Dear Ms. Lindsey,

Please accept this letter and the accompanying Preliminary Forest Conservation Plan & Specimen Tree Variance Plan as a formal written request for a variance from section 22A-12(b)(3) of the Montgomery County Code. The referenced section concerns the requirement to not disturb any tree with a diameter, measured at 4.5 feet above the ground, of (i) 30- inches or more; or (ii) 75% or more of the diameter, measured at 4.5 feet above ground, of the current State champion tree of that species. There are seventy-seven (77) specimen trees located on, or immediately adjacent to, the site as delineated on the approved NRI/FSD1. The implementation of the proposed Preliminary Plan for the WMAL Bethesda project (“project”) will retain forty-three (43) specimen trees. Thirty-four (34) trees have unavoidable disturbances that require their removal. Of the forty-three (43) specimen trees to be retained, sixteen (16) specimen trees require minor disturbances to the critical root zone. Since the implementation of the proposed Preliminary Plan for the WMAL Bethesda project (“project”) requires the unavoidable disturbance or removal of fifty (50) (34 removed + 16 retained) trees 30” or greater a variance is necessary under Section 22A-21.

A. Background

The Applicant has filed an application for Preliminary Plan 120160290 to redevelop the WMAL property, which for more than 50 years has been home to four radio transmission towers for the WMAL radio station. The property, known as the WMAL Radio Transmission Site (the “property”) is located in the northeast quadrant of the Capital Beltway, I-495, and I-270. The project provides the opportunity to offer needed single family detached and attached housing in a down-county location, in close proximity to existing infrastructure.

There are four forest stands on the site, as delineated on the approved NRI/FSD2. Forest Stand F-1 is along I-495, along the southern edge of the property. Forest Stand F-2 is along the northern property line. Forest Stand F-3 is located in the northeast corner of the site. Forest Stand F-4 is located in the northwest corner of the site.

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1 NRI/FSD #420160220.
2 NRI/FSD #420160220
There are seventy-seven (77) specimen trees located on, or immediately adjacent to, the site as delineated on the approved NRI/FSD. The implementation of the proposed Preliminary Plan for the WMAL Bethesda project (“project”) will retain forty-three (43) specimen trees. While every effort has been made to reduce specimen tree impacts to the greatest extent possible, the removal of thirty-four (34) specimen trees and unavoidable impacts to sixteen (16) specimen trees are necessary to implement Preliminary Plan 120160290. The following is a tree-by-tree analysis for each tree to be removed or impacted. A chart is provided at the end of this letter containing information for each tree discussed in the tree-by-tree analysis.

B. Tree-by-tree Analysis- Removals

Master Planned Roads & DOT Supported Right-of-way Connections

The Applicant, in coordination with M-NCPCC staff, is providing publicly dedicated, master planned and DOT required roadway connections into the site. These connections to the surrounding existing roadway infrastructure are vital for community safety and maneuverability. All existing public rights-of-way that surround the WMAL site terminate into areas of existing forest that contain specimen trees. Failing to allow these roadway connections, in order to save the specimen trees, will preclude ideal roadway networks necessary to make the proposed community functional and safe. This would leave undesirable and inefficient options for connecting proposed roadways to the existing infrastructure that surrounds the site and may result in fewer access points into the site, thus creating maneuverability and fire safety concerns. Crossings that will not align with existing roads, in order to avoid disturbance to the specimen trees, will create additional, unnecessary intersections, and increase the likelihood of accidents occurring. Other right-of-way locations were evaluated, with the Applicant and staff agreeing that the proposed locations are the best choice.

Tree #’s 88, 91, 93, 134B, 136, & 139. These trees are all located with forest stand F-1. Tree #88 is a 35” Tulip Poplar in fair health. Tree #91 is a 33” Red Maple in fair health. Tree #93 is a 34” Tulip Poplar in fair health. Tree #134B is a 31” Silver Maple in fair health. Tree #136 is a 31” Red Maple in fair health. Tree #138 is a 33” Silver Maple in fair health. The trunks and critical root zones for each of these trees are located within the proposed right-of-way connecting Greentree Road to Renita Lane as well as the associated public utility easement and disturbance required to tie out to existing grade.

