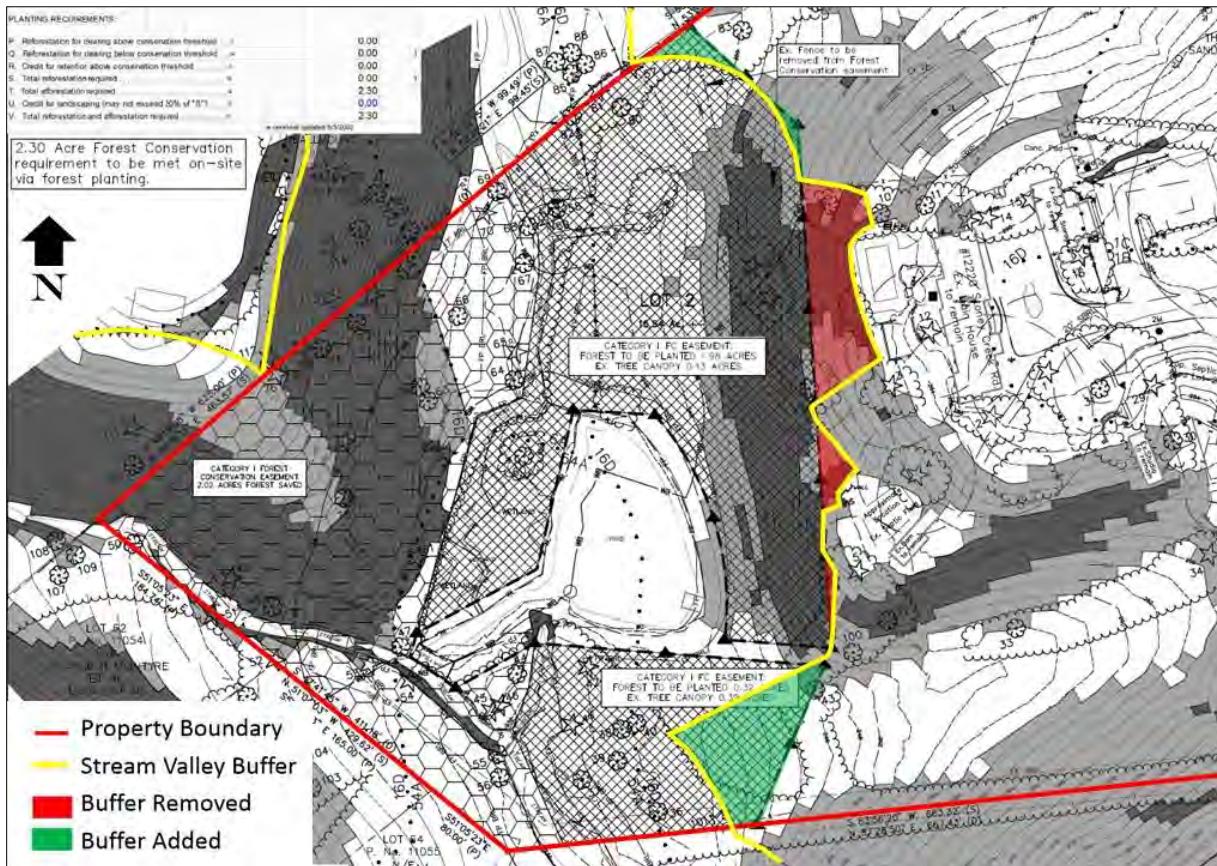


Figure E – Buffer Averaging

3. Existing sensitive areas have been avoided (forest, wetlands and their state-designated buffers, floodplain, steep slopes, habitat for rare, endangered, and threatened species and their associated buffers);

This area of the SVB that is not being protected with a Category I Conservation Easement is considered steep slopes with a grade of approximately 30%. This area of the SVB is an open grassed area with scattered trees. Except for this area of SVB not within the proposed Easement the remaining environmentally sensitive areas have been avoided by locating the proposed dwellings and associated well and septic systems in front of the existing house, closer to Stoney Creek Road.

4. The proposed use is consistent with the preferred use of the buffer;

The area of the SVB not being placed in the proposed Easement is an open grassed area with tree cover and located on a section of steep slopes. This area will most likely not be developed

in the future and will remain in its current state. As such, it will function in the same manner as it is currently.

5. *The plan design provides compensation for the loss of buffer function;*

The Applicant proposes to use “stream buffer averaging” to compensate for the amount of SVB not being protected with Easement. The area of SVB not included in the proposed Easement is approximately 8,815 square feet. As compensation, the Applicant proposes to place 8,980 square feet of additional land outside of, but adjacent to, the SVB into Easement. This additional area will be planted with new forest. The loss in SVB protection has been compensated for by increasing the area of conservation easement outside of and adjacent to the SVBs, both southeast and northeast of the existing farm pond near the Property lines.

Forest Conservation

The Application meets the requirements of Chapter 22A of the Montgomery County code. An FCP has been submitted for review as part of this Application (Attachment 7). Based on the total tract area of this parcel and the Land Use Category on the Forest Conservation Worksheet, development of this site results in an afforestation requirement of 2.30 acres. The Applicant proposes to meet this requirements of the forest conservation plan by retaining the 2.02 acres of existing high priority forest and planting 2.30 acres of SVB. All retained forest, planted forest, SVB and wetland areas shown on the FCP will be placed into a Category I Conservation Easement. The existing pond, spillway and maintenance access path to the pond will remain outside of any conservation easement in order to allow periodic maintenance to be performed on this structure.

