




**Preliminary Plan (Resubdivision) No.120110420; Great Falls Estates (Trone Property)**

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**Staff Report Date: 7/16/12**

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**Description**

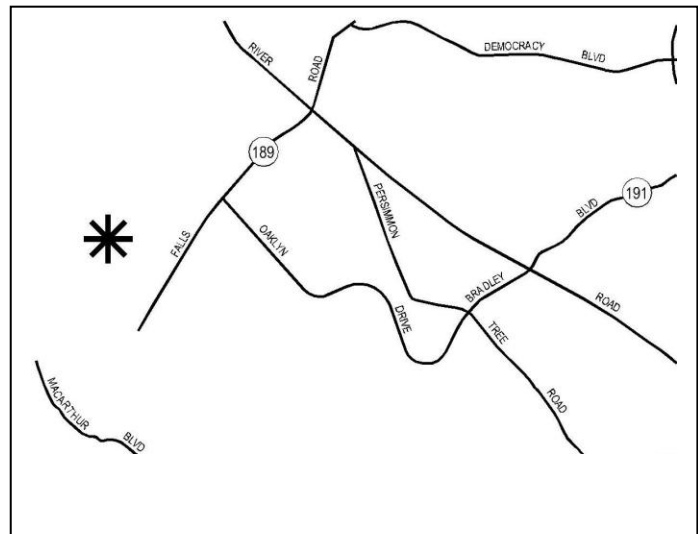
**Preliminary Plan (Resubdivision) No.120110420; Great Falls Estates (Trone Property)**

A request to resubdivide three properties: Lot 24, Block C, Part of Lot 8, Block C and Part of Lot 8, Block C, in the Great Falls Estates Subdivision into two record lots; located at 11417 Skipwith Lane and 11501 Skipwith Lane; 4.82 acres; RE-2 zone; Potomac Subregion Master Plan

**Staff Recommendation:** *Approval with conditions*

**Applicant:** June Trone, who is also authorized as the personal representative for Ashton Vessali and Monica Svincki, adjoining neighbors

**Submission Date:** July 13, 2011



**Summary**

- A Resubdivision of three properties to create two lots for two existing one family detached dwelling units.
- Review of a Forest Conservation Plan to bring the property into conformance with Chapter 22A.
- Review of a Tree Variance for impacts to Protected Trees.
- No citizen opposition

**RECOMMENDATION:** Approval subject to the following conditions:

- 1) Approval under this preliminary plan is limited to two one family residential lots.
- 2) Prior to issuance of a sediment and erosion control permit, the Applicant must receive approval of a final forest conservation plan consistent with the preliminary forest conservation plan approval and section 22A.00.01.09(B) of the forest conservation regulations.
- 3) Prior to any land disturbance for the driveway construction, the Applicant must identify the size and condition of each of the eight (8) variance trees to be impacted but not removed. Each of the eight (8) variance trees are to be tagged and an ISA certified arborist tree assessment with tree-specific information is to be performed and submitted to M-NCPPC. If any of the eight (8) variance trees dies, or has significant dieback within five (5) years from the initiation of clearing or grading activities subject to the variance, the Applicant must mitigate the tree(s) loss on a one-inch to one-inch caliper basis within the same watershed (Potomac River Direct).
- 4) The Applicant must meet all of the variance mitigation planting requirements within the same watershed (Potomac River Direct).
- 5) The Applicant must provide a two-year maintenance period on all planted material.
- 6) The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated October 12, 2011, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the MCDOT letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 7) The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated October 28, 2011, and does hereby incorporate them as conditions of the Preliminary Plan approval. Therefore, the Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Stormwater Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 8) The record plat must show necessary easements.

Please note that due to late revisions to the Tree Variance the County Arborist recommendation on the Tree Variance request for this Application was not received prior to the posting deadline for this Staff Report. The Arborist's recommendation will be posted on the MNCPPC Website upon receipt of that document.

Conditions of approval proposed in the Staff Report may be modified and additional conditions may be recommended if appropriate, following receipt of the County Arborist's recommendation.

## Executive Summary

The history of this Application is somewhat complicated. The recommendations contained in this Staff Report are the result of numerous meetings with the Applicant. The following summary attempts to touch on the highlights of that history that helped frame the recommendations made by Staff. Some of the highlights are based on assertions by the Applicant's team:

- In March 2010, the Applicant submitted a request for a forest conservation exemption for land disturbing activities on a single lot (Trone Property). Because the plan associated with that exemption request showed land disturbance necessary for a new driveway on an adjacent property (Vessali), the exemption was denied on March 29, 2010.
- Staff explained to the Applicant that land disturbance on two separate properties would require a forest conservation plan submittal, review and approval. To expedite the commencement of grading, the Applicant elected to amend the exemption plan drawings to delete the new driveway and show that the existing driveway would be used to provide access to the residence. The Applicant maintains that the use of the existing driveway was always temporary and that any land disturbance for the new driveway would be addressed in the future with a forest conservation plan and preliminary plan after the land for the new driveway was acquired from the adjacent Property owner (Vessali).
- In July 2010, after submission of a revised exemption request, Staff approved a forest conservation exemption for the Trone lot for activity on a single lot including a tree protection plan and a Declaration of Intent. Construction proceeded under a sediment control plan. The plan shows use of the existing driveway and no off-site disturbance.  
NOTE: Under a Declaration of Intent, if a regulated activity occurs on the property or application is made for a regulated activity within 5 years, the exemption terminates and the activity must be brought into conformance with the Forest Conservation Law.
- In May 2011, a minor subdivision was recorded that slightly enlarged the Trone lot and a revised exemption was approved in June 2011 to show minor additional disturbance, on a single lot, now Lot 34, Trone Property.
- The Trone's acquire a portion of Lot 8 from the adjacent property owners (Vessali). (Date unknown)  
NOTE: The Applicant advises that the acquisition of a portion of the Vessali Property gives them ultimate control of the protection of trees along the driveway.
- In July 2011, a preliminary plan application and forest conservation plan are received for review to consolidate the Trone properties into a single lot and to re-establish the Vessali property as a record lot. The submitted plans show the new driveway location with proposed disturbance on the newly acquired portion of property. Because of the submission of a preliminary plan, the approved exemption is terminated and the land disturbance must comply with the Law. The forest conservation plan requests a Variance to disturb trees 30 inches in DBH or greater. Approval of the plans will bring the property into conformance with the Forest Conservation Law.

- July 2012. The house reconstruction is now 90% complete. The Applicant maintains that the vehicular courtyard, garage and garage door openings that are designed, though not completed, necessitate a relocated driveway. The Applicant has been renting a house since inception of construction.
- The Applicant has provided a detailed tree protection plan submittal to show why the new driveway alignment provides superior tree protection as compared to other options.

#### **SITE DESCRIPTION (Attachment A)**

The Great Falls Estates preliminary plan No. 120110420 (“Application”) is comprised of three separate properties each under separate tax accounts. The Trone Property is identified as Lot 34, Block C, Great Falls Estates Subdivision on Plat No. 24235 and is owned by June S. Trone. The Vessali Property was previously identified as Lot 8, Block C, Great Falls Estates Subdivision per Plat No. 11062 owned by Ashton A. Vessali and Monica A. Svinicki. Mrs. Trone is acting as the personal representative for the Vessali interest in the Application. The Vessali property with the Vessali residence is now identified as one of two “Parts” of Lot 8 in Block C, Great Falls Estates Subdivision. The other “Part” of Lot 8 (“Lot Pt. 8”) was severed from the Vessali Property when it was conveyed by deed to the Applicant, Mrs. Trone. The purpose of that transaction was to enable the Applicant to reconfigure a portion of the driveway serving the Trone Property and to assure that the existing trees in the vicinity of the new driveway would be protected in the future. The three properties are collectively the (“Property” or “Subject Property”).

The Subject Property is part of an eclectic neighborhood of one family homes at the southern end of Falls Road, within the boundaries of the 2002 Approved and Adopted Potomac Subregion Master Plan. All lots within the adjacent areas are classified in the RE-2 residential one family zone, a zone with a two acre minimum lot size. The Trone Property (Lot 34) contains 2.3 acres of land and is improved with an existing one family dwelling. The Vessali Property consists of 2.02 acres and is also improved with a one family dwelling. The part of lot 8 that was acquired by Mrs. Trone is 0.5 acres in size.

#### **PROJECT DESCRIPTION (Attachment B)**

This Application proposes to reconfigure the location of the shared lot line between former Lot 8 (now two parts of lot 8) and Lot 34. Since all of the Subject Property is, or were, formerly shown on a record plat, the review of the Application will be subject to Section 50-29(b)(2) – Resubdivision Criteria.

The purpose of merging the 0.5 acre part of lot 8 into the existing Trone Property lot is to allow for the realignment of a portion of the existing driveway serving the Trone residence. The existing driveway aprons for both residences at Skipwith Lane will remain unaltered. Further, the Application will return the Vessali lot, which is now a part of former Lot 8, into a record lot. Both existing dwellings will be retained and no additional lots will be created.

