The Bullis School (a.k.a Blenheim) Parcel A, Block E: Limited Preliminary Plan Amendment No. 12008003B
(In Response to a Forest Conservation Law Violation)

Stephen Peck, Senior Planner, DARC, Stephen.Peck@montgomeryplanning.org, 301-495-4564
Mark Pfefferle, Chief, DARC, Mark.Pfefferle@montgomeryplanning.org, 301-495-4730

Completed: 12/30/16

Description
Limited Amendment, Preliminary Plan No. 12008003B,
The Bullis School (a.k.a. Blenheim) Parcel A, Block E (in response to a forest conservation law violation)

- 10601 Falls Road
- RE1 and RE2 Zone
- Within Potomac Subregion Master Plan
- Applicant: Bullis School Inc.
- Submitted on September 28, 2016

Summary
Request to release 11,875 square feet of existing Category I Conservation Easement and mitigate offsite.
Proposed offsite mitigation, to be acquired from an M-NCPPC-approved forest mitigation bank, will consist of 23,750 square feet of forest plantings or 47,500 square feet of existing forest.
STAFF RECOMMENDATION AND CONDITIONS

Staff recommends approval of the limited amendment to the Preliminary Plan for forest conservation purposes. All other conditions of Preliminary Plan No. 120080030, as contained in the Montgomery County Planning Board’s Opinion dated April 1, 2009, remain in full force and effect except as modified below.

1. **Within thirty (30) days of the mailing date of the Planning Board Resolution approving Preliminary Plan 12008003B, the Applicant must submit a Certificate of Compliance to use an M-NCPCC approved forest mitigation bank to provide 23,750 square feet of mitigation credit consisting of either 23,750 square feet of forest planting or the retention of 47,500 square feet of existing forest. After M-NCPCC approval, the Certificate of Compliance must be recorded in the Land Records of Montgomery County, Maryland.**

2. **Within sixty (60) days of the mailing date of the Planning Board Resolution, the Applicant must record a Category I Conservation Easement by deed, in a form approved by the M-NCPCC Office of the General Counsel, in the Land Records of Montgomery County, Maryland for all retained conservation easement areas on the Subject Property.**

3. **Within ninety (90) days of the mailing date of the Planning Board Resolution, the Applicant must install split rail fencing and permanent conservation easement signs at the perimeter of the new Category I Conservation Easement as shown on the Final Forest Conservation Plan Amendment submitted on December 5, 2016.**

4. **After recordation of the Certificate of Compliance and the Category I Conservation Easement, the Applicant must record a Release of the existing Category I Conservation Easement, in a form approved by the M-NCPCC Office of the General Counsel, in the Land Records of Montgomery County, Maryland. All existing conservation easements remain in full force and effect until this Release is recorded.**

5. **Within one hundred and fifty (150) days of the mailing date of the Planning Board Resolution, the Applicant must submit a complete Record Plat application that delineates and references the new Category I Conservation Easement.**

SITE DESCRIPTION

The Bullis School, a private school in Potomac, is situated northeast of the intersection of Falls Road (MD 189) and Democracy Boulevard. The portion of The Bullis School subject to this Amendment is on a recorded, 77.63- acre parcel known as Blenheim Parcel A, Block E, “Subject Property”. Approximately 18 acres of existing forest within the Subject Property are protected by a Category I Conservation Easement. The Property is within the Cabin John Creek, Watts Branch and Rock Run Watersheds.

The area subject to this Amendment is a section of upland, non-stream buffer, forested Category I Conservation Easement adjacent to the headmaster house and the maintenance facility. The headmaster house, maintenance facility and adjacent conservation areas are west of a stormwater management pond and are shown in Figure 1.
BACKGROUND

The Montgomery County Planning Board approved Preliminary Plan No. 120080030“ The Bullis School” by Opinion mailed on April 1, 2009 (Attachment 1). The Final Forest Conservation Plan approved on May 25, 2011 shows the protection of 17.72 acres of existing forest and 1.01 acres of forest planting as conservation areas (Attachment 2). Record Plats No. 24460, 24461, 24462, 24463, and 24464 delineate the Category I Conservation Easements on the Subject Property (Attachment 3). The Record Plats granted the Category I Conservation Easement on Blenheim Parcel A, Block E to M-NCPCC pursuant to the Agreement recorded in Liber 44206 Folio 097 among the Land Records of Montgomery County, Maryland (Attachment 4).

In March 2016, a representative of The Bullis School, contacted the Planning Department Inspector and reported that a construction project at the headmaster’s house encroached into the Category I Conservation Easement.
Category I Conservation Easement clearing violation behind Headmaster House – Citation issued

On March 3, 2016, the Inspector issued Administrative Citation No. EPD 000260 to the Applicant for clearing, grading and soil disturbance within a Category I Conservation Easement (Figure 2 and Attachment 5). The Citation included a fine and requirement to restore the graded and cleared area of Category I Conservation Easement. The Bullis School implemented a Restoration Plan (Attachment 6), including the planting of 20 trees and 10 shrubs within a 4,900-square foot area of disturbed Conservation Easement behind the headmaster house.

Currently, the only portion of the clearing violation left unresolved is the concrete slab that remains within the conservation easement area. Staff did not approve this concrete slab to remain within the conservation easement.

Figure 2: Area of Conservation Easement behind Headmaster’s House March 3, 2016

Encroachments within Category I Conservation Easement – Notice of Violation issued

In addition, to the concrete slab, the Inspector discovered two other encroachments within the conservation easement area. During a visit to the Subject Property, the Inspector discovered a maintenance shed with concrete base in the conservation easement adjacent to a larger, longer, rectangular building (Figure 3 and Figure 4). The forest conservation plan, approved in May of 2011 (Attachment 2), showed a conservation easement surrounding one long rectangular-shaped
maintenance building and does not show the second, smaller shed. Near the maintenance sheds, the Inspector noticed a maintenance access and a driveway within the Category I Conservation Easements (Figure 4, and 5). The maintenance driveway is not shown on the approved forest conservation plan.

The Inspector issued a Notice of Violation to the Applicant on June 8, 2016 for Category I Conservation Easement encroachments. The Category I Conservation Easement encroachments consist of portions of a concrete slab (Figure 2), a shed with a concrete base (Figure 3 and 4) and a driveway (Figure 5). These features have altered natural grades and disrupted the natural regeneration of trees and shrubs within the conservation easement and are violations of the Category I Conservation Easement Agreement. The Notice of Violation (Attachment 7) required either complete removal of impervious structures and the driveway or submittal for Planning Board decision of an amendment for conservation easement changes.

Figure 3: Maintenance Shed Encroachment within Category I Conservation Easement
Figure 4: Maintenance Access Encroachment within Category I Conservation Easement

Figure 5: Maintenance Access Driveway Encroachment within Category I Conservation Easement
APPLICANTS PROPOSAL

On September 28, 2016, the Applicant submitted Preliminary Plan Amendment 12008003B for forest conservation purposes to resolve the conservation easement encroachment violations (Attachment 8). The Applicant proposes removing two areas of conservation easement where encroachments occur (Figure 6). The first area of encroachment is behind the headmaster's house where a house addition is proposed. The Amendment proposes removal of 1,910 square feet of conservation easement for the house addition. The second area proposed for removal, amounting to 9,965 square feet, is part of the Property used for maintaining the grounds at the Bullis School. This conservation easement encroachment area consists of sheds, a stockpile area, machine access, a driveway and a group of trees between the sheds and a storm water management facility. The total area of conservation easement to be removed offsite is 11,875 square feet. The Applicant will mitigate for the conservation easement release by providing either 23,750 square feet of forest planting or 47,500 square feet of existing forest retention. Split rail fencing is to be installed at the new easement boundary adjacent to the maintenance area. Also, the Applicant proposes installing permanent forest conservation easement signs at the new Category I Conservation Easement boundary behind the headmaster's home.