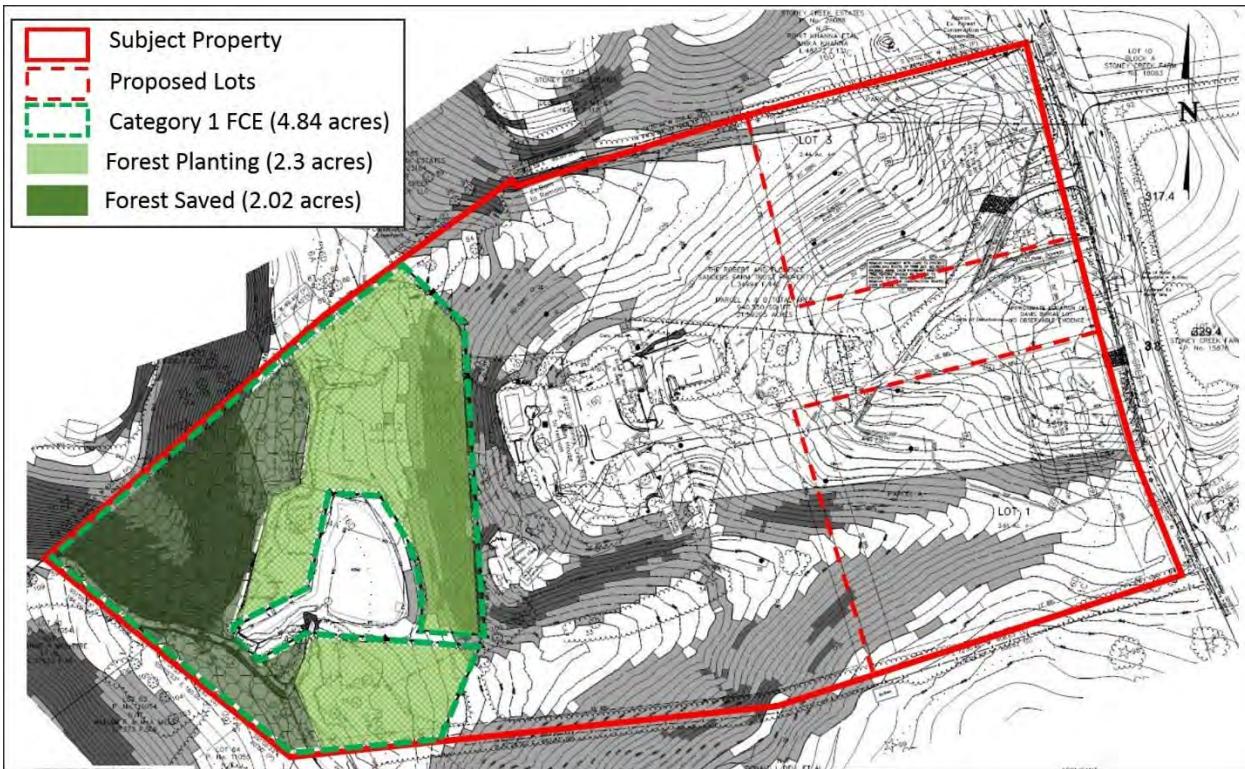


Figure F – Forest Conservation

Forest Conservation Variance

Section 22A-12(b)(3) of the 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 diameter at breast height ("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 impacts to trees identified as high priority for retention and protection, therefore, the Applicant has submitted a variance request for these impacts.

Variance Request - The Applicant submitted a variance request in a letter dated August 31, 2016 (Attachment 8). The Applicant requests a variance to impact six specimen trees that are 30 inches or greater DBH and are considered high priority for retention under Section 22A-12(b)(3) of the County code (Table 1). None of these six trees are proposed for removal.

Table 1: Variance Trees to be impacted

Tree Number	Species	DBH Inches	Percent of CRZ Impacted	Condition
19	Black Cherry (<i>Prunus serotina</i>)	35"	23%	Good to Fair; No removal, impacts only
22	Black Walnut (<i>Juglans nigra</i>)	42"	28%	Good; No removal, impacts only
23	Black Walnut (<i>Juglans nigra</i>)	32"	49%	Good; No removal, impacts only
24	Silver Maple (<i>Acer saccharinum</i>)	57"	19%	Good; No removal, impacts only
25	Virginia Pine (<i>Pinus virginiana</i>)	36"	27%	Fair; No removal, impacts only
26	Silver Maple (<i>Acer saccharinum</i>)	50"	24%	Fair; No removal, impacts only

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.

The *2002 Potomac Subregion Master Plan* recommends RE-2 for this area with limited sewer and water line access. As a result, this Property relies on well and septic systems. The location of the proposed homes is dictated by the location of the wells and septic systems and the building restriction lines on each of the lots. Lot 3 is particularly constrained in this regard which results in the unavoidable impacts to four trees (Trees 23-26). Lot 1 in turn also impacts one tree (Tree 19) due to the placement of the required septic field for the proposed house. Tree 22 will be impacted by the realignment of the entry drive south of Tree 22 for the existing house. However, some of the impacts to Tree 22 are being off-set by the careful removal of the existing driveway in the northeast region of the tree's CRZ.

Not being able to request a variance from Section 22A-12(b)(3) would constitute an unwarranted hardship on the Applicant by not being able to develop the site in the manner required. Therefore, Staff concurs that the Applicant has a sufficient unwarranted hardship to justify a variance request.

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 #19, #22, #24, #25 and #26 will have approximately 20 percent to about 30 percent of their CRZs impacted and are expected to recover from this damage given the appropriate follow-on care. Tree #23 is projected to have 49 percent of its CRZ impacted and will require additional protective and follow-on care to recover from this impact.

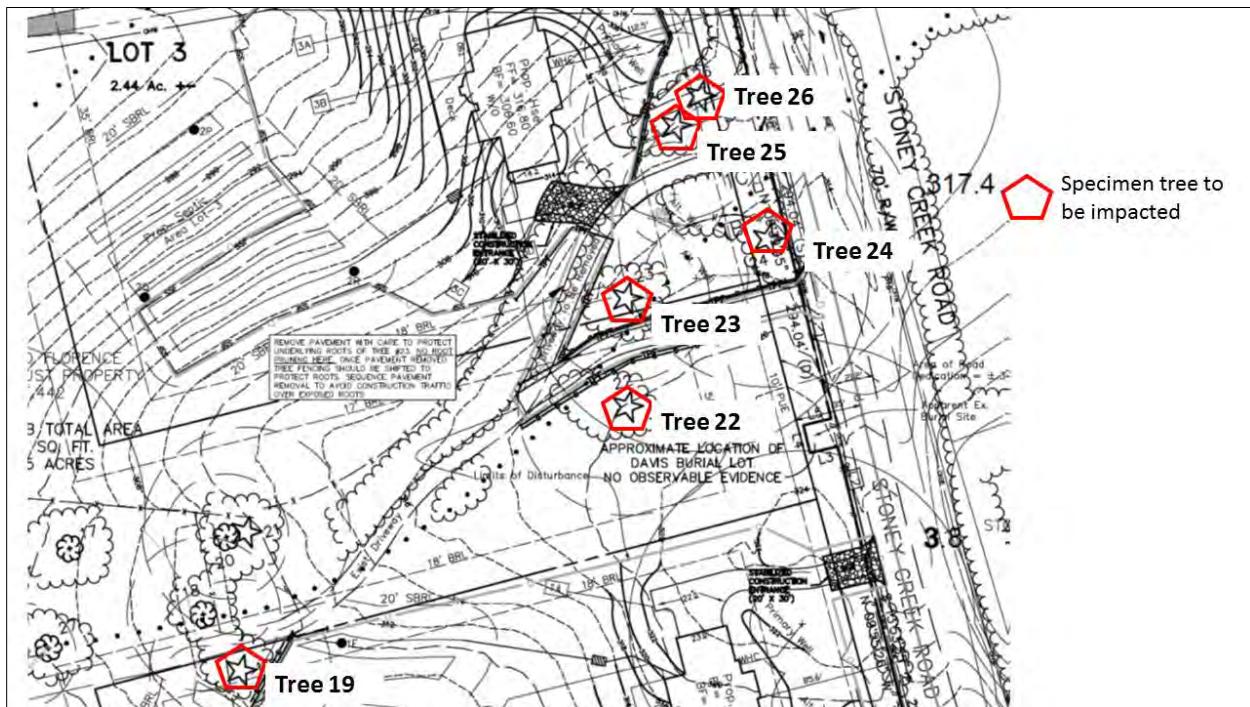


Figure G – Specimen Trees Impacted

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 in the review of the variance request and the proposed forest conservation plan:

Variance Findings - Staff has made the following determination based on the required findings that granting of the requested variance:

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

Granting the variance will not confer a special privilege on the Applicant as impacting the six trees and the removal of the six trees is due to the location of the trees and necessary site design requirements. The Applicant proposes impacts to six trees ranging from 23 percent impact up to approximately 49 percent impact. Staff believes that all of the impacted trees will recover from these impacts. 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.

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 trees being impacted are not located within a stream buffer and these trees should recover from these impacts. 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 are six trees proposed to be impacted in this variance request. M-NCPPC does not require mitigation for specimen trees that are impacted, but not removed. Therefore, no mitigation is required in this case.

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 October 11, 2016. Under Section 22A-19(c), the County Arborist has 30 days to provide a recommendation back to the Planning Board, otherwise the recommendation must be presumed to be favorable. Staff received a favorable recommendation from the County Arborist in a letter dated October 24, 2016 (Attachment 9).

Variance Recommendation

The FCP meets all applicable requirements of Chapter 22A of the County Code. Therefore, Staff recommends that the Planning Board approve Applicant's request for a variance from Chapter 22A and approve the FCP with the conditions cited in this Staff Report.

Compliance with the Subdivision Regulations and Zoning Ordinance

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision taking into account the recommendations included in the 2002 Potomac Subregion Master Plan, and for development of single-

family detached homes. The lots are consistent with the low-density development envisioned by the Master Plan and are adequately sized to accommodate the on-lot well and septic systems.

The Property consists of an unplatted parcel, Parcel P835 on Tax Map EQ343 (21.59 acres/940,460 sq. ft.) in the RE-2 zone. The Applicant is dedicating 0.34 acres (14,810 sq. ft.) along the Property frontage leaving a net tract area of 925,650 square feet.

Table 2 – RE-2 Zone Development Standards

PLAN DATA	Zoning Ordinance Development Standard	Proposed for Approval by the Preliminary Plan
Minimum Lot Area	87,120 sq. ft.	104,980 sq. ft. minimum
Minimum Lot Width at Building Restriction Line	150 ft.	150 ft. minimum
Minimum Lot Frontage	25 ft.	125 ft. minimum
Setbacks		
- Front	50 ft. Min.	50 ft. minimum ¹
- Side	17 ft. Min./35 ft. total	17 ft./35 ft. minimum ¹
- Rear	35 ft. Min.	35 ft. minimum ¹
Maximum Potential Residential Dwelling Units	10	3
Maximum Lot Coverage	25%	25% maximum
MPDUs	Not Required	-
TDRs	Not Required	NA

¹ As determined by MCDPS at the time of building permit.

The lots were reviewed for compliance with the dimensional requirements for the RE-2 zone as specified in the Zoning Ordinance. The lots as proposed meet all the dimensional requirements for area, frontage, and width, and can accommodate a reasonably sized detached home that would meet setbacks in that zone. A summary of this review is included in Table 2. The Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the Preliminary Plan.

Citizen Correspondence and Issues

The Application was submitted and noticed in accordance with all required procedures. Application signs were posted along the Property's frontage on Stoney Creek Road. The Applicant held a pre-submission meeting with the citizens on January 28, 2016 on-site (12220 Stoney Creek Road) from 6-7pm.

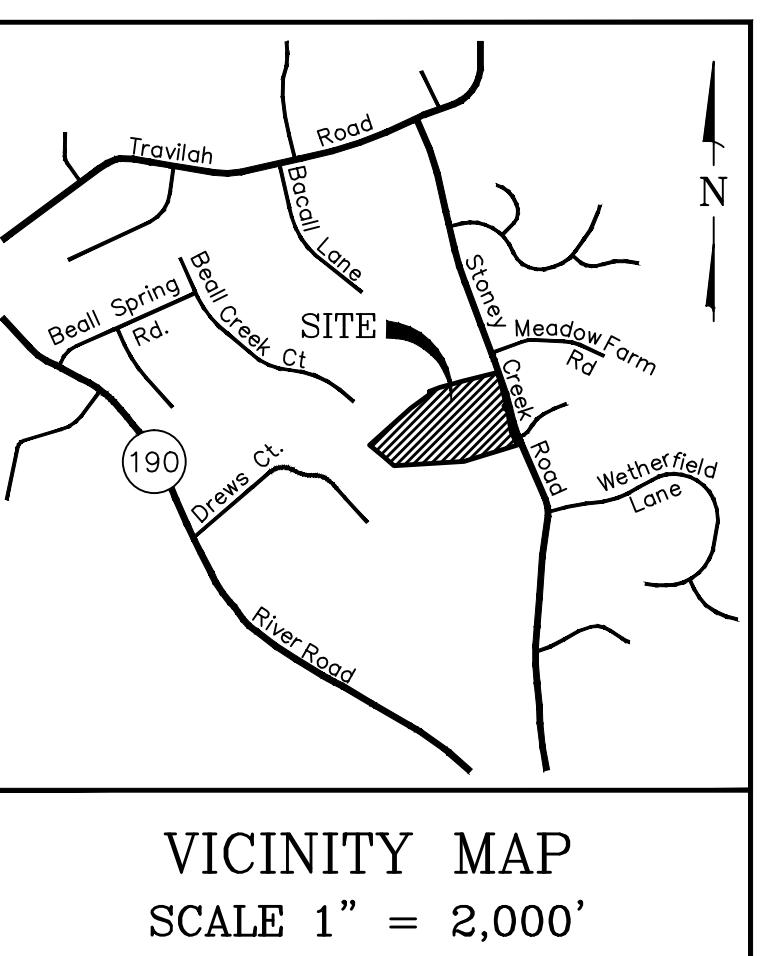
According to the meeting minutes (Attachment 10) provided by the Applicant, one community member and the representative for another citizen attended the meeting. At the meeting the Applicant presented the Preliminary Plan, answered questions regarding the proposed plan and explained why the Category 1 Conservation Easement covering the stream valley buffer could not be replaced with a Category 2 and regularly mowed. To date, Staff has not received any correspondence regarding the Preliminary Plan.