Tree #’s 173, 175, 223, 225, & 228. These trees are all located with forest stand F-2. Tree #173 is a 32” Tulip Poplar in fair health. Tree #175 is a 31” Black Cherry in good health. Tree #223 is a 33” Tulip Poplar in fair health. Tree #225 is a 31” Tulip poplar in fair health. Tree #228 is a 34” Tulip Poplar in good health. The trunks and critical root zones for each of these trees are located within the proposed right-of-way connecting Greentree Road to Greyswood Road as well as the associated public utility easement and disturbance required to tie out to existing grade.

Tree #’s 69, 80, 81, 82, 83, 85, 90, 98, 112, & 119. These trees are all located with forest stand F-1. Tree #69 is a 35” Tulip Poplar in good health. Tree #80 is a 34” Tulip Poplar in fair health. Tree #81 is a 33” Tulip Poplar in good health. Tree #82 is a 32” Tulip Poplar in good health. Tree #83 is a 30” Tulip Poplar in good health. Tree #85 is a 32” Tulip Poplar in good health.

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2 NRI/FSD #420160220.
Tree #90 is a 34” Tulip Poplar in fair health. Tree #98 is a 34” Red Maple in poor health. Tree #112 is a 30” Tulip Poplar in fair health. Tree #119 is a 31” Tulip Poplar in fair health. These trees are all located within proposed lots located along the public-right-of-way connecting Greentree Road to Renita Lane providing a continuation of houses sited along the public road right-of-way, similar in character to the existing lots adjacent to the site along Renita Lane. Even if these trees could be saved, the construction necessary to provide the public road right-of-way connection and tie out to existing grade will result in significant impacts to the critical root zones of these trees making their removal unavoidable.

Tree #102. This 38” Tulip Poplar is located within Forest Stand F-1 and is in fair health with multiple leaders. Impacts to 28% of the Critical Root zone are required to provide ESD to treat the road connecting Greentree Road to Renita Lane, and to provide ESD in the rear of two lots. Every effort will be made to save this tree in the field but may need to be removed due to the extent of impacts to the critical root zone.

Public School Land Dedication

The Applicant is voluntarily dedicating a 4.3-acre school site contained within the WMAL site to Montgomery County, Maryland. The area of public dedication is shown on the Preliminary Forest Conservation Plan. A storm drainpipe and public trail connection is required from the proposed development to the intersection of Greentree Road and existing Grubby Thicket Way. This storm drain has been placed on an HOA parcel north of the dedication to avoid encumbering the school site.

Tree #’s 161, 162, 165, 166, 167, & 170. These trees are all located with forest stand F-4. Tree #161 is a 30” Tulip Poplar in good health. Tree #162 is a 31” White Oak in good health. Tree #165 is a 33” Tulip Poplar in good health. Tree #166 is a 31” Tulip poplar in good health. Tree #167 is a 31” Tulip Poplar in good health. Tree #170 is a 35” Black walnut in fair health. The trunks and critical root zones for each of these trees are located within the proposed storm drain easement. The removal of these trees are necessary to construct a storm drainpipe and public trail connection from the proposed development to the intersection of Greentree Road and existing Grubby Thicket Way without encumbering the school site.

Trees Outside of a Forest Stand

Tree #’s 140, 141, 142, & 143. These trees are all located north of forest stand F-1 along the eastern property line of the site. Tree #140 is a 31” Silver Maple in fair health. Tree #141 is a 30” Silver Maple in fair health. Tree #142 is a 35” Northern Red Oak in good health. Tree #143 is a 40” American Sycamore in good health. These trees are located along the rear property line of proposed lots and require impacts to the critical root zone in order to grade out the lots and provide ESD required to treat stormwater. The applicant will work with a certified arborist in the field to reduce impacts to trees 140, 141, 142 and 143 to the greatest extent possible with the goal of retaining these trees. Due to the critical root zone impacts anticipated at this time, these trees are shown as removed on this plan and mitigation plantings at a 1:4 caliper ratio will be provided even if the trees are saved.