Figure 6: Map of Proposed Category I Conservation Easement Changes and Proposed House Addition Construction

The Forest Conservation Plan includes construction notes related to the proposed house addition construction. The proposed house addition construction cannot occur until M-NCPPC approves of the
Release of the existing conservation easement area and the Inspector approves of the permanent conservation easement markers and temporary tree protection fencing installed at the new conservation easement boundary.

PLANNING BOARD REVIEW AUTHORITY

The Planning Board approved Preliminary Plan 120080030 "The Bullis School" and required the establishment of conservation easements in the subdivision. The Planning Board has authority under Subdivision Regulations (Chapter 50 of the Montgomery County Code) to hear an amendment that proposes changes to the conservation easements.

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

STAFF REVIEW

In response to a Notice of Violation for portions of shed, concrete slab and a driveway within a Category I Conservation Easement, the Applicant submitted this Amendment. The Amendment proposes changes to conservation easements established in 2011.

The Amendment mitigates for the current encroachments by preserving forest or forest plantings offsite. The Amendment proposes removal of 1,910 square feet of Conservation Easement to accommodate a proposed headmaster house building addition and removal of 9,965 square feet of Conservation Easement next to the maintenance sheds. In exchange for the release of 11,875 square feet of conservation easement, the Applicant will acquire either 23,750 square feet of forest planting or 47,500 square feet of existing forest retention from an M-NCPCC approved forest conservation bank. The proposed mitigation meets the Board’s policy for the removal of conservation easements from a property. The area of conservation easements to be removed are not within an environmentally sensitive area. The 4,900-square foot area of conservation easement cleared behind the headmaster house was restored with top soil, mulch and native plantings. Only a 1,910-square foot area of this restoration, an area that includes portions of a concrete slab is to be removed. The smaller maintenance shed existed in 2011, when the forest conservation plan was reviewed and approved.

Wooden split rail fencing or permanent conservation easement markers are to be installed at the new conservation easement boundary as shown on the forest conservation plan amendment submitted on December 5, 2016. The fencing and permanent easement markers are to protect the conservation easement from further encroachment.

NOTIFICATION and OUTREACH

The Subject Property was properly signed with notification of the upcoming Preliminary Plan Amendment prior to the acceptance of the application. Staff has not received correspondence from community groups or citizens as of the date of the staff report. As of December 30, 2016, all adjoining and confronting property owners, civic associations, and other registered interested parties will be notified of the upcoming public hearing on the proposed amendment.
RECOMMENDATION

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

ATTACHMENTS

1. Montgomery County Planning Board Opinion, Preliminary Plan No. 120080030 "The Bullis School"
2. Final Forest Conservation Plan No. 120080030 approved on May 25, 2011
3. Record Plat Nos. 24460, 24461, 24462, 24463 and 24464
4. Category I Conservation Easement Agreement LF44206.097
5. Administrative Citation No. EPD 000260
6. Approved Restoration Plan
7. Notice of Violation
8. Forest Conservation Plan No. 12008003B "The Bullis School" submitted for approval on December 5, 2016
WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on June 23, 2004, The Bullis School, Inc. ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 1 lot on 77.63 acres of land located in the northeast quadrant of the intersection of Falls Road and Democracy Boulevard ("Property" or "Subject Property"), in the Potomac master plan area ("Master Plan"); and

WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120080030, The Bullis School ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated February 19, 2009 and revised on March 5, 2009 setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on March 12, 2009, the Planning Board held a public hearing on the Application (the "Hearing"); and

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

This Resolution constitutes the written opinion of the Board in this matter and satisfies any requirement under the Montgomery County Code for a written opinion.
WHEREAS, on March 12, 2009, the Planning Board approved the Application subject to certain conditions, on motion of Commissioner Cryor; seconded by Commissioner Robinson; with a vote of 4-0, Commissioners Alfandre, Cryor, Hanson, and Robinson voting in favor, Commissioner Presley being absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board approved Preliminary Plan No. 120080030 to create 1 lot on 77.63 acres of land located in the Northeast quadrant of the intersection of Falls Road and Democracy Boulevard ("Property" or "Subject Property"), in the Potomac master plan area ("Master Plan"), subject to the following conditions:

1) Approval under this Preliminary Plan is limited to one recorded parcel for a private educational institution with a maximum student enrollment of 900 students. The approval includes expansion/construction of various on-site improvements/facilities including a new Lower School Building and new Upper School Building as shown on the Preliminary Plan.

2) The Applicant must comply with the conditions of approval for the preliminary forest conservation plan. The Applicant must satisfy all conditions prior to recording of plat(s) or Montgomery County Department of Permitting Services (MCDPS) issuance of sediment and erosion control permits, as applicable.

3) The record plat must reflect a Category I easement over areas of stream valley buffers and forest conservation.

4) The Applicant must comply with the conditions of the MCDPS stormwater management approval dated August 29, 2007. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.

5) The Applicant must comply with the conditions of the Montgomery County Department of Transportation (MCDOT) letter dated July 1, 2008. These conditions may be amended by MCDOT, provided the amendments do not conflict with other conditions of the Preliminary Plan approval.

6) The Applicant must construct an 8 foot-wide shared use path along the Democracy Boulevard Property frontage as shown on the Preliminary Plan and as required in the MCDOT letter dated July 1, 2008.

7) The Applicant must pay for or construct an 8 foot-wide shared use path along the Falls Road Property frontage per CIP Project No. 500905 or according to MCDOT requirements.

8) The Applicant must comply with the conditions of the Maryland State Highway Administration (MDSHA) letter dated September 11, 2008.

9) The Applicant must dedicate 5 feet of additional right-of-way along the Democracy Boulevard property frontage as shown on the Preliminary Plan.
10) The Applicant must dedicate right-of-way along the Falls Road property frontage as shown on the Preliminary Plan to provide for the 8 foot-wide shared use path.

11) The Applicant must create an easement for future dedication for the remainder of the Falls Road right-of-way as shown on the Preliminary Plan. The Applicant must record a covenant with MDSHA detailing the terms for future dedication of the easement and relocation of the constructed 8 foot-wide shared use path, and the record plat must reference this covenant.

12) The Applicant must satisfy provisions for access and improvements as required by MCDOT prior to recordation of plat(s) and MDSHA prior to issuance of access permits.

13) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for one hundred twenty-one (121) months from the date of mailing of the Planning Board Resolution by which time building permits must be issued for the new lower school and upper school buildings or an extension request must be filed.

14) Other necessary easements must be shown on the record plat.

BE IT FURTHER RESOLVED, that, having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. The Preliminary Plan substantially conforms to the Master Plan.

The 2002 Potomac Subregion Master Plan references public school capacity and identifies sites for new facilities but makes no specific recommendations for private institutional uses. The land use and zoning section of the Master Plan "supports the retention and reconfirmation of existing zoning for all developed, underdeveloped and undeveloped land in the Subregion, except for those sites recommended for change in the Plan" (p. 40). The land use and zoning section of the Master Plan also lists design principles established to preserve the Subregion's green and rural character while creating a pedestrian and bicycle-friendly environment. The Bullis School Preliminary Plan satisfies the land use intent of the Master Plan in that it retains significant open space and the required shared use path construction along the Property's Falls Road and Democracy Boulevard frontages will expand the pedestrian and bicycle network in the area. The Planning Board finds the Preliminary Plan substantially conforms to the Master Plan.