The Application is required to conform to Chapter 22A, the Montgomery County Forest Conservation Law. A final forest conservation plan is submitted for consideration as is a Tree Variance for impacts to Specimen Trees. A complete analysis is contained in this report.



## **ANALYSIS AND FINDINGS**

### **Conformance to the Master Plan**

The Application is in substantial conformance with the Approved and Adopted Potomac Subregion Master Plan (“Master Plan”). The Master Plan does not contain any site-specific recommendations for the Subject Property; however, the Master Plan confirms the existing RE-2 zoning for all properties along Skipwith Lane including the Subject Property. The lots proposed by the Application comply with the RE-2 zoning standards, as discussed further in this report.

### **Adequate Public Facilities**

#### Roads and Transportation Facilities

The reconfigured lots will not generate additional peak hour trips and are therefore, not subject to Local Area Transportation Review or Policy Area Mobility Review. Both lots will retain their existing access locations on Skipwith Lane, a publically dedicated and maintained secondary street with a 60 foot wide right-of-way. No additional dedication is required. Sidewalks are not required along the frontage; pedestrian circulation will continue to be safe and adequate along the cul-de-sac in this low density neighborhood. The required public utility easements will be shown on the new record plat.

#### Other Public Facilities

The proposed lots will continue to be served by public water and approved individual septic systems. The septic reserve area on the reconfigured Trone lot was relocated as part of the renovation of the residence and that relocation was previously approved by the Montgomery County Department of Permitting Services. All other required public facilities are adequate to serve the proposed resubdivision. The Application has been reviewed by the Montgomery County Fire and Rescue Services who have no comments since each home is served by a single driveway. The Application does not propose any additional homes; there is no School Facility Payment.

## Compliance with the Zoning Ordinance and Subdivision Regulations

### Zoning Ordinance

The proposed lots will continue to comply with the RE-2 zoning standards established by the Montgomery County Zoning Ordinance. This conformance is detailed in the Zoning Data Table below.

<b>Zoning Development Standards</b>		
<b>Standard</b>	<b>Required</b>	<b>Provided</b>
<b>Lot Area</b>	87,120 sf.	87,991 sf. minimum
<b>Front yard setback</b>	50 feet	50 ft. min.
<b>Side yard setbacks</b>	2 side yards, totaling 35 feet Each side yard must be at least 17 feet	17 ft. min. one side 35 ft. min. total
<b>Rear yard setback</b>	35 feet in depth	35 ft. min.
<b>Lot width at front building line</b>	150 feet measured along the front building line	150 ft. min.
<b>Lot width at front street line</b>	25 feet	25 ft. min.

### Subdivision Regulations

The lot sizes, widths, shapes and orientations proposed under this Application are appropriate for the location of the subdivision and in compliance with Section 50-29(a)(1) of the Subdivision Regulations. The proposed lots will have frontage on Skipwith Lane in accordance with Section 50-29(a)(2) of the Subdivision Regulations. An analysis of the resubdivision criteria follows below.

#### Conformance with Section 50-29(b)(2) - Resubdivision

##### A. Statutory Review Criteria

In order to approve an application for resubdivision for residential uses in residential zones, the Planning Board must find that the proposed lot(s) comply with all seven of the resubdivision criteria, set forth in Section 50-29(b)(2) of the Subdivision Regulations, which states:

“Resubdivision. Lots on a plat for the Resubdivision of any lot, tract or other parcel of land that is part of an existing subdivision previously recorded in a plat book shall be of the same character as to *street frontage, alignment, size, shape, width, area and suitability for residential use* as other lots within the existing block, neighborhood or subdivision.”

##### B. Neighborhood Delineation (**Attachment C**)

In administering Section 50-29(b)(2) of the Subdivision Regulations, the Planning Board must determine the appropriate neighborhood upon which to evaluate the Application. The neighborhood proposed by the Applicant and agreed to by Staff, consists of 34 lots that abut the Property and that are located along the roads that serve as the main access to the Property from the main local road; in this case, Falls Road. (“Neighborhood”) This rationale for determining an analysis neighborhood is consistent with

previous Staff and Planning Board practice. An illustration showing the boundaries of the Neighborhood entitled “Trone Property Neighborhood Delineation” is attached to this report.

### C. Analysis

Staff finds that both of the proposed lots are of the same character with respect to street frontage, alignment, size, shape, width, area and suitability for residential use as compared to the other existing lots located within the Neighborhood. Therefore, the proposed resubdivision complies with the criteria of Section 50-29(b)(2) of the Subdivision Regulations. This determination is supported as summarized below and as shown in the resubdivision tables attached to this report. (Attachment D)

Frontage: Lot frontages in the Neighborhood range from 27 feet to 816 feet. The ranges of lot frontage can be grouped into three categories. 13 lots have frontages between 27 feet to 198 feet; 13 lots have frontages between 220 feet and 283 feet, and 10 lots have frontage exceeding 300 feet, ranging from 300 feet to 816 feet. Thus, there is a wide and well dispersed range of lot frontages for the Neighborhood. Proposed Lot A (Trone Lot) will have 103.54 feet of frontage and Proposed Lot B (Vessali Lot) will have 391.36 feet of frontage. The frontage for both proposed lots are well within the overall range of lot frontages (27 to 816 feet). Each lot is also well within one of the three groupings identified above. Therefore, the proposed lots will be of the same character as existing lots in the Neighborhood with respect to lot frontage.

Alignment: In terms of alignment, 22 of the 34 lot lots in the Neighborhood align perpendicular to the street line in either a radial or standard perpendicular fashion. The remaining 14 lots are irregular in that they align to the street line with one non-radial side lot line. The alignment of the Trone Lot and the Vessali Lot to Skipwith Lane are perpendicular. The proposed lots are are of the same character as existing lots with respect to the alignment criterion.

Size: Lot sizes in the Neighborhood range from 2.00 acres to 6.50 acres. 20 lots are smaller than 2.5 acres and 14 lots are larger than 2.5 acres. The Vessali Lot will be 2.02 acres and very similar in size to 12 other lots that are also under 2.1 acres. The Trone Lot will be 2.81 acres and is in character with group of lots within the Neighborhood over 2.5 acres in size. The size of the proposed redesigned lots is in character with the existing lots in the neighborhood.

Shape: With respect to shape, 24 lots in the Neighborhood have an irregular shape and 10 lots resemble either a rectangle or trapezoid. The character of this Neighborhood as to shape is best defined as “eclectic” with no established pattern. Both of the proposed lots will be irregularly shaped lots. The Trone Lot will be an irregular shape with a panhandle. The panhandle is increased in width from that of the existing Trone Property. The Vessali Lot will also be irregularly shaped. Thus, the proposed lots are similar in shape with the 24 irregularly shaped lots and are of the same character as lots within the Neighborhood.

Width: Lot width is measured at the front building line (BRL). Lot widths vary considerably in the Neighborhood ranging from 25 feet to 654 feet. Sixteen of the lots are at, or less than 200 feet in width at the BRL and 17 are greater than 200 feet in width at the BRL. The proposed lots have lot widths of 93 feet and 370 feet for Trone and Vessali, respectively. Both lots will be in character with other existing lots in the neighborhood with respect to width.

Area: The area of a lot is the area that is available for development and excludes the area within the front, rear and side yard setbacks established by the RE-2 zone. Existing lots in the Neighborhood have areas that range from 44,134 square feet to 210,574 square feet. The Trone Lot will have a buildable area that is 66,190 square feet and the Vessali Lot will have a buildable area that is 54,844 square feet. Both are well within the range and therefore, of the same character as all other lots in the Neighborhood.

Suitability for Residential Use: The proposed lots are both improved with detached one family homes and there are no known limitations that would prohibit additional development or redevelopment. The proposed lots are zoned residential and the land is suitable for residential use.