CONCLUSION

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conform to the recommendations of the *2002 Potomac Subregion Master Plan* and *1996 Rustic Roads Functional Master Plan*. Access and public facilities will be adequate to serve the proposed lots, and the application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan. Therefore, approval of the application with the conditions specified above is recommended.

Attachments

- 1) Preliminary Plan No. 120160230
- 2) The Rustic Roads Advisory Committee recommendation letter
- 3) MCDOT letter
- 4) Well and Septic Section letter
- 5) Fire Code Enforcement Section letter
- 6) Stormwater Management concept letter
- 7) Preliminary Forest Conservation Plan No. 120160230
- 8) Tree variance request letter
- 9) County Arborist letter
- 10) Community meeting minutes



PERCOLATION CERTIFICATE

I hereby certify that the percolation/water table test sites as shown on this plan have been field surveyed.

Date _____ Barry E. Hoyle
Professional Land Surveyor
MD Reg. No. 21135
Expiration Date: June 21st, 2018

**PRELIMINARY PLAN
PARCEL-835
BEALLS MOUNT PP#12160230
LIBER 34994 FOLIO 442
6TH ELECTION DISTRICT - MONTGOMERY COUNTY - MARYLAND**

MHG Macris, Hendricks & Glascock, P.A.
Engineers • Planners
Landscape Architects • Surveyors
Project No. 94.313.31
Sheet 1 of 1

TAX MAP EQ WSSC 216NW12 & 216NW13

PREPARED FOR:
The Robert & Florence Sanders Farm Trust
c/o Mr. Rod Escobar
12220 Stoney Creek Road
Potomac, MD 20854
Tel: 240-876-0211

Professional Certification

I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed Professional Engineer under the Laws of the State of Maryland, and my License No. 16920, Expiration Date: 04/21/2018

Proj. Mgr. Dac Designer Dac
Date Scale
Jan. 2016 1"=50'
Phone 301-670-0340
Fax 301-948-6993
www.mhgpca.com

June 7, 2016

David A. Crowe
Macris, Hendricks and Glascock, P.A.
9220 Wightman Road, Suite 120
Montgomery Village, MD 20886-1279

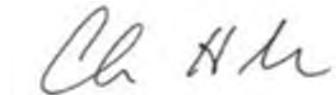
RE: Bealls Mount Preliminary Plan # 120160230
Stoney Creek Road, rustic

Dear Mr. Crowe:

We are writing to thank you for requesting our review of the Bealls Mount Preliminary Plan which involves the creation of three residential lots, the addition of two new driveways and the retention of an existing brick driveway along Stoney Creek Road, a Rustic Road. We would like to express our appreciation for the preservation of the existing driveway and surrounding mature trees that you propose. Normally we request that driveways be combined to minimize the impacts on rustic roads, but in this case, by creating three separate driveways, you will be able to retain features that enhance the character of the rustic road. Therefore, the Rustic Roads Advisory Committee supports this project as proposed. We request that the new driveways be no wider than twelve feet.

If you have any questions, you can reach the committee through our staff coordinator, Michael Knapp, at 240-777-6335 or Michael.Knapp@montgomerycountymd.gov.

Sincerely,



Christopher H. Marston, Chair
Rustic Roads Advisory Committee

Committee Members: Todd Greenstone, Thomas Hartsock, Sarah Navid, Audrey Patton, Jane Thompson, Robert Tworkowski

Cc: Jonathan Casey, M-NCPPC
Leslie Saville, M-NCPPC representative, RRAC



DEPARTMENT OF TRANSPORTATION

Isiah Leggett
County Executive

Al R. Roshdieh
Director

August 4, 2016

Mr. Jonathan Casey, Senior Planner
 Area 3 Planning Division
 The Maryland-National Capital
 Park & Planning Commission
 8787 Georgia Avenue
 Silver Spring, Maryland 20910-3760

Jonathan
 RE: Bealls Mount
 Preliminary Plan No. 120160230

Dear Mr. Casey:

We have completed our review of the preliminary plan dated January 2016. This plan was reviewed by the Development Review Committee at its meeting on April 4, 2016. We did not provide this letter within 30 days because of drainage study issues. The supplemental information was submitted June 21, 2016. We recommend approval of the plan subject to the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Department of Permitting Services in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

1. Stoney Creek Road is a rustic road. The applicant will need to coordinate with the Rustic Roads Advisory committee prior to the Planning Board date.
2. Provide necessary dedication of Stoney Creek Road in accordance with the Potomac Subregion Master Plan.
3. Relocation of utilities along Stoney Creek Road to accommodate any required roadway improvements, if necessary, is the responsibility of the applicant.

Office of the Director

101 Monroe St., 10th Floor • Rockville, Maryland 20850 • 240-777-7170 • 240-777-7178 FAX
www.montgomerycountymd.gov/dot

Mr. Jonathan Casey
Preliminary Plan No. 1-20160230
August 4, 2016
Page 2

4. If the applicant decides to use a shared driveway rather than individual driveways, then the proposed common driveway apron needs to be constructed with Fire Department-compliant driveway returns and paved a minimum of twenty (20) feet wide within the public right-of-way. Extend the twenty (20) foot wide paved driveway into the site as necessary to satisfy emergency vehicle access requirement. Coordinate with Ms. Marie LaBaw of MCDPS at marie.labaw@montgomerycountymd.gov or 240-773-8917.
5. If the applicant decides to use a shared driveway rather than individual driveways, then the record plat must reflect a reciprocal ingress, egress and public utilities easement for the common driveway.
6. The private common driveway, if applicable, shall be determined through the subdivision process as part of the Planning Board's approval of a preliminary plan. The composition, typical section, horizontal alignment, profile and drainage characteristics of the private common driveway, beyond the public right-of-way, shall be approved by the Planning Board during their review of the preliminary plan.
7. The sight distance evaluation is acceptable and is included with this letter.
8. Wells and septic systems cannot be located within the right of way or the slope and drainage easements.
9. The storm drainage study is acceptable. The applicant will not be required to make improvements to the downstream county-maintained storm drain system for this plan.
10. This project is located in the Rural West Policy Area. Therefore, there is no TPAR payment required.
11. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operations Section at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
12. Label the right-of-way and existing pavement widths on the certified Preliminary Plan.

Mr. Jonathan Casey
Preliminary Plan No. 1-20160230
August 4, 2016
Page 3

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact William Whelan, our Development Review Area Engineer for this project at wiliam.whelan@montgomerycountymd.gov or (240) 777-2173.