2. Public facilities will be adequate to support and service the area of the proposed subdivision.
Roads and Transportation Facilities
Access to the site is provided from Falls Road and Democracy Boulevard. Falls Road is classified as a major highway with a recommended right-of-way of 120 feet. The Master Plan recommends realignment of Falls Road along the Bullis School property frontage. The Applicant has proposed dedication boundaries for realignment of Falls Road which have been reviewed and approved by MDSHA. The Preliminary Plan incorporates the Master Plan required rights-of-way for Falls Road and Democracy Boulevard. Currently, sidewalks do not exist along Falls Road or Democracy Boulevard. As a result, the Applicant is required to construct an 8-foot wide shared use path along Democracy Boulevard and either construct or pay for the construction of the Falls Road shared use path along the Property's respective frontage. There is a Ride-On bus stop along the school's Falls Road frontage near the main entrance to the school. As required by MCDOT, the Applicant must provide a concrete bus pad or other improvements deemed necessary by MCDOT. The Planning Board finds that the proposed access to the site and the internal circulation and walkways as shown on the preliminary plan will be safe and adequate for vehicles and pedestrians.

Other Public Facilities and Services
The Planning Board finds that other public facilities and services are available and adequate to serve this private institution. The Subject Property is served by existing public water and sewer connections. Gas, electric and telecommunications services are available to serve the property. Police stations, firehouses and health services are currently operating within the standards set by the applicable Growth Policy Resolution currently in effect. The Application has been reviewed and approved by the Montgomery County Fire and Rescue Service (MCFRS) who have determined that the Property has adequate access for emergency vehicles.

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

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections, including section 50-35(h)(2)(C) for adequate public validity period extensions. The proposed recorded parcel size, width, shape and orientation are appropriate for the location of the subdivision.

The proposed recorded parcel for the school facilities was reviewed for compliance with the dimensional requirements for the RE-2 zone as specified in the Zoning Ordinance. The recorded parcel as proposed far exceeds the dimensional requirements for area, frontage, width and setbacks in the RE-2 zone because it reflects the appropriate boundary of the existing institutional use.
4. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.

Environmental Guidelines
The Subject Property contains 11.35 acres of stream valley buffer (SVB) of which 8.75 acres are forested. The Applicant has proposed to plant another 1.01 acres of SVB for a total 9.85 acres of forested SVB. The areas of SVB that are not forested or planted are part of the pre-existing school. The forest conservation plan satisfies the applicable requirements for protection of environmentally sensitive areas.

Forest Conservation
The Applicant has a previously approved forest conservation plan (FCP) that was submitted as part of the special exception case for the site. Because the Preliminary Plan is considered a new application, a new preliminary FCP was required. The FCP submitted as part of the Preliminary Plan application addresses the expansion to the school's facilities and required site improvements such as sidewalks and bike paths.

The Subject Property contains 20.53 acres of forest; this number includes 19.43 acres of existing forest and 1.1 acres of forest cleared under the previously approved FCP. The Applicant proposes to clear 3.81 acres of forest and retain 16.72 acres of forest. The required calculations indicate that the FCP includes 0.12 acres on the positive side of the break-even point. As a result, additional planting is not required. The Applicant has, however, proposed 1.01 acres of forest planting within the stream valley buffer (SVB) to compensate for encroachments into the SVB that currently exist on the Property. The Planning Board finds the Application complies with all applicable requirements of Chapter 22A the Montgomery County Forest Conservation Law.

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

The MCDPS Stormwater Management Section approved the stormwater management concept for the project on August 29, 2007 which consists of on-site channel protection measures via two underground storage facilities and an existing on-site pond. On-site water quality control is to be provided for a total
area equivalent to or greater than the total new impervious area. Water quality for the shared use paths will be provided by adjacent grass swales.

6. The Planning Board finds a ten year adequate public facilities period is appropriate for the proposed subdivision and an extended Adequate Public Facilities validity period of 121 months is granted.

Chapter 50, the Subdivision Regulations, establishes a minimum of 5 years for the validity period of the adequate public facilities (APF) approval. However, this period can be extended if a phasing schedule is submitted and approved by the Planning Board. Per Section 50-20(c)(3)(C) of the Subdivision Regulations, the Applicant requested approval of an APF validity period for a maximum of ten (10) years. The Applicant submitted a phasing plan, as required, and requested that the APF validity period be imposed only on facility improvements which will directly result in an increase in enrollment, and therefore, vehicle trips. Such proposed improvements include a new Lower School with a maximum of 20,000 square feet of gross floor area and a new Upper School with a maximum of 70,000 square feet of gross floor area. Typically, the proposed phasing plan should stipulate the amount of construction an Applicant intends to complete within the initial 5 years of the validity period, but in this case, due to the significant fund raising period necessary for a private educational institution project of this size and scope the Applicant is uncertain about when construction will start. The Applicant plans to construct the Upper School first, and their intent is to begin construction as soon as possible after the plat is recorded.

The Planning Board finds a ten year validity period is justified even though the start date for construction may occur after 5 years because the APF approval does not require specific road improvements and the bike path construction along Falls Road and Democracy Boulevard will be required to at least be bonded at the time the plat is recorded. The Planning Board, therefore, finds that allowing additional time for school construction to begin is not adverse to the public interest and the extended APF period is granted.

BE IT FURTHER RESOLVED, that this Preliminary Plan will remain valid for 36 months from its Initiation Date (as defined in Montgomery County Code Section 50-35(h), as amended) and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Preliminary Plan must be recorded among the land records of Montgomery County, Maryland or a request for an extension must be filed; and
BE IT FURTHER RESOLVED, that the date of this Resolution is APR. 9, 2009 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by The Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Presley, seconded by Commissioner Robinson, with Commissioners Hanson, Robinson, Cryar, and Presley present and voting in favor of the motion, and Commissioner Alfandre absent, at its regular meeting held on Thursday, March 26, 2009, in Silver Spring, Maryland.

Royce Hanson, Chairman
Montgomery County Planning Board
Barbara Phillips  
Newbridge Citizens Assn.  
9811 Sorrel Ave.  
Potomac, MD 20854  

Ronald McNabb  
TROT  
12435 Meadowood Dr.  
Silver Spring, MD 20904

Steve Goldhill  
Fox Den Homeowners Assn.  
9512 Woodington Dr.  
Potomac, MD 20854

Pedro Porro  
Spanish Speaking People of Montgomery  
5729 Bradley Boulevard  
Bethesda, MD 20814

Henry Nalven  
Normandy Falls Homeowners Assn.  
9213 Sprinklewood Ln  
Potomac, MD 20854

Wayne Goldstein  
Montgomery Preservation, Inc.  
3009 Jennings Road  
Kensington, MD 20895

Robert Fogel  
Fallswick Homeowners Assn. Inc.  
12009 Nebel Street  
Rockville, MD 20852

Jim Fary  
Sierra Club - Montgomery County  
2836 Blue Spruce Lane  
Silver Spring, MD 20906-3166

Alan Seldin  
Potomac Towne Homeowners Assn.  
9801 Clydesdale St  
Potomac, MD 20854-5040

Contact  
Washington Metro Area Transit Auth.  
600 Fifth Street, NW  
Washington, DC 20001

Sean Ridge  
Eldwick Homes Assn.  
9816 Wilden Lane  
Potomac, MD 20854  

John Luke  
Montgomery County Air Park  
7940 Air Park Road  
Gaithersburg, MD 20879

George Barnes  
West Montgomery County Citizens Assn.  
10311 Glen Road  
Potomac, MD 20854  

Jim Humphrey  
Montgomery County Civic Federation  
5104 Elm Street  
Bethesda, MD 20814

Burton Goldstein  
Mid County Citizens Assn.  
414 Chestnut Hill Street  
Gaithersburg, MD 20878