Tree #149. This 36” Black Cherry is located south of forest stand F-3 along the eastern property line and is in poor health. This tree is located along the rear property line of proposed lots and
requires impacts to the critical root zone in order to grade out the lots and provide ESD required to treat stormwater. Unlike the trees above, tree #149 is in poor health. Grading and construction activities within the critical root zone will likely further degrade the health of this tree. The construction of houses will provide a target for this tree creating a hazardous condition requiring the trees removal.

**Tree #158.** This 27” Eastern red cedar is located south of forest stand F-3 along the eastern property line and is in poor health. This is the only specimen tree located well within the center of the site outside of a forest stand. Tree #158 is in poor health and is being choked out by extensive vine coverage. As this tree is already demonstrating signs of stress the anticipated construction activities uses around the location of this tree, such as sidewalks, structures, and infrastructure, combined with any attempts to retain the tree, will further degrade the health of this tree. The construction of houses will provide a target for this tree creating a hazardous condition requiring the trees removal.

**C. Tree-by-tree Analysis- Disturbed/Retained**

**Tree #8.** This 41” Pin Oak is located within a 4.3-acre parcel of land being dedicated to Montgomery County for a future school site. The need for a variance for the removal of this tree will be addressed by Montgomery County Public Schools in the future, prior to the construction of the school site. Impacts to 2% of the Critical Root zone are required to construct a roadway adjacent to the school site dedication and tie out to existing grade.

**Tree #9.** This 32” Red Maple is located within a 4.3-acre parcel of land being dedicated to Montgomery County for a future school site. The need for a variance for the removal of this tree will be addressed by Montgomery County Public Schools in the future, prior to the construction of the school site. Impacts to 17% of the Critical Root zone are required to construct a roadway adjacent to the school site dedication and tie out to existing grade.

**Tree #19.** This 35” Tulip Poplar is located within Forest Stand F-1 and is in good health. Impacts to 7% of the Critical Root zone are required to provide a Public Utility Easement, ESD and grading along a master planned right-of-way connecting Greentree Road to Renita Lane.

**Tree #25.** This 32” Tulip Poplar is located within Forest Stand F-1 and is in good health. Impacts to 7% of the Critical Root zone is required to provide ESD and grading at the rear of one lot.

**Tree #56.** This 32” Tulip Poplar is located within Forest Stand F-1 and is in good health. In order to mitigate noise from Interstate I-495, as recommended by Planning Staff, the Applicant has proposed to construct a noise wall just outside of the boundary of the property within the forested SHA right-of-way. A noise wall was not originally provided by SHA along the subject property because of its previous use as a radio tower site. The proposed noise wall will connect with the existing noise walls that were previously provided by SHA along properties adjacent to each side of the project site. The wall was redesigned to avoid the removal of this specimen tree. However, unavoidable impacts to 20% of the Critical Root zone are required to provide a noise wall.
Tree #61. This 31” Tulip Poplar is located within Forest Stand F-1 and is in good health. Impacts to 12% of the Critical Root zone are required to provide ESD to treat the road connecting Greentree Road to Renita Lane, a trail connection from the forest trail to this same road, and to provide ESD in the rear of one lot.

Tree #103. This 33” Red Maple is located within Forest Stand F-1 and is in fair health. Impacts to 16% of the Critical Root zone are required to provide ESD in the rear of two lots.

Tree #131. This 31” Tulip Poplar is located within Forest Stand F-1 and is in good health. Impacts to 9% of the Critical Root zone are required to provide ESD and grading for a master planned right-of-way connecting Green Tree Road to Renita Lane.