Sincerely,



Gregory M. Leck, Manager
Development Review Team
OTP

120160230 Bealls Mount - MCDOT final plan review ltr.docx
Enclosures (sight distance certification)

cc:	Rod Escobar	The Robert & Florence Sanders Farm Trust
	Dave Crowe	Macris, Hendricks & Glascock, P.A.
	Preliminary Plan folder	
	Preliminary Plan letters notebook	
cc-e:	Sam Farhadi	MCDPS RWPR
	Marie LaBaw	MCDPS Land Development
	William Whelan	MCDOT OTP

Mr. Jonathan Casey
Preliminary Plan No. 1-20160230
August 4, 2016
Page 4

Rod Escobar
The Robert & Florence Sanders Farm Trust
12220 Stoney Creek Rd.
Potomac, MD 20854

DAVE CROWE
MACRIS, HENDRICKS & GLASCOCK, P.A.
9220 WIGHTMAN ROAD SUITE 120
MONTGOMERY VILLAGE, MD 20886



MONTGOMERY COUNTY, MARYLAND
DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION
DEPARTMENT OF PERMITTING SERVICES

SIGHT DISTANCE EVALUATION

Facility/Subdivision Name: Beall Mount Preliminary Plan Number: 1-20160230

Street Name: Stoney Creek Road Master Plan Road Classification: Rural Rustic

Posted Speed Limit: 30 mph

Street/Driveway #1 (LOT 1) Street/Driveway #2 (LOT 2)

Sight Distance (feet)	OK?
Right 751'	<u>OK</u>
Left 359'	<u>OK</u>

Sight Distance (feet)	OK?
Right 200'	<u>OK</u>
Left 203'	<u>OK</u>

Comments: _____

Comments: 200' right entrance view is blocked by an existing hill

GUIDELINES

Classification or Posted Speed (use higher value)		Required Sight Distance in Each Direction*
Tertiary	- 25 mph	150'
Secondary	- 30	200'
Business	- 30	200'
Primary	- 35	250'
Arterial	- 40	325'
	(45)	400'
Major	- 50	475'
	(55)	550'

*Source: AASHTO

Sight distance is measured from an eye height of 3.5' at a point on the centerline of the driveway (or side street) 6' back from the face of curb or edge of traveled way of the intersecting roadway where a point 2.75' above the road surface is visible. (See attached drawing)

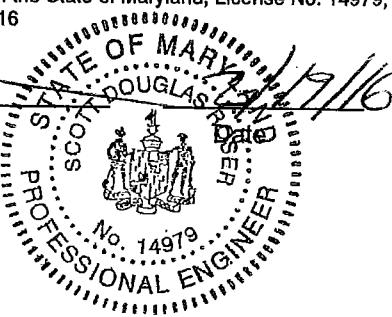
ENGINEER/ SURVEYOR CERTIFICATE

I hereby certify that this information is accurate and was collected in accordance with these guidelines and that these documents were prepared or approved by me, and that I am a licensed Professional Engineer under the laws of the State of Maryland, License No. 14979, Expiration Date: 07/02/2016

Signature

14979

PLS/P.E. MD Reg. No.



Montgomery County Review:

Approved

Disapproved:

By: WJW

Date: 04/04/16



MONTGOMERY COUNTY, MARYLAND
DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION
DEPARTMENT OF PERMITTING SERVICES

SIGHT DISTANCE EVALUATION

Facility/Subdivision Name: Beall Mount Preliminary Plan Number: 1-20160230

Street Name: Stoney Creek Road Master Plan Road
Classification: Rural Rustic

Posted Speed Limit: 30 mph

Street/Driveway #1 (LOT 3) Street/Driveway #2 (_____)

Sight Distance (feet)	OK?
Right <u>301'</u>	<u>OK</u>
Left <u>519'</u>	<u>OK</u>

Sight Distance (feet)	OK?
Right _____	_____
Left _____	_____

Comments:

Comments:

GUIDELINES

Classification or Posted Speed (use higher value)	Required Sight Distance in Each Direction*
Tertiary - 25 mph	150'
Secondary - 30	200'
Business - 30	200'
Primary - 35	250'
Arterial - 40	325'
(45)	400'
Major - 50	475'
(55)	550'

*Source: AASHTO

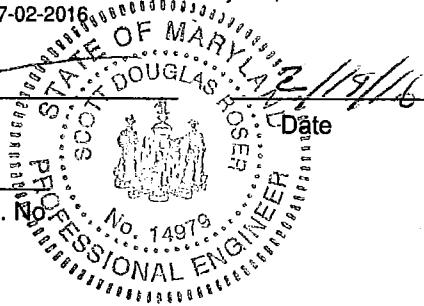
Sight distance is measured from an eye height of 3.5' at a point on the centerline of the driveway (or side street) 6' back from the face of curb or edge of traveled way of the intersecting roadway where a point 2.75' above the road surface is visible. (See attached drawing)

ENGINEER/ SURVEYOR CERTIFICATE

I hereby certify that this information is accurate and was collected in accordance with these guidelines and that these documents were prepared or approved by me, and that I am a licensed Professional Engineer under the laws of the State of Maryland, License No. 14979, Expiration Date: 07-02-2016.

Signature

14979



PLS/P.E. MD Reg. No. 14979

Montgomery County Review:

Approved

Disapproved:

By: W.P.W.

Date: 14/04/16



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Diane Schwartz Jones
Director
Montgomery County
RECEIVED

MEMORANDUM

SEP 26 2016



September 20, 2016

Planning Department

TO: Cathy Conlon, Development Review
Maryland National Capital Park and Planning Commission