Wayne Goldstein  
Montgomery County Civic Federation  
3009 Jennings Road  
Kensington, MD 20895

Gary Abramson  
Kentsdale Estates Civic Assn.  
10513 Stapleford Hall Drive  
Potomac, MD 20854

Julius Cinque  
Northern Montgomery County Alliance  
22300 Slidell Road  
Boystown, MD 20841

Garry Plushnick  
Willowbrook Cambridge Resident Assn.  
10616 Willowbrook Drive  
Potomac, MD 20854

George Sauer  
Citizens for a Better Montgomery  
8307 Post Oak Road  
Potomac, MD 20854-3479

Carol Vandam Falk  
13100 Esworthy Rd  
N. Potomac, MD 20878

Linda Burgin  
Fox Hills West Citizens Assn  
9217 Paddock Lane  
Potomac, MD 20854

Sheila Moldover  
Fox Hills West Citizens Assn  
8836 Wandering Trail Drive  
Potomac, MD 20854
Use Avery TEMPLATE 5160
Feed Paper
See Instruction Sheet
for Easy Peel Feature

MD Nat'l Capital Park & Planning
8787 Georgia Avenue
Silver Spring, MD 20910

Westwood Management Corp
5110 Ridgefield Rd, Ste 408
Bethesda, MD 20816

George & Maria Kelley
10550 Falls Rd
Rockville, MD 20816

Farid & K. Srour
10209 Sorrel Avenue
Potomac, MD 20854

Normandy Farms Jt. Venture
c/o Elizabeth Benbassat
905 Silver Spring Ave
Silver Spring, MD 20910

EOB
101 Monroe Street
Rockville, MD 20850

Vo Ngoc & Kieulien Tran
10400 Democracy Blvd
Potomac, MD 20854

Camberwell Properties LLC
c/o Irongate Properties, Inc.
P. O. Box 34936
Bethesda, MD 20827

Gustavo & S.M. Castillo
10446 Democracy Blvd
Potomac, MD 20854

Norman W. & M.L. Engelman
10450 Democracy Blvd
Potomac, MD 20854

Jianhua & Mei Lu Wang
10505 Democracy Blvd
Potomac, MD 20854

Alan & L. Fiend
10509 Democracy Blvd
Potomac, MD 20854

Amir & Margerit Amirjazil
10513 Democracy Blvd
Potomac, MD 20854

Lee & Kathleen Wu Chiang
10517 Democracy Blvd
Potomac, MD 20854

Lisa Rosato
10521 Democracy Blvd
Potomac, MD 20854

Javad & F. Manzoor
10525 Democracy Blvd
Potomac, MD 20854

Rajinder & K. Bhatia
10529 Democracy Blvd
Potomac, MD 20854

Andy S. H. Chang, et al
9900 Scotch Broom Ct
Potomac, MD 20854

Fair & A. K. Ghadry
9904 Scotch Broom Ct
Potomac, MD 20854

Philip R. & Nancy J. Dunham-Hertz
10700 Lady Slipper Terrace
North Bethesda, MD 20852

Jeffery & Georgia C. Diamond
18 Stapleford Hall Court
Potomac, MD 20854

Gov't of the Republic of Angola
1715 M Street, NW, #900
Washington, DC 20036

Mark & Katherine Wex-Muehl
10804 Nantucket Terrace
Potomac, MD 20854

Karl Offenbacher, Et Al
10814 Nantucket Terrace
Potomac, MD 20854

Emanuel & D.H. Livaudais
10818 Nantucket Terrace
Potomac, MD 20854

Chi-Ming & Yi-Jen W. Shaw
10822 Nantucket Terrace
Potomac, MD 20854

Sarkis H. & J. A. Ohanian
10815 Nantucket Terrace
Potomac, MD 20854

Robert & L. K. Stillman
10810 Nantucket Terrace
Potomac, MD 20854

Biajn Ghovanlou, Et al
10412 Democracy Blvd
Potomac, MD 20854

Camberwell Properties LLC
c/o Irongate Properties, Inc.
P. O. Box 34936
Bethesda, MD 20827

Consultez la feuille www.avery.com
May 25, 2011

The Bullis School
10601 Falls Road
Potomac, MD 20854

SUBJECT:
Forest Conservation Plan #: 120080030
Preliminary Plan: The Bullis School

Dear Sirs:

Based on the review by Area 3 Planning Team staff of the Maryland National Capital Park and Planning Commission, the Final Forest Conservation Plan Amendment referenced above is approved. The Final Forest Conservation Plan consists of 2.68 acres of forest clearing, 17.85 acres of forest retention, and no planting requirement. The following items will need to be addressed prior to any clearing or grading occurring on-site or off-site:

1. Inspections consistent with Section 110 of the Forest Conservation Regulations.
2. Applicant must have Final Record Plat recorded which reflects the conservation easements as shown on the FFCP dated May 25, 2011, prior to any clearing and grading.

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 contact Josh Penn at 301-495-4546.

Sincerely,

John Carter
Chief
Area 3 Planning Team

cc: FCP# 120080030
Dave Post

8787 Georgia Avenue, Silver Spring, MD 20910  Environmental Planning: 301.495.4540  Fax: 301.495.1303
www.MontgomeryPlanning.org
NOTES
1. WATER CATEGORY: I SEWER CATEGORY: I
2. THE PROPERTY SHOWN HERIN IS SUBJECT TO THIS RECORD PLAT IS IN THE RD-1 AND RD-2 ZONING AS OF THE DATE OF PLAT RECORDATION.
3. THIS PLAT IS DRAWN TO SCALE AND IS PREPARED FOR THE EVALUATION OF THE PUBLIC WATER AND SEWER.
4. THE PROPERTY SHOWN HERIN IS LOCATED IN THE MONTGOMERY COUNTY, MD, AND IS SUBJECT TO THE WATER AND SEWER SERVICE AREA.
5. THE SCALE FACTOR IS 1" = 200' AND THE SCALE FACTOR IS 1" = 400' FOR THE PROPERTY SHOWN HERIN.
6. THE PROPERTY SHOWN HERIN IS SUBJECT TO THE CONDITIONS OF THE MONTGOMERY COUNTY, MD, AND IS PREPARED FOR THE EVALUATION OF THE PUBLIC WATER AND SEWER.
7. THIS PLAT IS DRAWN TO SCALE AND IS PREPARED FOR THE EVALUATION OF THE PUBLIC WATER AND SEWER.
8. THE PROPERTY SHOWN HERIN IS LOCATED IN THE MONTGOMERY COUNTY, MD, AND IS SUBJECT TO THE WATER AND SEWER SERVICE AREA.
9. THE SCALE FACTOR IS 1" = 200' AND THE SCALE FACTOR IS 1" = 400' FOR THE PROPERTY SHOWN HERIN.
10. THE PROPERTY SHOWN HERIN IS LOCATED IN THE MONTGOMERY COUNTY, MD, AND IS SUBJECT TO THE WATER AND SEWER SERVICE AREA.
11. THE PROPERTY SHOWN HERIN IS LOCATED IN THE MONTGOMERY COUNTY, MD, AND IS SUBJECT TO THE WATER AND SEWER SERVICE AREA.

SURVEYOR'S CERTIFICATE
I CERTIFY TO THE BEST OF MY KNOWLEDGE AND BELIEF THAT IT IS A SUBDIVISION OF ALL THE LANDS SHOWN HERIN AS PREVIOUSLY GRANTED TO BULL'S EYES, INC., MONTGOMERY COUNTY, MD, AS OF THE DATE OF THE RECORD PLAT.