Tree #155. This 43” White Oak is located just off the property near Forest Stand F-3 and is in fair health. Impacts to 23% of the Critical Root zone are required to provide ESD behind two lots. This tree is located along Derbyshire Court on the low side of a retaining wall. Impacts to the actual critical root zone are unlikely given the tree is about 6 feet below the existing elevation of the WMAL site and critical root zones are typically located within the first few inches of existing grade.

Tree #171. This 37” Tulip Poplar is located along the property line within Forest Stand F-4. This tree is considered to be in poor health because it is leaning and covered extensively with vines. Impacts to 25% of the Critical Root zone are required to provide ESD on a parcel that separates the forest stand from proposed lots. This tree is not marked to be removed due to reasons given for the poor health rating and distance from a target on the property subject to preliminary plan.

Tree #172. This 42” Black Gum is located off-site near the property line north of Forest Stand F-4. This tree is in fair health and is covered extensively with vines. Impacts to 15% of the Critical Root zone are required to provide ESD on a parcel that separates the forest stand from proposed lots.

Tree #181. This 51” Red Maple is located within Forest Stand F-2. This tree is in fair health. Impacts to 28% of the Critical Root zone are required to grade, provide ESD and a noise wall/fence to mitigate noise coming from I-270 behind two lots along a master planned right-of-way connecting Greentree Road to Greyswood Road.

Tree #204. This 35” Red Maple is located within Forest Stand F-2. This tree is in fair health. Impacts to 8% of the Critical Root zone are required to provide a noise wall/fence to mitigate noise coming from I-270 behind two lots along a master planned right-of-way connecting Greentree Road to Greyswood Road.

Tree #243. This 40” Red Maple is located within Forest Stand F-2. This tree is in fair health. Impacts to 19% of the Critical Root zone are required to provide an alley and grading on one lot.

Tree #246. This 34” Red Maple is located just off the property near Forest Stand F-3 and is in fair health. Impacts to 23% of the critical root zone are required to provide grading on a parcel
behind proposed lots. This tree is located along Derbyshire Court on the low side of a retaining wall. Impacts to the actual critical root zone are unlikely given the tree is about 6 feet below the existing elevation of the WMAL site and critical root zones are typically located within the first few inches of existing grade.

**Tree #177.** This 31” Tulip Poplar is located within Forest Stand F-2 and is in fair health. Impacts to 21% of the Critical Root zone are required to provide a public road right-of-way, Public Utility Easement, ESD and grading connecting Greentree Road to Greyswood Road.

**D. Requirements for the Granting of a Variance**

The requirements for the granting of a variance are provided below, followed by the applicant’s presentation of how those requirements are met.

(1) *Describe the special conditions peculiar to the property which would cause the unwarranted hardship:*  

The Applicant, in coordination with M-NCPCC staff, is providing publicly dedicated, master planned and DOT required roadway connections into the site. These connections to the surrounding existing roadway infrastructure are vital for community safety and maneuverability. All existing public rights-of-way that surround the WMAL site terminate into areas of existing forest that contain specimen trees. Failing to allow these roadway connections, in order to save the specimen trees, will preclude ideal roadway networks necessary to make the proposed community functional and safe. This would leave undesirable and inefficient options for connecting proposed roadways to the existing infrastructure that surrounds the site and may result in fewer access points into the site, thus creating maneuverability and fire safety concerns. Crossings that will not align with existing roads, in order to avoid disturbance to the specimen trees, will create additional, unnecessary intersections, and increase the likelihood of accidents occurring. Other right-of-way locations were evaluated, with the Applicant and staff agreeing that the proposed locations are the best choice.

In order to mitigate noise from Interstates I-495, as recommended by Planning Staff, the Applicant has proposed to construct a noise wall just outside of the boundary of the property within the forested SHA right-of-way. A noise wall was not originally provided by SHA along the subject property because of its previous use as a radio tower site. The proposed noise wall will connect with the existing noise walls that were previously provided by SHA along properties adjacent to each side of the project site. The wall was redesigned to avoid the removal of this specimen tree. However, unavoidable impacts to the Critical Root zone are required to provide a noise wall. Additionally, as recommended by planning staff, some impacts to specimen trees are required to mitigate for noise coming from I-270.