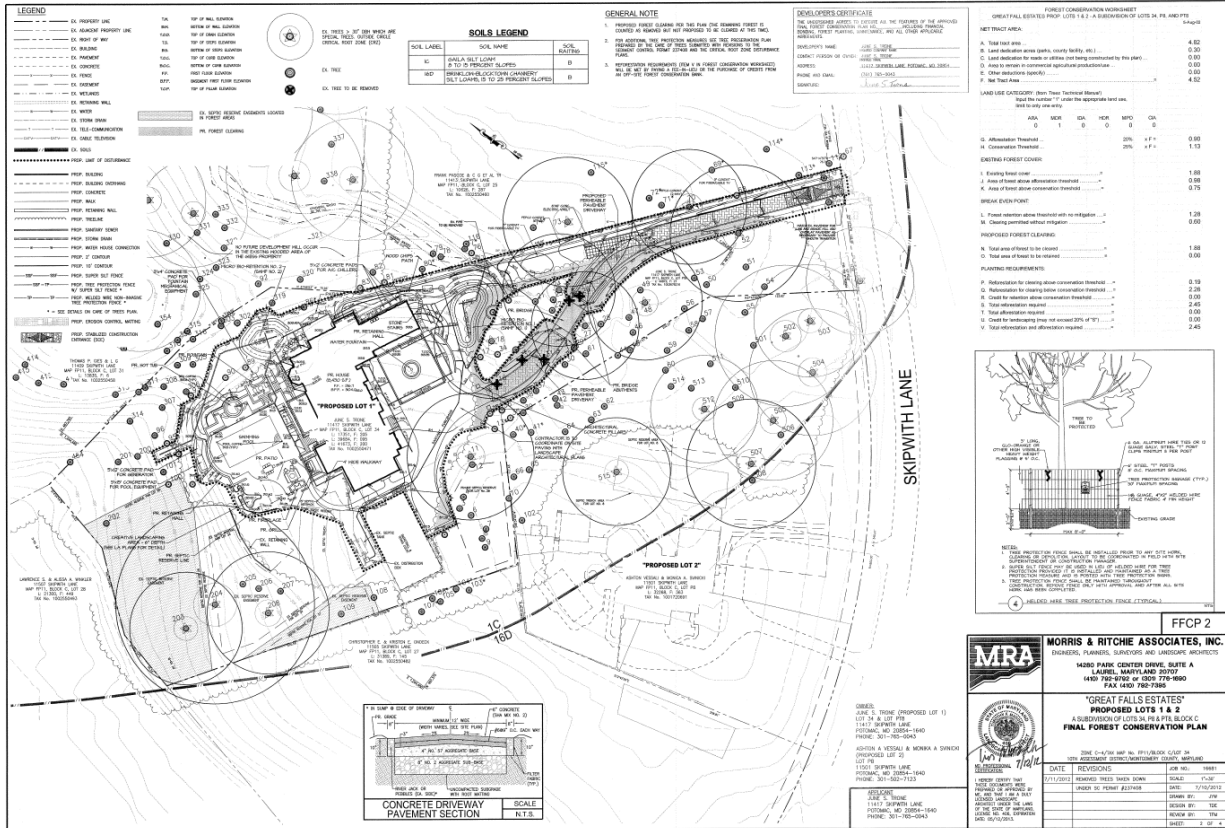
### **Environment**

#### Natural Resource Inventory/Forest Stand Delineation (“NRI/FSD”)

The NRI/FSD #420110950 for the Subject Property was originally approved on March 29, 2011 and it identified the environmental constraints and forest resources. The Property contains 1.88 acres of forest; with Eighteen (18) trees, 30 inches and greater diameter at breast (DBH) on, or immediately adjacent to the Subject Property. There are no environmental buffers, streams, or wetlands on site. The Property is within the Potomac River Direct watershed (Use Class I-P).

#### Forest Conservation Plan

The Forest Conservation Plan (“FCP”) proposes 1.88 acres of forest clearing and no forest retention, only 0.22 acres is proposed to be removed at this time. The 1.66 acres of forest not being physically cleared is counted as cleared since the Applicant does not wish to have any easements on the Property. The FCP generates a 2.45 acre reforestation planting requirement. The Applicant proposes to meet the entire planting requirement off-site.



**Forest Conservation Variance (Attachment E)**

Section 22A-12(b) (3) of the County Code requires applicants to identify certain trees, shrubs, plants, and specific areas as priority for retention and protection. This section requires those areas to be left in an undisturbed condition unless the applicant obtains a variance in accordance with Chapter 22A-21 of the County code. More specifically the vegetation to remain undisturbed includes:

- A. *Trees, shrubs, or plants determined to be rare, threatened, or endangered under:*
  - (1) *The federal Endangered Species Act of 1973,*
  - (2) *The Maryland Nongame and Endangered Species Conservation Act, Natural Resources Article, §§10-2A-01—10-2A-09, Annotated Code of Maryland, and*
  - (3) *COMAR 08.03.08;*
- B. *Trees that:*
  - (1) *Are part of an historic site,*
  - (2) *Are associated with an historic structure, or*
  - (3) *Have been designated by the State or the Department as a national, State, or county champion tree; and*
- C. *Any tree having a diameter measured at 4.5 feet above the ground of:*
  - (1) *30 inches or more, or*
  - (2) *75 percent or more of the diameter, measured at 4.5 feet above the ground, of the current State champion tree of that species as designated by the Department of Natural Resources.*

Under Chapter 22A-21 of the County Code an applicant may request a variance, in writing, from this Chapter if it can be demonstrated that enforcement would result in unwarranted hardship to the person. The applicant for a variance must:

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
- (3) Verify that State water quality standards will not be avoided or that a measurable degradation in water quality will not occur as a result of the granting of the variance; and
- (4) Provide any other information appropriate to support the request.

The Applicant requests a variance for 13 trees greater than 30" DBH ("Protected Trees") (Figures 1 and 2) While the Applicant proposes to not remove a Protected Tree as part of this Application, there are five trees: Nos. 203, 204, 208, 507, and 515 that are located within septic easements for neighboring lots. All forest and trees within a recorded septic easement must be considered cleared, because the septic easement area can be cleared at any time for the purpose of septic repair or expansion. Additionally, by granting the variance for the Protected Trees at this time, avoids any future issues for a variance, which could possibly delay proper septic functions for the residences using those septic fields.

The Applicant has hired Davey Resource Group (formally Care of Trees) including an ISA certified arborist(s), to monitor and assist with the implementation of the planning and construction phases of this project to provide an increased level of assurance that the eight Protected Trees are properly protected by the proposed measures. The Applicant's tree experts have submitted material to justify the variance request and to show how the trees will be protected.

Staff has recommended a condition that provides for tree replacement should any Protected Tree suffer significant decline or death within five years of any construction associated with this variance request. The Applicant would be responsible for additional plantings.

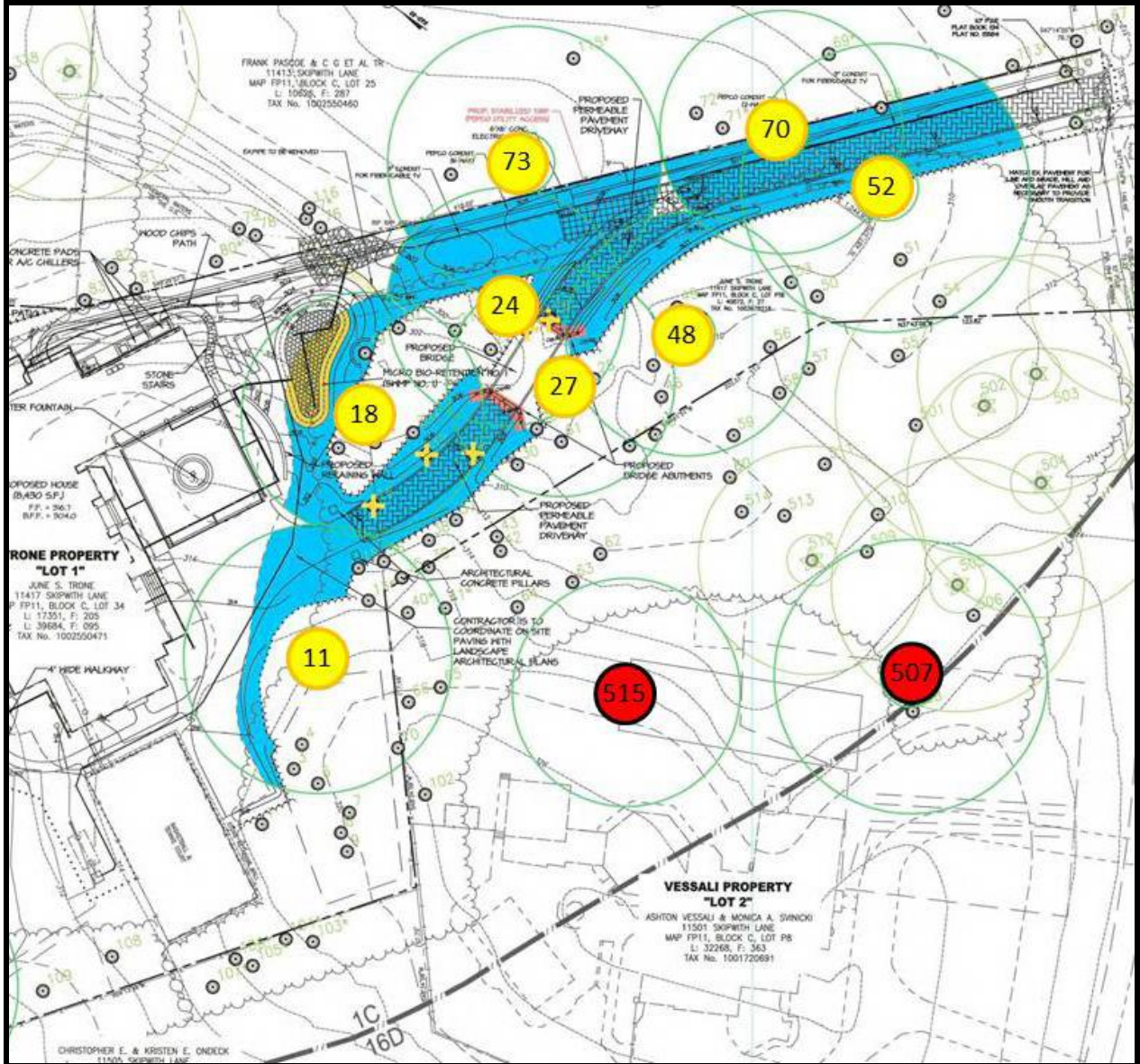


Figure 1: Variance Trees Front Yard (Yellow = Impacted - Red = Removed)