AREA OF FUTURE DEDICATION FOR FUTURE EAGLE TRANSPORTATION NEEDS FOR FUTURE REALIGNMENT OF FALLS ROAD

AREA OF FUTURE DEDICATION SHOWN HERIN AS FUTURE EAGLE TRANSPORTATION REALIGNMENT OF FALLS ROAD

SURVEYOR'S CERTIFICATE
I CERTIFY TO THE BEST OF MY KNOWLEDGE AND BELIEF THAT IT IS A SUBDIVISION OF ALL THE LANDS SHOWN HERIN AS PREVIOUSLY GRANTED TO BULL'S EYES, INC., MONTGOMERY COUNTY, MD, AS OF THE DATE OF THE RECORD PLAT.

LEGEND

REMARKS AND CAP POINT
OPEN IRON PIPE 20' IRON PIPE ROD
PUBLIC UTILITY EASEMENT 20' REVERSIBLE EASEMENT
REGIONAL CONSERVATION EASEMENT

NOTE: THE PROPERTY SHOWN HERIN IS SUBJECT TO ALL THE CONDITIONS AND RESTRICTIONS SHOWN HERIN.

NOTES CONTINUED
12. THE PROPERTY SHOWN HERIN IS SUBJECT TO ALL THE CONDITIONS AND RESTRICTIONS SHOWN HERIN.

GRAPHIC SCALE
PEA 12-04

VICTORY MAP SCALE: 1" = 200'
CONSERVATION DEED OF EASEMENT ("Easement")
Category I

DEFINITIONS

Grantor: Fee simple owner of real property subject to a:
(i) Plan approval conditioned on compliance with a FCP, whether or not the applicant is the fee simple owner of the property; or
(ii) Plan approval conditioned on compliance with a conservation easement agreement (issued pursuant to Chapter 50 or 59, Montgomery County Code).

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

Property: Parcel A, Block E, Subdivision: Blenheim, recorded among the Land Records of Montgomery County, Maryland as per a plat to be recorded hereafter with this Easement referenced.

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

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

Plan: Preliminary Plan #1-20080030 approved under Montgomery County Code Chapter 50.

Forest Conservation Plan ("FCP"): Forest Conservation Plan No. 120080030 approved by the Planning Board or Planning Director pursuant to Chapter 22A, Montgomery County Code.

Exhibit A: FCP approved as a condition of receiving any of the Plan approval noted above.

Exhibit B: Description and sketch of the easement over and across property to be developed.

WITNESSETH

The Easement reflects a grant of easement by Grantor to the Grantee.

WHEREAS Grantor (The Bullis School) has obtained authority to develop pursuant to a Plan in accordance with Montgomery County, Maryland laws; and

Grantor Initials
WHEREAS, the Planning Board or other approving authority approved Grantor's Plan conditioned upon a requirement that development occur in strict accordance with an FCP approved by the Planning Board after full review of the FCP pursuant to the provisions of Montgomery County Code Chapter 22A (Forest Conservation); Chapter 50 (Subdivision Regulations); and/or Chapter 59 (Zoning Ordinance); and/or

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

WHEREAS, the location of this Easement is as shown on Exhibit A attached hereto and incorporated by reference into the terms of this Easement; and

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

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

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

WHEREAS, the Grantor and Grantee (collectively referred to as the "Parties") intend for the conditions and covenants contained in this Easement to run with the land in perpetuity and to be binding on all subsequent owners and occupants of the Property; and

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

NOW, THEREFORE, the Grantor has executed this Easement for no monetary consideration but for the purpose of ensuring compliance with development standards imposed in accordance with Montgomery County law as a condition of development approval. The Grantor does hereby grant and convey unto the Planning Board, in perpetuity, an easement on the Property of the size and location described in Exhibit B attached hereto and incorporated by reference into the terms of this Easement, and further described on the applicable record plat(s), of the nature and character described herein. This Easement constitutes a covenant real running

Grantor Initials
with the title of the land, and is granted to preserve, protect and maintain the general topography and natural character of the land. The Grantor does hereby waive any challenge to the validity of this easement whether or not shown on a plat. Grantor, its heirs, successors and assigns covenant to abide by the following restrictions within the Easement:

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

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

3. No plant materials (including, but not limited to brush, saplings, undergrowth, or non-woody vegetation) shall be mowed or cut down, dug up, removed or destroyed unless removed pursuant to the terms and conditions of an approved forest management plan. Noxious weeds (limited to those weeds defined as "noxious" under Maryland State or Montgomery County laws or regulations and "exotic or invasive plants" in the Montgomery County Trees Technical Manual) may be removed as required by law, but the method of removal must be consistent with the limitations contained within this Easement. Vegetation removal shall be limited to noxious weeds only, exotic and invasive weeds only, and protective measures must be taken to protect nearby trees and shrubs. Notwithstanding the foregoing, Grantor may remove understory vegetation less than two inches (2") in diameter at breast height at the perimeter of the forest stands for a distance of twenty feet (20') into the stand and within ten feet (10') of the center of any unpaved natural surface paths or trails used by the Grantor for school-related activities such as cross country racing. Grantor shall be required thereafter to mulch such areas where understory was removed in accordance with this paragraph.

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

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

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

   a. Construction, excavation or grading (except for afforestation and reforestation efforts conducted in compliance with an approved forest

Grantor Initials
conservation plan).

b. Erection of any building or structural improvements on or above ground, including (but not limited to) sheds, dog pens, play equipment and retaining walls.

c. Construction of any roadway or private drive.

d. Activities which in any way could alter or interfere with the natural ground cover or drainage (including alteration of stream channels, stream currents or stream flow).

e. Industrial or commercial activities.

f. Timber cutting, unless conducted pursuant to an approved forest management plan approved by the Planning Director and the Department of Natural Resources for the State of Maryland.

g. Location of any component of a septic system or wells.

h. Excavation, dredging, or removal of loam, gravel, soil, rock, sand and other materials.

i. Diking, dredging, filling or removal of wetlands.

j. Pasturing of livestock (including horses) and storage of manure or any other effluent.

k. Alteration of stream.

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

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

Grantor Initials /\
9. Fences consistent with the purposes of the Easement may be erected within the Easement area if shown on the FCP or only after written approval from the Planning Director.

10. Unpaved paths or trails consistent with the purposes of the Easement may be created only after written approval from the Planning Director. The continued use and maintenance of unpaved natural surface paths, which are used by the Grantor for school-related activities such as cross country racing, shall be permitted.

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

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

13. The Grantor does hereby waive any challenge to the validity of this Easement in the event it is not shown on a plat, and Grantor agrees to make specific reference to this Easement in a separate paragraph of any subsequent deed, sales contract, mortgage, lease or other legal instrument by which any possessory or equitable interest in the Property is conveyed.

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

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

16. All written notices required by this Easement shall be sent to the Planning Director, M-NCPPC, 8787 Georgia Avenue, Silver Spring, Maryland 20910.
TO HAVE AND TO HOLD unto the Planning Board, its successors and assigns forever, this Grant shall be binding upon the heirs, successors and assigns of the Grantor in perpetuity and shall constitute a covenant real running with the title of the Property.

[SIGNATURE PAGE FOLLOWS]

Approved for legal sufficiency
Office of the General Counsel, MNCPPC

Grantor Initials
IN WITNESS WHEREOF, Grantor has caused to be executed this Easement to be signed by itself or its duly authorized officer as of this 9th day of May, 2012.