FROM: Diane Schwartz Jones, Director
Department of Permitting Services

SUBJECT: Status of Preliminary Plan: Bealls Mount
120160230

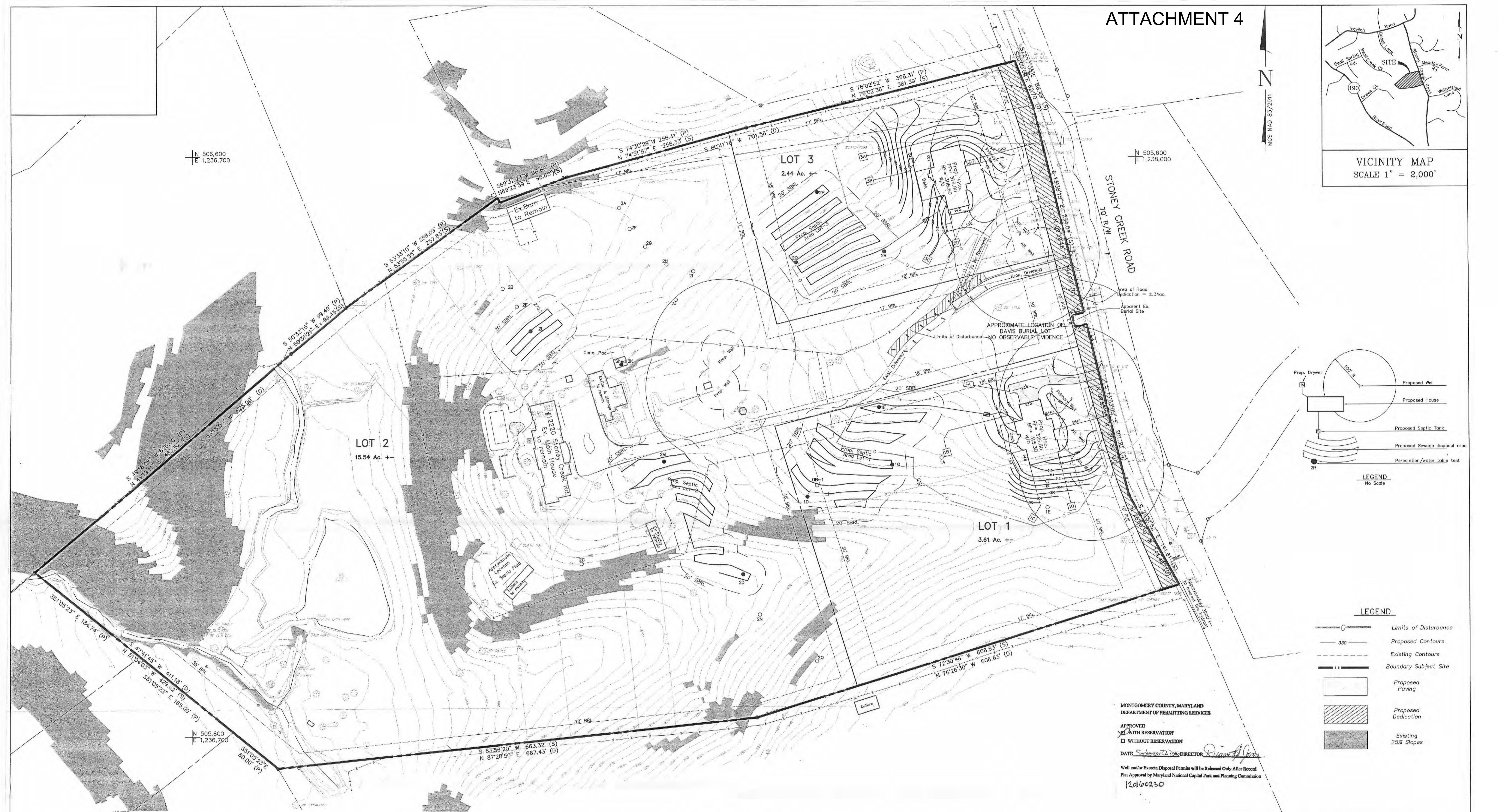
This is to notify you that the Well & Septic Section of MCDPS approved the plan received in this office on September 14, 2106.

Approved with the following reservations:

1. The record plat must be at the same scale as the preliminary plan, or submit an enlargement of the plat to match the preliminary plan.
2. The record plat must show the septic reserve area as it is shown on this plan.

If you have any questions, please contact Heidi Benham at (240) 777-6318.

ATTACHMENT 4



PRELIMINARY PLAN PARCEL-835 BEALLS MOUNT PP#412160230 LIBER 34994 FOLIO 442 6TH ELECTION DISTRICT - MONTGOMERY COUNTY - MARYLAND

TAX MAP EQ

PREPARED FOR:
The Robert & Florence Sanders Farm Trust
c/o Mr. Rod Escobar
12220 Stoney Creek Road
Potomac, MD 20854
Tel: 240-876-0211

PERIODIC CERTIFICATION

I hereby certify that these documents were prepared under my direction and supervision and that they are a true and accurate representation of the information contained therein. I am a duly licensed Professional Engineer under the Laws of the State of Maryland, License No. 16800, Registration Date: 04/10/1986

MHG Macris, Hendricks & Glascock, P.A.
Engineers • Planners • Landscape Architects • Surveyors
9220 Wightman Road, Suite 120
Montgomery Village, Maryland 20886-1279
Phone 301.670.0840
Fax 301.948.0693
www.mhgpca.com

Professional Certification

I hereby certify that these documents were prepared under my direction and supervision and that they are a true and accurate representation of the information contained therein. I am a duly licensed Professional Engineer under the Laws of the State of Maryland, License No. 16800, Registration Date: 04/10/1986

Proj. Mgr. Dac Designer Dac
Date: Jan. 2016 Scale: 1"=50'
Project No. Sheet 94.31.31 1 of 1