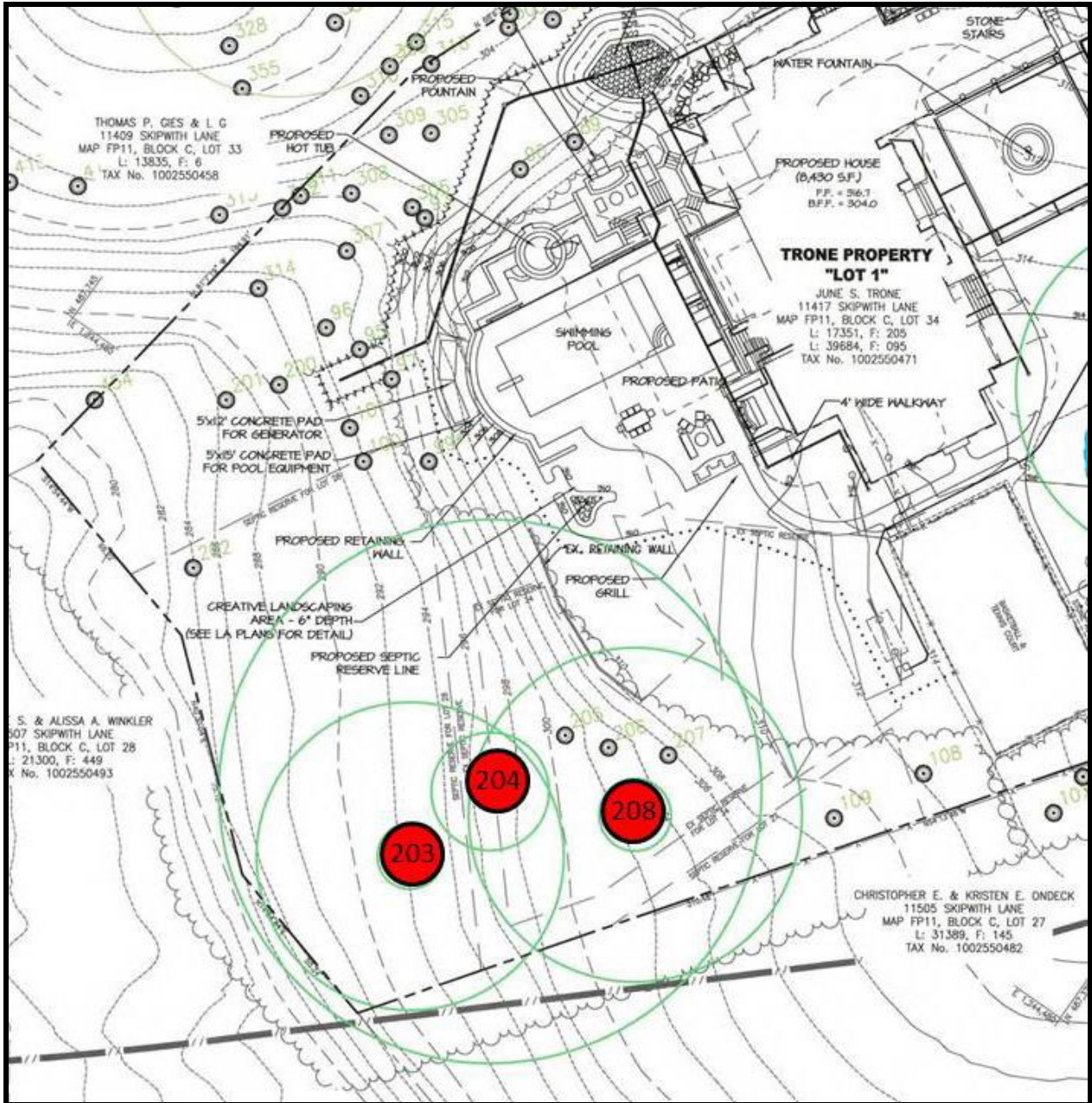


Figure 2: Variance Trees Rear Yard (Red = Removed)



Tree Id #	Species	DBH	% of CRZ Impacted	Condition	Removed Per this Plan	Comment
11	Chestnut Oak	35	21%	Fair	No	Disturbance By Driveway Reconstruction & Existing LOD
18	Black Oak	34	52%	Fair	No	Disturbance by SWM #1 & Driveway Fills and Swale
24	Chestnut Oak	31	56%	Fair	No	Disturbance by Driveway Removal & Fills and Bridge Abutments/Piers
27	White Oak	30	27%	Fair	No	Disturbance by Driveway Fills & Bridge Abutments/Piers
48	Chestnut Oak	34	20%	Fair	No	Disturbance by Driveway Fills, Bridge Abutment & Swale Grading
52	White Oak	38	32%	Good	No	Disturbance by Permeable Driveway and Minor Fills
70	Red Oak	34	38%	Good	No	Disturbance by Permeable Driveway and Minor Fills
73	Chestnut Oak	36	34%	Good	No	Disturbance by Driveway Removal and Minor Fills
203	Chestnut Oak	31	-	Fair	No	Located in existing septic reserve on Proposed Lot 1
204	Chestnut Oak	55	-	Fair	No	Located in existing septic reserve on Proposed Lot 1
208	Southern Red Oak	34	-	Fair	No	Located in existing septic reserve on Proposed Lot 1
507	White Oak	36	-	Fair	No	Located in existing septic trench for Proposed Lot 2
515	White Oak	30	-	Good	No	Located in existing septic reserve for Proposed Lot 2

### Unwarranted Hardship Basis

As discussed previously, a Declaration of Intent associated with a forest conservation exemption for land disturbing activity on a single lot specifies that the exemption will terminate if an applicant engages in a regulated activity within 5 years and at that time, the activity must be brought into conformance with the Law. Hence, the Forest Conservation Exemption for the Trone property terminated once the preliminary plan was filed<sup>1</sup>. The land disturbing activity that is required to complete the development on the Trone property must be considered as part of a review of a forest conservation plan if it is to be brought into conformance. Completion of the new driveway results in a requirement to obtain a variance under Chapter 22A-21. Renovation and/or use of the existing driveway, while not an option for the Applicant, would also result in impact to Protected Trees, thereby triggering a variance. If the Applicant is unable to gain approval of a forest conservation plan, including a variance, they will be unable to fully comply with Section 22A-19 of the Montgomery County Code, and thereby suffer an undue hardship.

### County Arborist's Recommendation

In accordance with Montgomery County Code, Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The initial revised request was forwarded to the County Arborist on June 22, 2012, an updated revised variance Justification was forwarded on June 25, 2012. Following a July 11, 2012 meeting with the Applicant's representatives, M-NCPPC staff and the County Arborist to resolve remaining issues with the submission, an updated justification statement and variance package (4<sup>th</sup> overall variance submission) was submitted on July 12, 2012.

Normally staff affords the County Arborist a 30-day review period *before the staff report is posted* but based on the circumstances of this case, Staff has not received a recommendation from the County Arborist and therefore, it could not be addressed in this staff report. The County Arborist is required by the Forest conservation law, to have a 30 day review period prior to consideration of a regulatory plan requiring a Tree Variance. The County Arborist's 30-day review period officially began on July 12, 2012 with the submission of the latest amended Tree Variance documents. At the discretion of the Planning Board, they will have the opportunity to consider the County Arborist's recommendation at the time of the public hearing, however, if no recommendation is received prior to the Planning Board hearing on July 26, 2012 the hearing item should be postponed since the County Arborist would not have been afforded the full 30-day review period.

### Variance Findings

The Planning Board must make findings that the Applicant has met all requirements of this Chapter 22A-21 before granting the variance. Staff has made the following determination on the approval of the variance:

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

Granting the variance will not confer a special privilege on the Applicant as disturbance and/or removal of trees are due to the development of the Property. The trees and/or their critical root zones lie within the developable area of the Property. Granting a variance request to allow land disturbance within the developable portion of a site is not unique to this applicant.