WITNESS:  

GRANTOR:

Type:  Gerald L. Boarman
Head of School
The Bullis School
10601 Falls Road
Potomac, MD 20854
(301) 983-5702

STATE OF MARYLAND
COUNTY OF MONTGOMERY to wit:

I HEREBY CERTIFY that on this 9th day of May, 2012, before me, a Notary Public in and for the State and County aforesaid, personally appeared Gerald L. Boarman, Head of School of The Bullis School, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing and annexed instrument and acknowledged that said individual executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires: 5/9/2014

BERNICE J. SPARROW
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires May 9, 2014

Grantor Initials
ATTORNEY CERTIFICATION

I certify that this instrument was prepared under the supervision of the undersigned, an attorney admitted to practice before the Court of Appeals of Maryland.

Soo Lee-Cho, Esq.
EXHIBIT A
FOREST CONSERVATION EASEMENTS - EXHIBIT B, PAGE 1 OF 4

FOREST CONSERVATION EASEMENT INDEX MAP

FOREST CONSERVATION EASEMENTS FCE-1A AND FCE-1B

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CATEGORY I FOREST CONSERVATION EASEMENTS

THE BULLIS SCHOOL
PARCEL A, BLOCK E, BLENHEIM
TO BE RECORDED IN THE LAND RECORDS
OF MONTGOMERY COUNTY, MD

CAS Engineering
108 West Ridgerville Blvd., Ste. 101
Mount Airy, Maryland 21771
301-677-8031 office
301-677-8045 fax
info@casengineering.com
FOREST CONSERVATION EASEMENTS - EXHIBIT B, PAGE 2 OF 4

FOREST CONSERVATION EASEMENT FCE-2

LOT 52
BLOCK B
KENTSDALE
ESTATES
PLAT 23667

DATUM: NAD 83/91
SCALE: 1" = 100'

FCE-2 • CATEGORY I FOREST CONSERVATION EASEMENT

- Parcel A, Block E, Blenheim
- To be recorded in the land records of Montgomery County, MD

ENGINEERING
GAS Engineering
108 West Ridgeville Blvd., Ste. 101
Mount Airy, Maryland 21771
301-607-8031 office
301-607-6045 fax
info@casengineering.com

CURVE TABLE

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THE BULLIS SCHOOL
PARCEL A, BLOCK E, BLENHEIM
TO BE RECORDED IN THE LAND RECORDS
OF MONTGOMERY COUNTY, MD

MONTGOMERY COUNTY CIRCUIT COURT (Land Records), LEX 4/42, P. 019, M.R. C63-3991, Date of Filing 06/22/2012. Printed 12/02/2012.
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**Category 1 Forest Conservation Easements**

**THE BULLIS SCHOOL**

**PARCEL A, BLOCK E, BLENHEIM**

TO BE RECORDED IN THE LAND RECORDS OF MONTGOMERY COUNTY, MD
State of Maryland Land Instrument Intake Sheet

1. Type(s) of Instruments
   - Deed
   - Decedent
   - Mortgage
   - Lease
   - Other

2. Conveyance
   - Improved Sale
   - Unimproved Sale
   - Multiple
   - Not an Arms-Length Sale

3. Tax Exemptions
   - Recordation
   - State Transfer
   - County Transfer

4. Consideration and Tax Calculations
   - Consideration
   - Amount
   - Finance Office Use Only

5. Fees
   - Amount
   - Due
   - Total
   - Due

6. Description of Property
   - District
   - Tax ID No.
   - Grantor Libel/Folio
   - Map
   - Parcel No.
   - Var. LOG

7. Transferred From
   - Owner(s) of Record, If Different From Grantor(s)

8. Transferred To
   - Owner(s) of Record, If Different From Grantor(s)

9. Other Names to Be Indexed

10. Contact/Mail Information
    - Instrument Submitted By or Contact Person

11. Important: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER
    - Assessment Information
    - Use
    - Yes
    - X
    - No

12. REMARKS:

   "O:\n   250 Hungerford Drive, 2nd Floor, Rockville, Maryland 20850
   Phone: 301-762-5212
   Fax: 301-762-5213

   "O:\n   Real Property Article
   "O:\n   From
   "O:\n   In accordance with the priority cited in the applicable instrument
March 3, 2016

TO: Dr. Gerald Boarman
   Head of School – Bullis School
   10601 Falls Road
   Potomac, MD 20854

CC: Bob Butland – bob_butland@bullis.org
    Director of Facilities – Bullis School
    10601 Falls Road
    Potomac, MD 20854

Re: Violation of Category I Conservation Easement behind headmaster house

Dear Dr. Gerald Boarman:

Please let me re-introduce myself, I previously wrote to you in 2011 about a mowing violation of the Category I Conservation Easement at the Bullis School. I’m a forest conservation inspector with the Montgomery County Planning Department which is part of the Maryland National Capital Park and Planning Commission (M-NCPPC). My inspection area includes Potomac, Maryland.

I am writing today about a Category I Conservation Easement agreement violation which occurred behind the headmaster house on the Bullis School property.

Yesterday, I met with Bob Butland, the Bullis School Director of Facilities and with Patrick La Vay from Macris, Hendricks and Glascock at the headmaster’s house. Mr. La Vay and Mr. Butland showed me the construction project occurring behind the house. They acknowledged that clearing and grading of the conservation easement had occurred. Mr. La Vay gave me a surveyed drawing showing construction of a slab for a proposed addition and grading, some of which occur within the conservation easement. The drawing shows 2,000 square feet of grading and corner of the concrete slab and footer within the conservation easement area.

The terms of the Category I Conservation Easement area are recorded at Liber 44206 Folio 097 among the land records of Montgomery County, MD. The location of these conservation easements are shown on approved Record Plat No. 24460. Copies of Category I Conservation Easement agreement and Record Plat No. 24460 are attached.

As you know, cutting of trees and shrubs, construction, grading and dumping are prohibited activities within the conservation easement area. In my investigation on March 2nd, I determined violations had occurred over an approximately 4,390 square foot area of Category I Conservation Easement. Within this area, cutting and clearing of natural ground cover and plants has occurred. Also it is evident that cut wood and cut trees are being dumped within a portion of the Category I Conservation Easement.
There are penalties for not honoring the conservation easement agreement the Bullis School made with M-NCPPC. Attached to this letter is Administrative Citation No. EPD 000260 which requires payment of a fine and immediate restoration of the Category I Conservation Easement. All grading and clearing within the Category I Conservation Easement must stop. A Restoration Plan detailing the stabilization, planting and restoration of the 4,890 square foot disturbance area must be submitted for approval and implemented after approval.

Immediate stabilization with topsoil, and a native seed mix is required within the graded area. After Restoration Plan approval, portions of the dumped wood will need to be scattered in the disturbed area. Christmas ferns are to be planted on the steep banks. After that twenty (20) 1inch caliper trees and then (10) 3 gallon shrubs are to be planted as specified at a pre-planting meeting with the M-NCPPC inspector. The trees are to include American beech, white oak, red maple, red oak, and dogwood. These plants must be maintained for 2 years.

I appreciate the Bullis School’s stewardship of the conservation easements. Please let me know if you have any questions, I can be reached at 301-495-4564 or stephen.peck@montgomeryplanning.org. I look forward to meeting with Mr. Butland to discuss the installation of conservation easement signs, the management of invasive plants, the required forest plantings and the documentation of any structural encroachments within the conservation easement areas.

Sincerely,

Stephen Peck
Senior Planner
Forest Conservation Inspector
ISA Certified Arborist
M-NCPPC - Montgomery County Planning Department

Enclosures: Category 1 Conservation Easement Agreement
Copy of Record Plat No. 24460 (not to scale)
Administrative Citation No. EPD 000260
Frequently Asked Questions about Forest Conservation Law Violations
Civil Filed Complaint:

1. (a) You shall pay a fine of ____________ by ____________
(b) You shall pay a daily fine of ____________ until the remedial action listed below is completed. This fine shall be paid within 15 days of completion of all remedial action.