The Applicant is voluntarily dedicating a 4.3-acre school site contained within the WMAL site to Montgomery County, Maryland. The removal of specimen trees are
necessary to construct a storm drainpipe and public trail connection from the
proposed development to the intersection of Greentree Road and existing Grubby
Thicket Way located north of the school site. Relocating the storm drainpipe and trail
to the south to avoid specimen tree impacts would encumber the school site.

Additionally, the property contains specimen trees located outside of the forest
stands. The majority of these trees are located along the eastern property line and
have critical root zones that cross into the proposed limits of disturbance. Every effort
will be made in the field to save these trees. Given the disturbances anticipated at this
time, they have been counted as removed and will be mitigated for at a 1:4 caliper
ratio even if they are retained. Only one tree, an Eastern Red Cedar in poor health, is
located entirely within the limits of disturbance. Site construction and the anticipated
improvements will further deteriorate the health of this tree. For this reason, it is not
feasible to retain this tree.

(2) Describe how enforcement of this Chapter will deprive the landowner of rights
commonly enjoyed by others in similar areas:

Given the number and distribution of 30” and greater trees on this property,
combined with the location of existing public right-of-ways adjacent to the site that
terminate into areas containing specimen trees, failing to grant a variance will
preclude the landowner from providing ideal roadway networks and infrastructure
necessary to make the community functional and safe. This would leave the applicant
with undesirable and inefficient options for connecting proposed roadways to the
existing infrastructure and may result in fewer access points into the site creating fire
safety concerns. Crossings that will not align with existing roads in order to avoid
disturbance to the specimen trees will create additional, unnecessary intersections,
and further increase the likelihood of accidents occurring.

Additionally, noise mitigation measures would not be able to be implemented to
bring noise levels within County standards for noise coming from Interstates I-495
and I-270.

In order to provide Montgomery County with an unencumbered 4.3-acre school
site the removal of specimen trees is necessary. Finally, impacts to six (6) trees
located along the property line and one tree in poor health are necessary to provide
storm water management using environmental site design. Steps will be taken in the
field to work with an arborist to reduce impacts to the greatest extent possible for
trees in fair to good health while still mitigating for their removal at a 1:4 caliper
ratio. Trees in poor health will be removed as their condition will likely worsen
under the stress of construction and the addition of targets will create a hazardous
condition.

(3) Verify that State water quality standards will not be violated and that a measurable
degradation in water quality will not occur as a result of granting the variance,
The redevelopment of this property and the implementation of the proposed Preliminary Plan are subject to Chapter 19 of the Montgomery County Code, which controls Sediment Control and Stormwater Management consistent with State water quality standards and includes measures to improve watershed quality through the provision of a comprehensively designed and integrated stormwater management system that relies on Environmental Site Design (ESD) practices. The goal of ESD is to provide stormwater quantity and quality controls that are nearly equivalent to woods in good condition. The existing site and surrounding communities were developed prior to modern stormwater management practices and standards. The redevelopment of the property will improve water quality conditions on-site and downstream through the integration of ESD.

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

The WMAL site contains approximately fifty-nine acres of open field and has been in this condition for at least fifty years. Because of this application, approximately 550 trees will be planted, significantly enhancing the tree canopy coverage of the property.

The removal of specimen trees located within forest stands will be mitigated for in accordance with Section 22-A. All specimen tree removals outside of forest stands will be mitigated for by providing mitigation plantings at a 1:4 caliper ratio.

In addition to meeting the criteria of subsection (a), the granting of this 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 described above, the removal of specimen trees is necessary to connect proposed roadways as part of the county master plan or as required by County staff. In order to make these connections as efficiently as possible these disturbances are necessary. Other specimen trees are being impacted to provide required noise mitigation measures from Interstates I-495 and I-270. The remaining specimen trees are to provide the County with an unencumbered 4.3-acre voluntary public school land dedication, impacts to critical root zones of trees along the eastern property line where special measures will be taken in the field using a certified arborist to reduce impacts and the removal of trees in poor health. Additionally, the applicant will mitigate at a 1:4 caliper replacement ratio for all specimen tree removals outside of forest stands.