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<sup>1</sup> Section 22A-19(a)(1) of the Montgomery County Code

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

The dwelling on the Subject Property is in the last phase of an extensive and complex renovation project, nearing 90% completion. The existing driveway that previously provided vehicular access to the Subject Property will not function properly or allow proper vehicular access to the completed vehicle courtyard and garage unless it is partially reconfigured. The proposed realignment of the driveway has been designed to avoid the extensive grading that would be required to maintain the existing driveway in a less angular alignment.

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

The requested variance is a result of the proposed development and not a result of land or building use on a neighboring property.

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

The requested variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen trees being impacted are not within a stream buffer, wetland, or a special protection area. A Stormwater Management Concept Plan has been approved by the MCDPS – Stormwater Management Section.

#### Forest Conservation Variance Mitigation

Staff has been consistent in requiring mitigation for any specimen trees to be physically removed or required to be counted as cleared that are not within existing forest. Trees within existing forest are believed to already be mitigated for through the forest conservation worksheet as forest cleared. This plan has Protected Trees within the septic easements for adjoining lots which are required to be counted as removed since that septic filed could be required to be enlarged at any time. These five Protected Trees are within existing forest and would not usually get a recommendation for additional mitigation; however the Applicant has elected to deduct the septic areas from the net tract area and the forest conservation plan, therefore, the septic reserve areas are not covered by the worksheet calculations.

Mitigation should be at a rate that approximates the form and function of the Protected Trees that are removed. Staff recommends a replacement ratio of 1" DBH for every 4" DBH removed, using replacement tree stock that is 2" to 3" DBH. This means that for the 186 caliper inches of the Protected Trees removed, the recommendation is to mitigate the loss with a minimum of 46.5 inches of trees or, sixteen (16) 3" DBH native canopy trees. While these trees will not be as large as the trees lost, they will provide some immediate canopy to help augment the canopy coverage and in time fill in open areas of the forest where the Protected Trees were removed.

Normally variance mitigation planting is required to be met on site; however, there is very little unencumbered and/or open area remaining on the Subject Property. Staff recommends the Applicant meet all of the planting requirements for this variance within the same watershed (Potomac River Direct).

### Stormwater Management Concept

The MCDPS Stormwater Management Section conditionally approved the Stormwater Management Concept for the Application on October 28, 2011. Environmental Site Design and required stormwater management goals have been integrated on-site using techniques via the use of micro bio filtration, porous pavement, and non-structural techniques.

### Citizen Correspondence and Issues

The Application was properly noticed and signage was placed along the Subject Property frontage in accordance with adopted procedures. A pre-submission meeting was advertised and held at the Potomac Library on March 29, 2011. The most significant issues raised were those regarding drainage and runoff impacts to adjacent properties. The minutes of the meeting indicate that the Applicant addressed the issues by explaining the nature of the stormwater management devices that would be used to control runoff. Staff has not received any comments or correspondence from local residents.

### **CONCLUSION**

Section 50-29(b)(2) of the Subdivision Regulations specifies seven criteria with which a resubdivided lot(s) must comply. They are: frontage, alignment, size, shape, width, area and suitability for residential use within the existing block, neighborhood or subdivision. As set forth above, the two proposed lots are of the same character as the existing lots in the defined Neighborhood with respect to each of the resubdivision criteria, and therefore, comply with Section 50-29(b)(2) of the Subdivision Regulations.

The proposed lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conform to the recommendations of the Potomac Subregion Master Plan. Access and public facilities will be adequate to serve the proposed lots, and the Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

Further, the Application complies with Chapter 22A, the Forest Conservation Law including the approval of a Tree Variance. Therefore, approval of the Application with the conditions specified above is recommended.

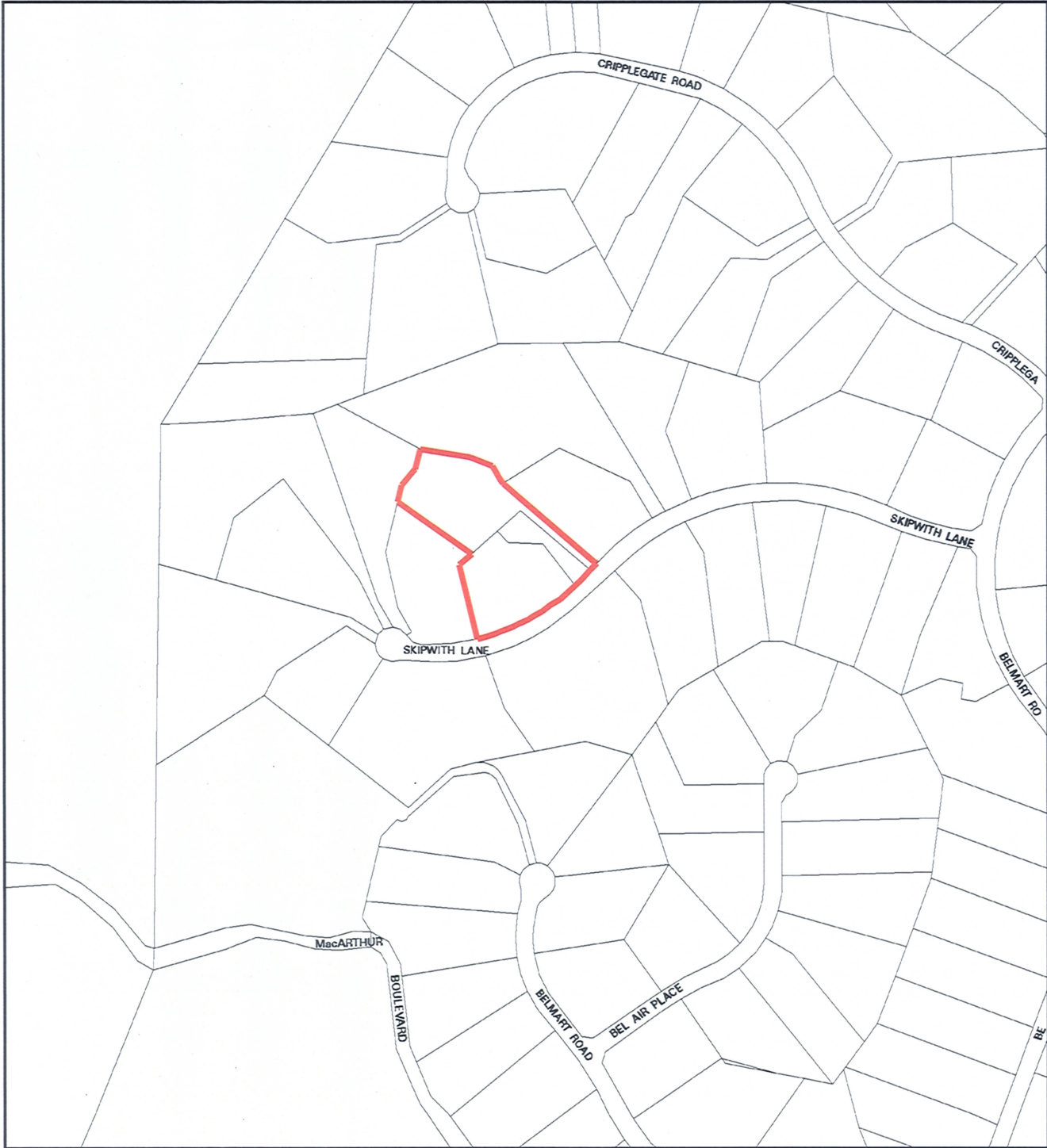
### **Attachments**

- Attachment A – Vicinity Development Map
- Attachment B – Preliminary Plan
- Attachment C – Neighborhood Delineation
- Attachment D – Resubdivision Tables
- Attachment E – Applicant's Variance submittal
- Attachment F – Agency Correspondence

# Attachment A

## Vicinity Development Map

# GREAT FALLS ESTATES (120110420)



Map compiled on July 20, 2011 at 6:33 AM | Site located on base sheet no - 211NW11

## NOTICE

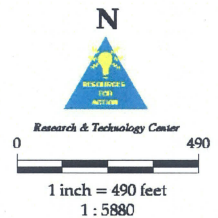
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Property lines are compiled by adjusting the property lines to topography created from aerial photography and should not be interpreted as actual field surveys. Planimetric features were compiled from 1:14,400 scale aerial photography using stereo photogrammetric methods.