Checks should be made payable to M-NCPCC and shall be paid during normal business hours at the information Counter of M-NCPCC’s Montgomery Regional Office located at 8787 Georgia Avenue, 2nd Floor, Silver Spring, MD 20910. 301-995-4610. Failure to comply with this citation may result in further enforcement proceedings or issuance of additional citations including additional fines. If you elect to request a hearing, you must notify the M-NCPCC Office of the General Counsel, in writing, at 8787 Georgia Avenue, Suite 205, Silver Spring, MD 20910 within 15 days of the citation.

Remedial Action:

1) Stop all construction activity within conservation easement.
2) The 2,000 square foot area that was graded is to be stabilized by hand with topsoil and natural woodland soil, opening up and dividing soil mixture and spread by March 24, 2016.
3) Submit for approval and implement after approval a Restoration Plan that shows the encroachment and construction activity and a restoration planting of 20 1 inch caliber trees and 10 3 gallon shrubs and protection and maintenance.

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

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

Defendant’s Signature

Date

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

Inspector’s Signature

Date

Print Name:

Phone Number:

Citation No. EPD 000260

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

Name: Gerald L. Boarman

Company/Position: Head of School

Address: 1650 Falls Road, Potomac, MD 20854

Phone Number: 301-995-4564

Location and Description of Violation:

Address/Location of Site:

Pursuant to the M-NCPCC's authority under Chapter 22A of the Montgomery County Code, it is formally charged that the above named defendant on ____________ and complete the remedial action listed below.

In violation of: Montgomery County Code, Chapter 22A

Approval of Forest Conservation Plan No.

Checks should be made payable to M-NCPPC and shall be paid during normal business hours at the information Counter of M-NCPPC’s Montgomery Regional Office located at 8787 Georgia Avenue, 2nd Floor, Silver Spring, MD 20910. 301-995-4610. Failure to comply with this citation may result in further enforcement proceedings or issuance of additional citations including additional fines. If you elect to request a hearing, you must notify the M-NCPPC Office of the General Counsel, in writing, at 8787 Georgia Avenue, Suite 205, Silver Spring, MD 20910, within 15 days of the citation.

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Date

Print Name:

Phone Number:
1. Why is there a forest conservation easement on my property?
When your lot was created in order to build your house, the developer was required by law to preserve a certain amount of property for forest conservation. The developer chose to place a forest conservation easement over a portion of the subdivision that included your lot. The location of your house on the lot was determined by the builder after the subdivision was created with the easements already in place.

2. I have an easement on my property; can I remove it?
In some, but not all cases the Planning Board may let you remove and replace the easement, but it is a costly process. You should expect to survey or replat your property, survey the replacement property, and plant trees and bushes in a much larger area determined appropriate to replace the easement. If you are interested in learning if this is an option for your property, please request a meeting with M-NCPPC staff.

3. I received a Notice of Violation. What do I do?
The Notice of Violation lists the corrective actions that need to be completed to bring your property into compliance by a certain date. If you have questions or concerns about the corrective actions, you can set up a meeting with M-NCPPC staff before the compliance date.

4. What happens if I don't agree or comply with the Notice of Violation?
You may set up a meeting with M-NCPPC Staff to discuss the Notice of Violation. The staff will work with you to identify possible solutions to bring your property into compliance. However, you can also request a hearing on the matter, and a Notice of Hearing will be issued. Please read FAQ #9. If you ignore the Notice of Violation, the inspector may issue an Administrative Citation to you with a fine of up to $1,000 for each violation and a date by which the fine needs to be paid and the corrective actions completed. You can avoid a fine by bringing your property into compliance.

5. I received an Administrative Citation. What do I do?
The Administrative Citation lists the corrective actions that need to be completed to bring the property into compliance by a certain date. It will also include a fine of up to $1,000 that must be paid by the date on the Citation. Additional fines may accrue if the deadline is not met. You may also request a hearing within 15 days of the date the Citation was issued. See FAQ #8.

6. If I pay the Citation, is there anything else I need to do?
Yes. You must also bring your property into compliance by performing the corrective actions listed on the Citation. If you have any questions about what needs to be done, please contact the inspector.
7. What happens if I don’t agree or comply with the Administrative Citation?
   If you do not comply with the Administrative Citation, you will be issued a Notice of Hearing.

8. How do I request a hearing?
   Send a written request to M-NCPPC, Office of the General Counsel, 8787 Georgia Avenue, Silver
   Spring, MD 20910, and include a copy of the Notice of Violation or Administrative Citation.

9. I received a Notice of Hearing. What does that mean?
   The Notice of Hearing lists the date and location of a hearing in front of a hearing officer who
   will make a recommendation to the Planning Board. The hearing is similar to a trial. A lawyer
   for the Planning Department will present evidence to prove that your property has a forest
   conservation violation. You will have the opportunity to present contrary evidence. Before the
   hearing, if you decide that you would like to resolve the violation to avoid the hearing process
   and an additional financial penalty that will be imposed if you are found in violation, you should
   contact the inspector to set up a meeting to implement the previously identified corrective
   actions.

10. What can I expect at the hearing?
    The Enforcement Rules that govern the hearings can be found on the Planning Board’s
    homepage at http://www.montgomeryplanningboard.org/ under the “Learn More” section.
    The hearing is held in front of a hearing officer, and is similar to a trial. You will have the
    opportunity to present evidence, have witnesses testify on your behalf and cross-examine the
    Planning Department’s witnesses. The hearing officer will make a recommendation to the
    Planning Board whether to find you in violation, and if so, recommend corrective actions and
    an Administrative Civil Penalty in addition to the fine set on the Citation. The Planning Board
    will hold another hearing that will be limited to review of the hearing officer’s recommendation
    and any issues raised from the first hearing. You will be limited to 10 minutes to present your
    position to the Planning Board. The Planning Board will decide whether to accept the hearing
    officer’s recommendation, or to make any changes. The Planning Board will then issue an
    Order that is only appealable in the Circuit Court. Please read FAQ #11.

11. Do I need an attorney?
    If you are found in violation, you could be subject to significant expense – both in penalties and
    cost to bring your property into compliance. Although you may represent yourself, you should
    consider hiring an attorney.

12. What will this cost me?
    In addition to the fine listed on your Administrative Citation, in any case where a violation is
    found after a hearing, the law requires the Planning Board to impose an Administrative Civil
    Penalty for violations of the Forest Conservation Law and associated agreements, with a
    minimum of $0.30 per square foot of property impacted to a maximum of $10.70 per square
    foot. The penalty is based on the 8 factors listed in Section 22A-16(d)(2) of the Montgomery
    County Code. The Planning Board may also impose requirements to bring your property into
    compliance with the law, such as development of a new forest conservation plan and
    replanting. You may incur significant additional costs to comply with the Board’s Order.
PLANTING:
1. Demonstrate correct MC Planning Department staff for planting.
2. Ensure all materials are approved for planting.
3. Ponderosa pine must be planted in areas where it is not likely to cause environmental issues.
4. Plant all materials at the appropriate time.
5. Ensure all materials are planted at the correct depth.
6. Ensure all materials are planted at the correct location.

DO NOT LEAVE CIRCLED ROOTS
KNIFE EVERY 4"-5" AROUND BALL

PRUNE ONLY DEAD, BROKEN OR BACK

EXPOSED TRUNK AWAY FROM ROOT BALL, AND EXCESS SOIL FROM TOP OF BARE

FOR TREE WITH WIRE BASKET: CUT DOWN BASKET IN FOUR PLACES AND FOLD INTO IOLL REMOVE DEJERIS

INF ORMATION SHOWN HEREON IS CORRECT AND THAT THIS PLAN HAS BEEN REVIEWED AND APPROVED IN ACCORDANCE WITH THE REQUIREMENTS OF THE MARYLAND FOREST CONSERVATION LEGISLATION.