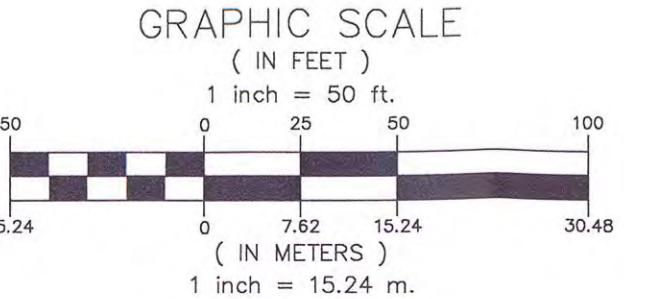
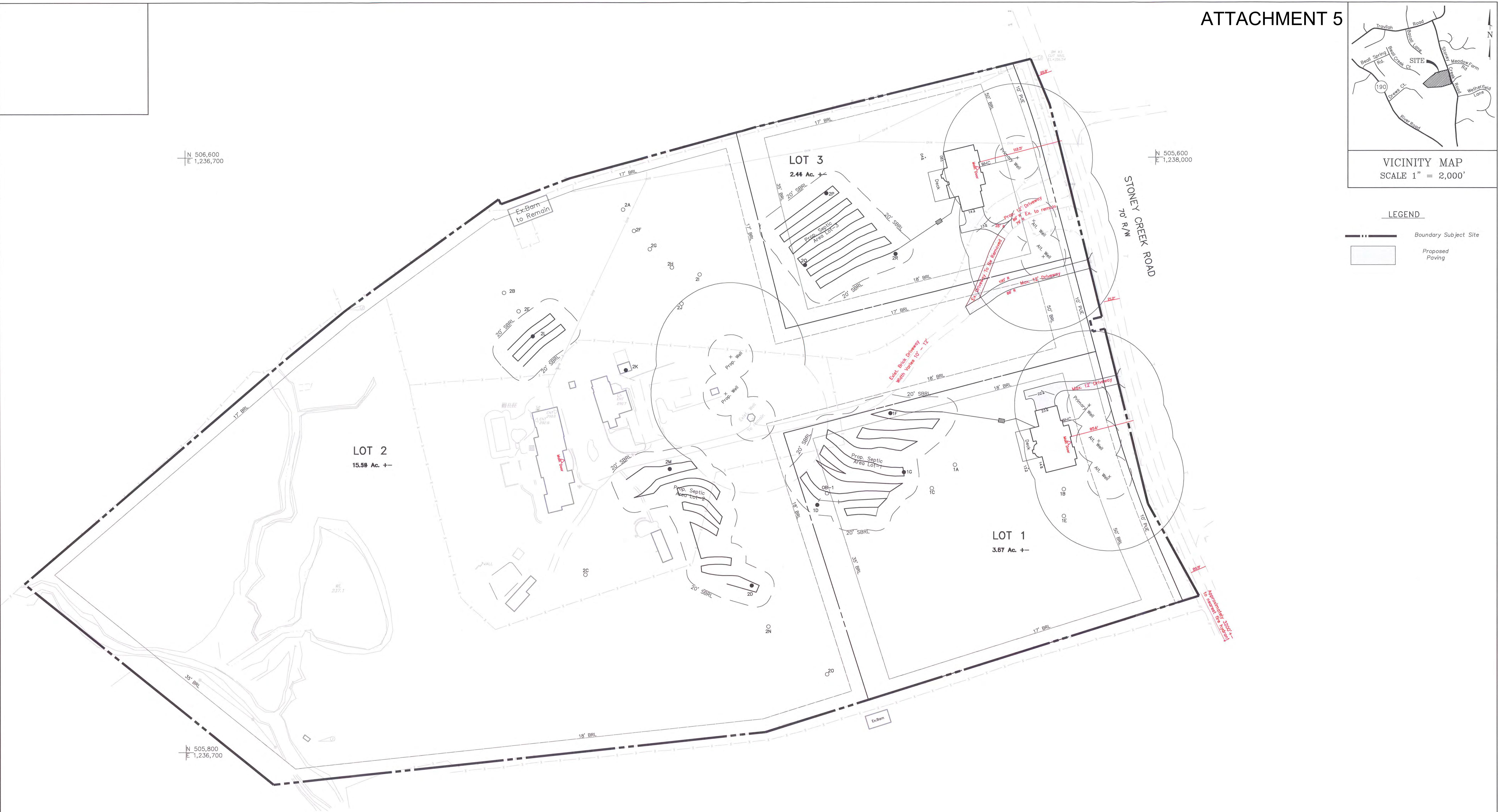
FIRE MARSHAL COMMENTS

DATE: 16-Jun-16
TO: David Crowe
Macris, Hendricks & Glascock
FROM: Marie LaBaw
RE: Bealls Mount
120160230

PLAN APPROVED

1. Review based only upon information contained on the plan submitted **16-Jun-16**. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

ATTACHMENT 5



PREPARED FOR:
The Robert & Florence Sanders Farm Trust
c/o Mr. Rod Escobar
12220 Stoney Creek Road
Potomac, MD 20854
Tel: 240-876-0211

NO.	DATE	DESCRIPTION	BY



Professional Certification
I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer in the State of Maryland.
License No. 16905, Expiration Date: 04/21/2016

FIRE CODE ENFORCEMENT
Fire Department Access Review
Review based only upon information contained on this plan. Does not cover unsatisfactory layout resulting from omissions, errors or failure to clearly indicate conditions on this plan. Correction of unsatisfactory layout to afford required access will be required if found upon inspection after installation
BY: 34C FM: 43 DATE: 6/16/16

WSSC 216NW12 & 216NW13

FDA PLAN
PARCEL-835
BEALLS MOUNT PP#120160230
LIBER 34994 FOLIO 442
6TH ELECTION DISTRICT - MONTGOMERY COUNTY - MARYLAND

Proj. Mgr. Dac	Designer Dac
Macris, Hendricks & Glascock, P.A.	
Engineers • Planners	
Landscape Architects • Surveyors	

0220 Wightman Road, Suite 120
Montgomery Village, Maryland
Phone: 301.670.0840
Fax: 301.948.0693
www.mhgp.com

Date: June, 2016
Scale: 1"=50'
Project No.: 94.313.31
Sheet 1 of 1



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Diane R. Schwartz Jones
Director

July 15, 2016

Ms. Amanda Junge
Macris, Hendricks, and Glascock, P.A.
9220 Wightman Road, Suite 120
Montgomery Village, MD 20886

Re: **COMBINED STORMWATER MANAGEMENT CONCEPT/SITE DEVELOPMENT STORMWATER MANAGEMENT PLAN**
 Request for Bealls Mount
 Preliminary Plan #: 120160230
 SM File #: 281724
 Tract Size/Zone: 21.38Ac./RE-2
 Total Concept Area: 0.21 Ac.
 Lots/Block: 1, 2, & 3
 Parcel(s): P835
 Watershed: Watts Branch

Dear Ms. Junge:

Based on a review by the Department of Permitting Services Review Staff, the Combined Stormwater Management Concept/Site Development Stormwater Management Plan for the above mentioned site is **acceptable**. The plan proposes to meet required stormwater management ESD goals via the use of dry wells and non-rooftop disconnect.

The following **items** will need to be addressed **during** the final stormwater management design plan stage:

1. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
2. An engineered sediment control plan must be submitted for lots 1 & 3. If improvements to Lot 2 are enough to require a sediment control permit, it must be an engineered plan and stormwater management must be provided.
3. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
4. Use MCDPS current design standards for all stormwater practices at time of plan submittal.

This list may not be all-inclusive and may change based on available information at the time.

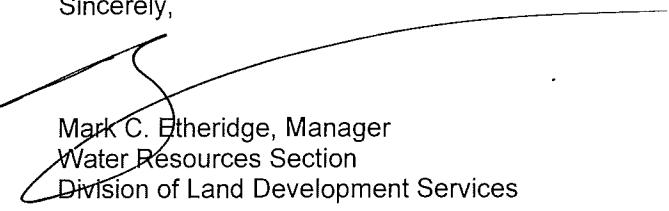
Payment of a stormwater management contribution in accordance with Section 2 of the Stormwater Management Regulation 4-90 **is not required**.

Ms. Amanda Jung
July 15, 2016
Page 2 of 2

This letter must appear on the final stormwater management design plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact **David Kuykendall** at 240-777-**6332**.