This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes, is not recommended. - Copyright 1998

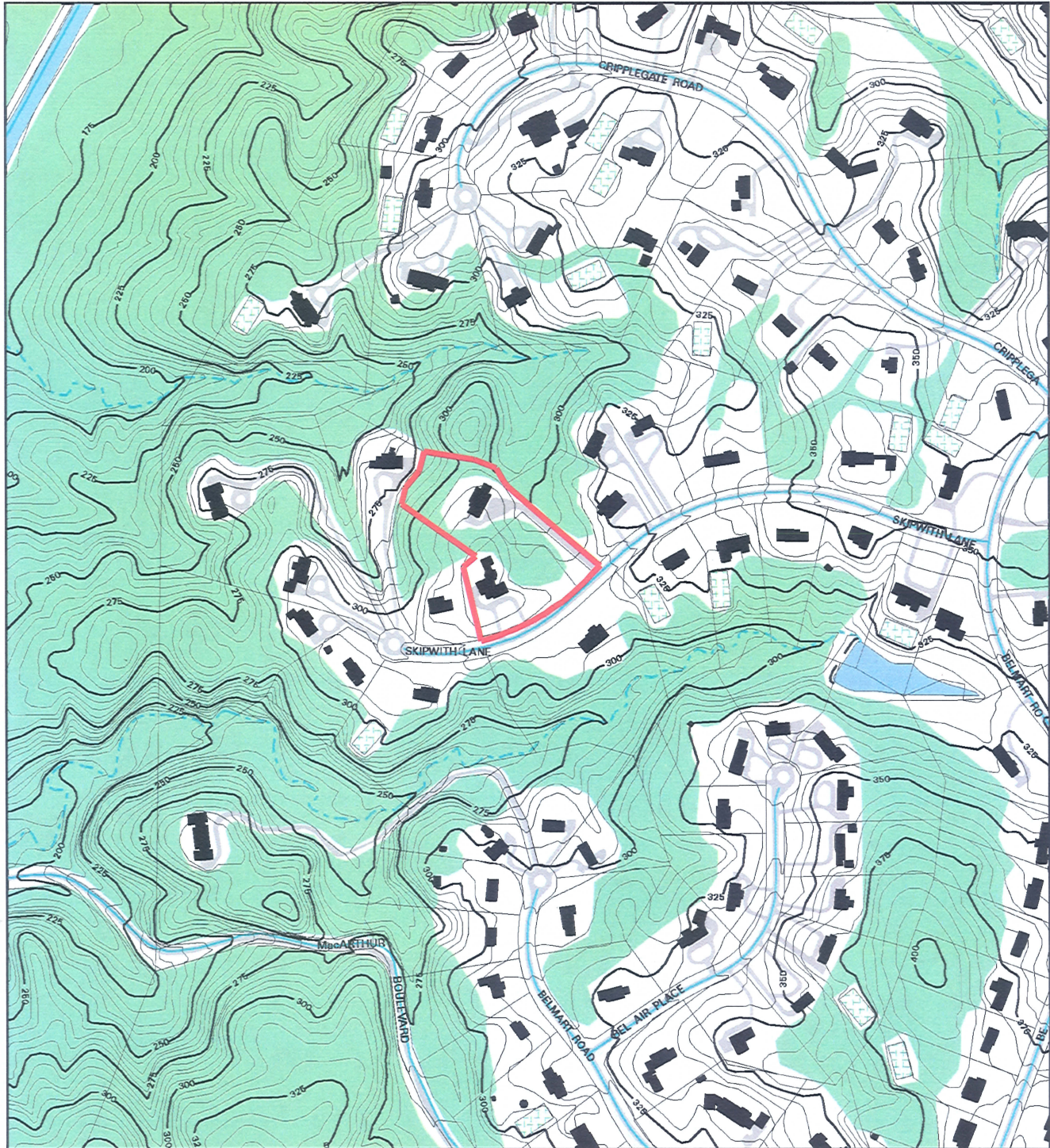
**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
8787 Georgia Avenue - Silver Spring, Maryland 20910-3760

Key Map





# GREAT FALLS ESTATES (120110420)



Map compiled on July 20, 2011 at 6:46 AM | Site located on base sheet no - 211NW11

## NOTICE

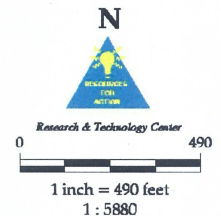
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This map is created from a variety of data sources, and may not reflect the most current conditions in any one location and may not be completely accurate or up to date. All map features are approximately within five feet of their true location. This map may not be the same as a map of the same area plotted at an earlier time as the data is continuously updated. Use of this map, other than for general planning purposes, is not recommended. - Copyright 1999

**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**  
 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
 8787 Georgia Avenue - Silver Spring, Maryland 20910-3700

Key Map





Attachment B

Preliminary Plan

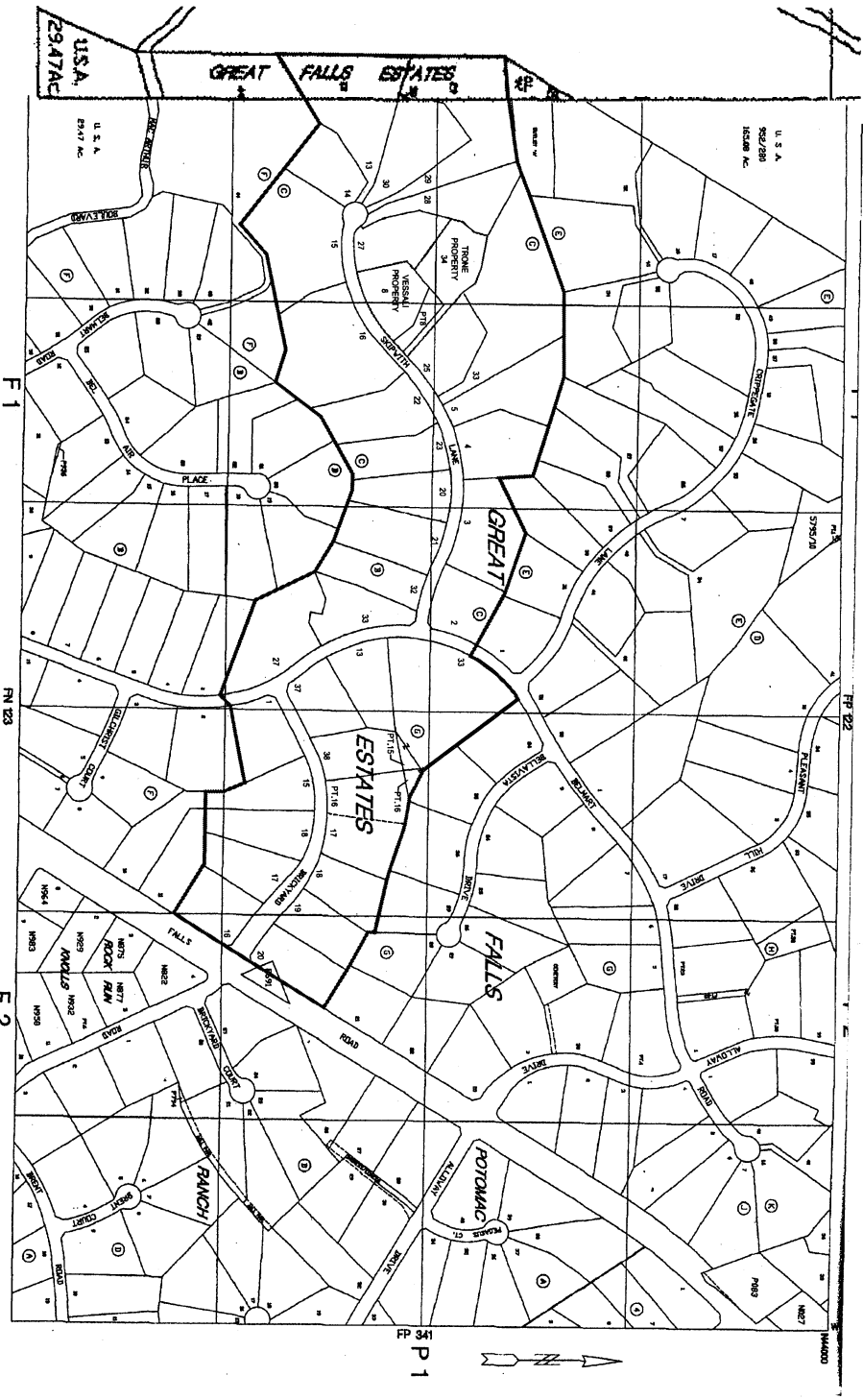




# Attachment C

## Neighborhood Delineation

# TRONE PROPERTY NEIGHBORHOOD DELINEATION



NOTE: PT8 IS OWNED BY THE TRONES

MAP FP 121  
M.S.S.G. 211 NW ESTATES



**MORRIS & RITCHIE ASSOCIATES, INC.**  
ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS

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FAX: (410) 792-2395  
MR@GMAIL.COM

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DATE	REVISIONS	JOB NO.: 16681
		SCALE: 1" = 400'
		DATE: 6/13/12
		DESIGN BR: JMW
		REVIEW BR: JMW
		REVIEW BY: TCN
		SHEET: 1 OF 1