QUALIFIED PROFESSIONAL APPROVAL:
I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON IS CORRECT AND THAT THIS PLAN HAS BEEN REVIEWED AND APPROVED IN ACCORDANCE WITH THE REQUIREMENTS OF THE MARYLAND FOREST CONSERVATION LEGISLATION.

FOREST CONSERVATION PLANTING NOTES

SEED MIX FOR STABILIZATION

T/P and their product or service.

TIPPETT MAREY & SONS

THE BULLIS SCHOOL

10TH ELECTION DISTRICT - MONTGOMERY COUNTY - MARYLAND

MAC HINERY, TRUCKS & EQUIPMENT

SPECIALTY MATERIALS & MACHINERY
June 8, 2016

TO: Dr. Gerald Boarman  
Head of School – Bullis School  
10601 Falls Road  
Potomac, MD 20854

CC: Bob Butland – bob.butland@bullis.org  
Director of Facilities – Bullis School  
10601 Falls Road  
Potomac, MD 20854

Re: Violation of Category I Conservation Easement behind headmaster house and next to maintenance building

Dear Dr. Gerald Boarman:

The purpose of this letter is to inform you of Category I Conservation Easement Agreement violations within portions of the Category I Conservation Easement at the Bullis School. The terms of the Category I Conservation Easement area subject to this matter are recorded at Liber 44206 Folio 097 among the land records of Montgomery County, MD. The location of these conservation easements are shown on approved Record Plat No. 24460.

This spring, I discovered the following violations within the conservation easement.

- Corner of a concrete slab and footer, behind the head of school house, is within a Category I Conservation Easement
- A separate maintenance shed with concrete base is within a Category I Conservation Easement
- Portions of a gravel maintenance access drive and access path are within a Category I Conservation Easement.

The concrete slab behind the head of school house, the maintenance shed, maintenance access work area, and maintenance driveway are not shown on the approved final forest conservation plan, plan number 120080030, approved on May 25, 2011. Structural improvements like buildings and sheds are prohibited within Category I Conservation Easement areas. Every day, a structure is within the conservation easement, it is a violation of the easement agreement. Private driveways, like a maintenance access drive are prohibited within conservation easement areas as well.

The approximate location of these violations are highlighted in red on the attached map. Also shown is a larger area in yellow which may be susceptible to easement agreement conflicts in the future.
Attached to this letter is a Notice of Violation which requires either removal of impervious surfaces (including gravel driveways) and structures and restoration of the red area shown on the map or submittal of a limited preliminary plan amendment for conservation easement purposes.

The first step is to inform this Inspector, in writing, as to whether you would like to pursue Restoration or a Plan Amendment as means to resolve the violations. Regardless of your decision you will be given ninety (90) days to either complete restoration of the affected conservation easement areas or submit a Limited Preliminary Plan Amendment for conservation easement changes.

If you are going to pursue an Amendment, a checklist will be issued to you which lists the plan documents required to be submitted for review. The conservation easement to be removed should be replaced with an equal area of conservation easement on the campus.

If you are going to pursue Restoration, a follow-up inspection is required with the Inspector at the site to verify removal of unapproved improvements and restoration of natural soil and grades has been completed.

I appreciate the Bullis School’s stewardship of the conservation easements. Please let me know if you have any questions, I can be reached at 301-495-4564 or stephen.peck@montgomeryplanning.org.

Sincerely,

[Signature]

Stephen Peck
Senior Planner
Forest Conservation Inspector
ISA Certified Arborist
M-NCPPC - Montgomery County Planning Department

Enclosures: Notice of Violation
Frequently Asked Questions about Forest Conservation Law Violations
Map of Conservation Easement Encroachment
FOR MONTGOMERY COUNTY, MARYLAND, the undersigned issuer, being duly authorized, states that:

On, June 8, 2016, the recipient of this NOTICE, Dr. Gerald Boorman, who represents the property owner, The Bullis School, is notified that a violation of the Montgomery County Forest Conservation Law (Chapter 22A) exists at the following location: 10601 Falls Road, Potomac, MD 20854.

Plan No. 12066030
Explanation: Portions of buildings, a shed, concrete slab and driveway within existing Category 1 Conservation Easement

VIOLATION:

- Failure to hold a required pre-construction meeting.
- Failure to have tree protection measures inspected prior to starting work.
- Failure to install or maintain tree protection measures per the approved Forest Conservation or Tree Save plan.
- Failure to comply with terms, conditions and/or specifications of an approved Forest Conservation plan or Tree Save plan, or as directed by Forest Conservation Inspector.
- Failure to obtain an approved Forest Conservation plan or Tree Save plan prior to cutting, clearing, or grading 5,000 square feet on a property of 40,000 square feet or greater.
- Failure to comply with reforestation or afforestation requirements of a Forest Conservation Plan.
- Failure to obtain written approval for a fence permit prior to installing a fence that passes through or around a conservation easement.

Other: Violations of Category 1 Conservation Easement Agreement, Liber 44206, Folio 697.

Failure to comply with this NOV by 6/24/16 may result in i) issuance of a citation, ii) issuance of a Stop Work Order, and/or iii) issuance of a Notice of Hearing to appear before the Planning Board for appropriate Administrative Action. Recipient is to call the inspector at 301-495-4540 when the corrective action is complete. The following corrective action(s) must be performed as directed and within any time frames specified below:

1. Stake out limits of disturbance (LOD) and contact Forest Conservation Inspector for a pre-construction meeting.
2. Install tree protection measures and/or tree care as directed by Forest Conservation Inspector.
3. Submit required application for compliance with Chapter 22A of the County Code. Contact Environmental Planning at 301-495-4540.
4. Cease all cutting, clearing, or grading and/or land disturbing activity. Approval from Forest Conservation Inspector is required to resume work.
5. Schedule a pre-planting meeting with the Forest Conservation Inspector prior to the reforestation of afforestation planting.

Other: Submit letter in writing to this inspector notifying inspector of whether restoration will be done or an amendment will be submitted for conservation easement changes.

MNCPPC Inspector: Stephen K. Beck

RECEIVED BY:

Printed Name

Signature

Date

SEND CERTIFIED MAIL
1. Why is there a forest conservation easement on my property?
When your lot was created in order to build your house, the developer was required by law to preserve a certain amount of property for forest conservation. The developer chose to place a forest conservation easement over a portion of the subdivision that included your lot. The location of your house on the lot was determined by the builder after the subdivision was created with the easements already in place.

2. I have an easement on my property; can I remove it?
In some, but not all cases the Planning Board may let you remove and replace the easement, but it is a costly process. You should expect to survey or replat your property, survey the replacement property, and plant trees and bushes in a much larger area determined appropriate to replace the easement. If you are interested in learning if this is an option for your property, please request a meeting with M-NCPPC staff.

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1,875 square feet of forest conservation easement is to be released and
maintained onsite. Offsite forest bank
acreage of 23,750 square feet is to be
provided. One (1) square feet of credit
for an offsite forest conservation bank is
equal to one (1) square feet of forest
planting on two (2) square feet of
existing forest. To satisfy the onsite
forest mitigation, the applicant will
require either 23,750 square feet of
Forest planting OR 47,500 square feet of
cutting forest retention on the M-NOPPC
approved forest conservation bank.

SITE SECRECY MAP

FOREST CONSERVATION SIGN
TO BE ATTACHED TO FENCE POST

NOTE: No trees to be removed during fence installation.