Sincerely,




Mark C. Etheridge, Manager
Water Resources Section
Division of Land Development Services

MCE: CN281724 Bealls Mount.DWK

cc: C. Conlon
SM File # 281724

ESD Acres:	0.21
STRUCTURAL Acres:	0.00
WAIVED Acres:	0.00

ATTACHMENT 7





Macris, Hendricks & Glascock, P.A.
Engineers • Planners • Surveyors • Landscape Architects

ATTACHMENT 8
9220 Wightman Road, Suite 120
Montgomery Village, Maryland
20886-1279

Phone 301.670.0840
Fax 301.948.0693

August 31, 2016

Maryland National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Bealls Mount
FCP #120160230
MHG Project No. 94.313.31

To Whom It May Concern:

On behalf of The Robert & Florence Sanders Farm Trust, the applicant of the above referenced Forest Conservation Plan, we hereby request a variance for the impact of six trees as required by the Maryland Natural Resources Article, Title 5, Subtitle 16, Forest Conservation, Section 5-1611, and in accordance with Chapter 22A-21(b) of the Montgomery County Code. In accordance with Chapter 22A-21(b) of the Montgomery County Code, the proposed impact of six trees would satisfy the variance requirements.

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

The subject property has a total tract area of 21.59 acres and has 2.02 acres of forest on-site. Per the applicable zoning, the applicant is proposing to subdivide the property in order to create three residential lots and is proposing the construction of two homes. Due to the associated stormwater requirements, well and septic requirements, required site distance for lot access, and proper grading, the impacts to trees are necessary for development.

Due to public sewer service not being available to the property the proposed development must utilize on-site individual sewage disposal systems. The available areas that were found to be adequate for these facilities have dictated much of the proposed subdivision layout and have influenced the impacts to specimen trees. One of the trees, number nineteen, is directly impacted by the septic system on proposed lot one. The septic area has been designed in order to save tree nineteen but impacts are necessary in order to meet design requirements. The locations of the septic fields have resulted in the proposed homes to be constructed closer to Stoney Creek Road. Trees twenty-five and twenty-six are impacted due to the grading needed to maintain adequate drainage away from the home on lot three.

The primary impacts for trees twenty-two, twenty-three, and twenty-four are due impacts from the proposed driveway construction. Site distance for the entrance for lot two was only available in the location that is proposed which has resulted in the tree impacts. Impacts for tree number twenty-three are less than listed in the impact table due to

mitigation measures that are proposed to carefully remove part of the existing driveway without harming the underlying roots.

All necessary stress reduction measures will be provided and administered by an ISA certified arborist in order to protect the trees.

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

The critical root zones of the affected trees are located within the buildable area on the property. The inability to impact the subject trees would limit the development of the property. This would create a significant disadvantage for the applicant and deprives the applicant of the rights enjoyed by the neighboring and/or similar properties not subject to this approval process.

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;*

A Stormwater Management Concept plan has been submitted for the proposed improvements. Approval of this plan will confirm that the goals and objectives of the current state water quality standards are being met.

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

Pursuant to Section 22A 21(d) Minimum Criteria for Approval.

- (1) The Applicant will receive no special privileges or benefits by the granting of the requested variance that would not be available by any other applicants.

The variance will not confer a special privilege because the impacts are due to the development of the site. As explained above, the critical root zones of all of the subject trees are within the buildable area on the property constricting the development area of the property and cannot be avoided.

- (2) The variance request is not based on conditions or circumstances which result from the actions of the applicant.

The requested variance is not based on conditions or circumstances which are the result of the applicant outside the norm of a development application allowed under the applicable zoning and associated regulations. The variance is based on the proposed site layout that is utilizing the only areas that are available for development.

- (3) The variance is not based on a condition relating to the land or building use, either permitted or nonconforming on a neighboring property.

The requested variance is a result of the proposed site design and layout on the subject property in accord with zoning and subdivision requirements and not as a result of land or building use on a neighboring property.

- (4) Will not violate State water standards or cause measurable degradation in water quality. Full ESD stormwater management will be provided as part of the proposed development.

The variance will not violate State water quality standards or cause measurable degradation in water quality. The trees being impacted are not within a special protection area. We are confident that the Montgomery County Department of Permitting Services

will find the storm water management concept for the proposed project to be acceptable even if conditionally approved.

A copy of the Forest Conservation Plan and a variance tree spreadsheet has been provided as part of this variance request. All impacted trees will receive stress reduction measures (i.e. tree protection fence, root pruning, and fertilization) performed by an ISA certified arborist.

Please contact me via email, at fjohnson@mhgpa.com, or by phone, at (301) 670-0840 should you have any additional comments, concerns, or if any other information is necessary to support this request.

Thank you,

Frank Johnson

Frank Johnson

ATTACHMENT 8

Tree Variance Detail Table

<u>Tree ID #</u>	<u>Species</u>	<u>DBH</u>	<u>Impact/ Removed</u>	<u>% Impacted</u>	<u>Condition</u>	<u>Mitigation</u>
19	Black Cherry	35	Impact Only	23%	Good/Fair	stress reduction measures
22	Black Walnut	42	Impact Only	28%	Good	stress reduction measures
23	Black Walnut	32	Impact Only	49%	Good	stress reduction measures*
24	Silver Maple	57	Impact Only	19%	Good	stress reduction measures
25	Virginia Pine	36	Impact Only	27%	Fair	stress reduction measures
26	Silver Maple	50	Impact Only	24%	Fair	stress reduction measures

*Note: Percentage impacted for tree #23 includes areas of LOD over existing driveway to be removed; actual impacts is less (27%) due to protecting roots under driveway during excavation.



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Lisa Feldt
Director

October 24, 2016

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

RE: Bealls Mount, ePlan 120160230, NRI/FSD application accepted on 12/31/2015

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.

Casey Anderson

October 24, 2016

Page 2

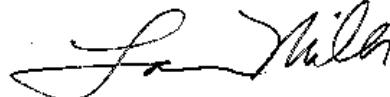
3. The disturbance of trees, or other vegetation, by the applicant does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. Therefore, the variance can be granted under this criterion.
4. The disturbance of trees, or other vegetation, 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

Citizens Meeting 1/28/2016

CFO for Ms. Casey attended

Citizen in attendance asked about the process of subdivision

Dave Crowe explained the steps through the spring- when we might be able to upload the application and get a meeting with the various departments.

Dave Crowe explained intentions to create 2 lots at front of property, creating the remaining acreage into the 3rd lot. He showed where each septic system will be located.

He showed Category 1 conservation easement (most reconstructive)

Citizen asked why it couldn't be a Category 2 so there would still be a mowed backyard where it leads to barns and some behind house.

Mr. Crowe said Category 1 will more than meet "Forest Conservation" owner can sell right to others who can't meet forest requirement. Citizen asked what grey area represents Mr. Crowe answered it is 15-25% slope Lot 3. (the large lot) because of easement (Category 1) leaves perhaps 8 acres for horses.