# Attachment D

## Resubdivision Tables

Lot Number	Block	Lot Size (acres)	Shape	Alignment	Lot Frontage	Width at BRL	Buildable Area in S. F.
27	B	3.69	Irregular	Radial/Non-Radial	564.74'	479.69'	108,639.00
32	B	2.04	Rectangular	Radial/Non-Radial	183.90'	182'	58,774.00
33	B	2.11	Corner Lot / Irregular	Radial/Non-Radial	083.09' / 448.56'	086' / 508'	44,134.00
2	C	2.07	Corner Lot/Rectangular	Radial	367.56' / 225.76'	321' / 270'	50,640.00
3	C	3.16	Irregular	Radial	417.46'	442'	90,029.00
4	C	2.73	Irregular	Radial	266.35'	282'	84,754.00
5	C	2.78	Irregular	Radial	100.29'	109'	65,339.00
Proposed Lot 2 (Vessali)	C	2.02	Irregular	Radial	391.36'	370'	54,844.00
13	C	5.33	Panhandle/Irregular	Radial/Non-Radial	031.42'	030'	174,925.00
14	C	2.00	Irregular	Radial/Non-Radial	063.17'	143'	60,739.00
15	C	5.00	Irregular	Radial	362.29'	408'	160,380.00
16	C	5.41	Irregular	Radial	521.34'	544'	178,907.00
20	C	2.00	Trapezoidal	Radial	260.71'	244'	56,787.00
21	C	2.79	Trapezoidal	Perpendicular	283.06'	276'	86,195.00
22	C	2.79	Irregular	Radial	300.60'	292'	84,618.00
23	C	2.20	Irregular	Radial	244.31'	222'	62,869.00
25	C	2.35	Irregular	Radial	247.83'	264'	70,122.00
27	C	2.27	Irregular	Radial	245.88'	271'	65,516.00
28	C	2.68	Panhandle/Irregular	Radial	069.14'	058'	61,717.00
29	C	5.56	Panhandle/Irregular	Radial	027.77'	025'	153,474.00
30	C	3.13	Irregular	Radial	027.78'	054'	93,309.00
33	C	6.50	Panhandle/Irregular	Radial	050.26'	050'	210,574.00
Proposed Lot 1 (Trone)	C	2.81	Panhandle/Irregular	Perpendicular	103.54'	093'	66,190.00
1	F	2.18	Corner Lot/Rectangular	Radial	816.32' / 318.35'	155' / 277'	55,665.00
15	F	2.05	Irregular	Radial	280.86'	223.75'	56,859.00
16	F	2.08	Corner Lot/Rectangular	Non-Radial/ Perp.	254.30' / 332.99'	211' / 238'	51,142.00
17	F	2.00	Trapezoidal	Non-Radial	277.37'	227'	56,076.00
18	F	2.13	Trapezoidal	Non-Radial	249.63'	201'	61,641.00
13	G	2.18	Trapezoidal	Radial	314.85'	258'	62,664.00
17	G	2.00	Irregular	Non-Radial	198.03'	175'	57,156.00
18	G	2.00	Irregular	Non-Radial	192.51'	168'	57,484.00
19	G	2.02	Rectangular	Radial/Non-Radial	226.43'	189'	57,897.00
20	G	2.10	Corner Lot/Irregular	Non-Radial/ Perp.	193.59' / 471.28'	150' / 387'	51,773.00
33	G	5.82	Irregular	Radial	739.93'	654'	197,649.00
37	G	2.03	Corner Lot/Irregular	Radial/Non-Radial	266.84' / 257.48'	191' / 234'	53,992.00
38	G	2.00	Irregular	Non-Radial	220.98'	185'	57,041.00

Ranking by Lot Size

Lot Number	Block	Lot Size (acres)	Shape	Alignment	Lot Frontage	Width at BRL	Buildable Area in S. F.
33	C	6.50	Panhandle/Irregular	Radial	050.26'	050'	210,574.00
33	G	5.82	Irregular	Radial	739.93'	654'	197,649.00
29	C	5.56	Panhandle/Irregular	Radial	027.77'	025'	153,474.00
16	C	5.41	Irregular	Radial	521.34'	544'	178,907.00
13	C	5.33	Panhandle/Irregular	Radial/Non-Radial	031.42'	030'	174,925.00
15	C	5.00	Irregular	Radial	362.29'	408'	160,380.00
27	B	3.69	Irregular	Radial/Non-Radial	564.74'	479.69'	108,639.00
3	C	3.16	Irregular	Radial	417.46'	442'	90,029.00
30	C	3.13	Irregular	Radial	027.78'	054'	93,309.00
<b>Proposed Lot 1 (Trone)</b>							
21	C	2.81	Panhandle/Irregular	Perpendicular	103.54'	093'	66,190.00
22	C	2.79	Trapezoidal	Perpendicular	283.06'	276'	86,195.00
5	C	2.78	Irregular	Radial	300.60'	292'	84,618.00
4	C	2.73	Irregular	Radial	100.29'	109'	65,339.00
28	C	2.68	Panhandle/Irregular	Radial	266.35'	282'	84,754.00
25	C	2.35	Irregular	Radial	069.14'	058'	61,717.00
27	C	2.27	Irregular	Radial	247.83'	264'	70,122.00
23	C	2.20	Irregular	Radial	245.88'	271'	65,516.00
1	F	2.18	Corner Lot/Rectangular	Radial	244.31'	222'	62,869.00
13	G	2.18	Trapezoidal	Radial	816.32' / 318.35'	155' / 277'	55,665.00
18	F	2.13	Trapezoidal	Non-Radial	314.85'	258'	62,664.00
33	B	2.11	Corner Lot / Irregular	Radial/Non-Radial	249.63'	201'	61,641.00
20	G	2.10	Corner Lot/Irregular	Non-Radial/ Perp.	083.09' / 448.56'	086' / 508'	44,134.00
16	F	2.08	Corner Lot/Rectangular	Non-Radial/ Perp.	193.59' / 471.28'	150' / 387'	51,773.00
2	C	2.07	Corner Lot/Rectangular	Non-Radial/ Perp.	254.30' / 332.99'	211' / 238'	51,142.00
15	F	2.05	Irregular	Radial	367.56' / 225.76'	321' / 270'	50,640.00
32	B	2.04	Rectangular	Radial	280.86'	223.75'	56,859.00
37	G	2.03	Corner Lot/Irregular	Radial/Non-Radial	183.90'	182'	58,774.00
<b>Proposed Lot 2 (Vessali)</b>							
19	G	2.02	Irregular	Radial	266.84' / 257.48'	191' / 234'	53,992.00
14	C	2.00	Rectangular	Radial/Non-Radial	391.36'	370'	54,844.00
20	C	2.00	Irregular	Radial/Non-Radial	226.43'	189'	57,897.00
17	F	2.00	Trapezoidal	Radial	063.17'	143'	60,739.00
17	G	2.00	Trapezoidal	Non-Radial	260.71'	244'	56,787.00
17	G	2.00	Irregular	Non-Radial	277.37'	227'	56,076.00
18	G	2.00	Irregular	Non-Radial	198.03'	175'	57,156.00
38	G	2.00	Irregular	Non-Radial	192.51'	168'	57,484.00
					220.98'	185'	57,041.00

Ranking By Shape

Lot Number	Block	Lot Size (acres)	Shape	Alignment	Lot Frontage	Width at BRL	Buildable Area in S. F.
20	C	2.00	Trapezoidal	Radial	260.71'	244'	56,787.00
21	C	2.79	Trapezoidal	Perpendicular	283.06'	276'	86,195.00
17	F	2.00	Trapezoidal	Non-Radial	277.37'	227'	56,076.00
18	F	2.13	Trapezoidal	Non-Radial	249.63'	201'	61,641.00
13	G	2.18	Trapezoidal	Radial	314.85'	258'	62,664.00
32	B	2.04	Rectangular	Radial/Non-Radial	183.90'	182'	58,774.00
19	G	2.02	Rectangular	Radial/Non-Radial	226.43'	189'	57,897.00
13	C	5.33	Panhandle/Irregular	Radial/Non-Radial	031.42'	030'	174,925.00
28	C	2.68	Panhandle/Irregular	Radial	069.14'	058'	61,717.00
29	C	5.56	Panhandle/Irregular	Radial	027.77'	025'	153,474.00
33	C	6.50	Panhandle/Irregular	Radial	050.26'	050'	210,574.00
Proposed Lot 1 (Trone)		2.81	Panhandle/Irregular	Perpendicular	103.54'	093'	66,190.00
27	B	3.69	Irregular	Radial/Non-Radial	564.74'	479.69'	108,639.00
3	C	3.16	Irregular	Radial	417.46'	442'	90,029.00
4	C	2.73	Irregular	Radial	266.35'	282'	84,754.00
5	C	2.78	Irregular	Radial	100.29'	109'	65,339.00
Proposed Lot 2 (Vessali)		2.02	Irregular	Radial	391.36'	370'	54,844.00
14	C	2.00	Irregular	Radial/Non-Radial	063.17'	143'	60,739.00
15	C	5.00	Irregular	Radial	362.29'	408'	160,380.00
16	C	5.41	Irregular	Radial	521.34'	544'	178,907.00
22	C	2.79	Irregular	Radial	300.60'	292'	84,618.00
23	C	2.20	Irregular	Radial	244.31'	222'	62,869.00
25	C	2.35	Irregular	Radial	247.83'	264'	70,122.00
27	C	2.27	Irregular	Radial	245.88'	271'	65,516.00
30	C	3.13	Irregular	Radial	027.78'	054'	93,309.00
15	F	2.05	Irregular	Radial	280.86'	223.75'	56,859.00
17	G	2.00	Irregular	Non-Radial	198.03'	175'	57,156.00
18	G	2.00	Irregular	Non-Radial	192.51'	168'	57,484.00
33	G	5.82	Irregular	Radial	739.93'	654'	197,649.00
38	G	2.00	Irregular	Non-Radial	220.98'	185'	57,041.00
2	C	2.07	Corner Lot/Rectangular	Radial	367.56' / 225.76'	321' / 270'	50,640.00
1	F	2.18	Corner Lot/Rectangular	Radial	816.32' / 318.35'	155' / 277'	55,665.00
16	F	2.08	Corner Lot/Rectangular	Non-Radial/ Perp.	254.30' / 332.99'	211' / 238'	51,142.00
20	G	2.10	Corner Lot/Irregular	Non-Radial/ Perp.	193.59' / 471.28'	150' / 387'	51,773.00
37	G	2.03	Corner Lot/Irregular	Radial/Non-Radial	266.84' / 257.48'	191' / 234'	53,992.00
33	B	2.11	Corner Lot / Irregular	Radial/Non-Radial	083.09' / 448.56'	086' / 508'	44,134.00