(2) Will not be based on conditions or circumstances which result from the actions by the applicant.

The requested variance is based upon the nature of the existing site, distribution of the subject trees, coordination with M-NCPCC staff to provide master planned and County-required roadway connections, noise mitigation, and the other considerations discussed above. Without the removal of specimen trees, the community will be deprived of master planned road connections, noise mitigation from Interstates I-495
and I-270, an unencumbered 4.3-acre school site dedication, critical root zone impacts that can be minimized in the field in coordination with a certified arborist and the removal of trees in poor health.

(3) *Will not be based on a condition relating to land or building use, either permitted or nonconforming, on a neighboring property.*

The requested variance is based upon the nature of the existing site, distribution of the subject trees, surrounding roadways, and coordination with M-NCPPC Staff and not on a condition relating to land or building use on a neighboring property.

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

The redevelopment of this property and the directly associated need for a variance will improve water quality conditions on site and downstream through the integration of Environmental Site Design. The redevelopment is subject to Chapter 19 of the Montgomery County Code, which has been determined by the Maryland Department of the Environment to be in conformance with the State’s water quality standards.

E. Conclusion

The project provides the opportunity to offer needed single family detached and attached housing in a down-county location, in close proximity to existing infrastructure. The features described above are vital to creating a successful community. With land dedicated to provide master planned and DOT required roadway connections, noise mitigation from Interstates I-495 and I-270, the dedication of an unencumbered 4.3-acre public school site and other considerations, impacts to the forest are unavoidable. Without these impacts, the community and existing communities that surround the project will be deprived of necessary features that would allow functionality under modern day standards.

Thank you for your consideration of this request and feel free to call or email with any questions or to discuss these matters. I can be reached at (240) 912-2150 or mwessel@rodgers.com.

Sincerely,

Rodgers Consulting, Inc.

Matthew J. Wessel, PLA, ISA Certified Arborist

Encl: Preliminary Forest Conservation Plan
Cc: File

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<td>Fair</td>
<td>Rear Lot grading, LSD</td>
<td>Multiple leaders</td>
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<td>28% CRZ Impact-Remove</td>
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<td>Foral - Height Measured approx 4.5', Multiple leaders</td>
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<td>134A</td>
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<td>Acer saccharinum</td>
<td>Silver Maple</td>
<td>Fair</td>
<td>Greenme Road/Renta Lane Right-of-way, PUE and grading</td>
<td>Multiple leaders, Trunk cavities, Leaning, Vines</td>
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<td>Foral - Height Measured approx 3.5' Multiple leaders</td>
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<td>Remove</td>
<td>6% CRZ Impact-1.4 Delete Replacement 7.75</td>
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<td>62% CRZ Impact-1.4 Delete Replacement 9.30</td>
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<td>Leaning, Extensive vines</td>
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<td>Greenme Road to Greywood Connection</td>
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<td>Multiple leaders</td>
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<td>Greenme Road to Greywood Connection</td>
<td>Foral - Height Measured approx 3.5' Multiple leaders</td>
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<td>Greenme Road to Greywood Connection</td>
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<td>Fair</td>
<td>Alley, Grading and LSD Impact</td>
<td>Multiple leaders</td>
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<td>Acer rubrum</td>
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<td>Growth affected by placement in well</td>
<td>Save</td>
<td>32% CRZ Impact- Saved</td>
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</table>

Total: 49.75

Min. Tree Caliper (Inching): 3
Number of Trees: 37

WNAL: Specimen Trees Variance & Mitigation

Rodgers Consulting
Knowledge, Crafting Enduring Values

819847 Century Blvd., Suite 200, Germantown, MD 20874
301.948.4700 (fax)
www.rodgers.com