Ranking by Alignment

Lot Number	Block	Lot Size (acres)	Shape	Alignment	Lot Frontage	Width at BRL	Buildable Area in S. F.
17	F	2.00	Trapezoidal	Non-Radial	277.37'	227'	56,076.00
18	F	2.13	Trapezoidal	Non-Radial	249.63'	201'	61,641.00
17	G	2.00	Irregular	Non-Radial	198.03'	175'	57,156.00
18	G	2.00	Irregular	Non-Radial	192.51'	168'	57,484.00
38	G	2.00	Irregular	Non-Radial	220.98'	185'	57,041.00
16	F	2.08	Corner Lot/Rectangular	Non-Radial/ Perp.	254.30' / 332.99'	211' / 238'	51,142.00
20	G	2.10	Corner Lot/Irregular	Non-Radial/ Perp.	193.59/471.28'	150' / 387'	51,773.00
21	C	2.79	Trapezoidal	Perpendicular	283.06'	276'	86,195.00
Proposed Lot 1 (Trone)	C	2.81	Panhandle/irregular	Perpendicular	103.54'	093'	66,190.00
2	C	2.07	Corner Lot/Rectangular	Radial	367.56' / 225.76'	321' / 270'	50,640.00
3	C	3.16	Irregular	Radial	417.46'	442'	90,029.00
4	C	2.73	Irregular	Radial	266.35'	282'	84,754.00
5	C	2.78	Irregular	Radial	100.29'	109'	65,339.00
Proposed Lot 2 (Vessall)	C	2.02	Irregular	Radial	391.36'	370'	54,844.00
15	C	5.00	Irregular	Radial	362.29'	408'	160,380.00
16	C	5.41	Irregular	Radial	521.34'	544'	178,907.00
20	C	2.00	Trapezoidal	Radial	260.71'	244'	56,787.00
22	C	2.79	Irregular	Radial	300.60'	292'	84,618.00
23	C	2.20	Irregular	Radial	244.31'	222'	62,869.00
25	C	2.35	Irregular	Radial	247.83'	264'	70,122.00
27	C	2.27	Irregular	Radial	245.88'	271'	65,516.00
28	C	2.68	Panhandle/irregular	Radial	069.14'	058'	61,717.00
29	C	5.56	Panhandle/irregular	Radial	027.77'	025'	153,474.00
30	C	3.13	Irregular	Radial	027.78'	054'	93,309.00
33	C	6.50	Panhandle/irregular	Radial	050.26'	050'	210,574.00
1	F	2.18	Corner Lot/Rectangular	Radial	816.32' / 318.35'	155' / 277'	55,665.00
15	F	2.05	Irregular	Radial	280.86'	223.75'	56,859.00
13	G	2.18	Trapezoidal	Radial	314.85'	258'	62,664.00
33	G	5.82	Irregular	Radial	739.93'	654'	197,649.00
27	B	3.69	Irregular	Radial/Non-Radial	564.74'	479.69'	108,639.00
32	B	2.04	Rectangular	Radial/Non-Radial	183.90'	182'	58,774.00
33	B	2.11	Corner Lot / Irregular	Radial/Non-Radial	083.09' / 448.56'	086' / 508'	44,134.00
13	C	5.33	Panhandle/irregular	Radial/Non-Radial	031.42'	030'	174,925.00
14	C	2.00	Irregular	Radial/Non-Radial	063.17'	143'	60,739.00
19	G	2.02	Rectangular	Radial/Non-Radial	226.43'	189'	57,897.00
37	G	2.03	Corner Lot/irregular	Radial/Non-Radial	266.84' / 257.48'	191' / 234'	53,992.00



Ranking by Lot Frontage

Lot Number	Block	Lot Size (acres)	Shape	Alignment	Lot Frontage	Width at BRL	Buildable Area in S. F.
1	F	2.18	Corner Lot/Rectangular	Radial	816.32' / 318.35'	155' / 277'	55,665.00
33	G	5.82	Irregular	Radial	739.93'	654'	197,649.00
27	B	3.69	Irregular	Radial/Non-Radial	564.74'	479.69'	108,639.00
16	C	5.41	Irregular	Radial	521.34'	544'	178,907.00
3	C	3.16	Irregular	Radial	417.46'	442'	90,029.00
Proposed Lot 2 (Vessall)	C	2.02	Irregular	Radial	391.36'	370'	54,844.00
2	C	2.07	Corner Lot/Rectangular	Radial	367.56' / 225.76'	321' / 270'	50,640.00
15	C	5.00	Irregular	Radial	362.29'	408'	160,380.00
13	G	2.18	Trapezoidal	Radial	314.85'	258'	62,664.00
22	C	2.79	Irregular	Radial	300.60'	292'	84,618.00
21	C	2.79	Trapezoidal	Perpendicular	283.06'	276'	86,195.00
15	F	2.05	Irregular	Radial	280.86'	223.75'	56,859.00
17	F	2.00	Trapezoidal	Non-Radial	277.37'	227'	56,076.00
37	G	2.03	Corner Lot/Irregular	Radial/Non-Radial	266.84' / 257.48'	191' / 234'	53,992.00
4	C	2.73	Irregular	Radial	266.35'	282'	84,754.00
20	C	2.00	Trapezoidal	Radial	260.71'	244'	56,787.00
16	F	2.08	Corner Lot/Rectangular	Non-Radial/ Perp.	254.30' / 332.99'	211' / 238'	51,142.00
18	F	2.13	Trapezoidal	Non-Radial	249.63'	201'	61,641.00
25	C	2.35	Irregular	Radial	247.83'	264'	70,122.00
27	C	2.27	Irregular	Radial	245.88'	271'	65,516.00
23	C	2.20	Irregular	Radial	244.31'	222'	62,869.00
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Proposed Lot 1 (Trone)	C	2.81	Panhandle/Irregular	Perpendicular	103.54'	093'	66,190.00
5	C	2.78	Irregular	Radial	100.29'	109'	65,339.00
33	B	2.11	Corner Lot / Irregular	Radial/Non-Radial	083.09' / 448.56'	086' / 508'	44,134.00
28	C	2.68	Panhandle/Irregular	Radial	069.14'	058'	61,717.00
14	C	2.00	Irregular	Radial/Non-Radial	063.17'	143'	60,739.00
33	C	6.50	Panhandle/Irregular	Radial	050.26'	050'	210,574.00
13	C	5.33	Panhandle/Irregular	Radial/Non-Radial	031.42'	030'	174,925.00
30	C	3.13	Irregular	Radial	027.78'	054'	93,309.00
29	C	5.56	Panhandle/Irregular	Radial	027.77'	025'	153,474.00

Ranking by Width at BRL

Lot Number	Block	Lot Size (acres)	Shape	Alignment	Lot Frontage	Width at BRL	Buildable Area in S. F.
33	G	5.82	Irregular	Radial	739.93'	654'	197,649.00
16	C	5.41	Irregular	Radial	521.34'	544'	178,907.00
27	B	3.69	Irregular	Radial/Non-Radial	564.74'	479.69'	108,639.00
3	C	3.16	Irregular	Radial	417.46'	442'	90,029.00
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22	C	2.79	Irregular	Radial	300.60'	292'	84,618.00
4	C	2.73	Irregular	Radial	266.35'	282'	84,754.00
21	C	2.79	Trapezoidal	Perpendicular	283.06'	276'	86,195.00
27	C	2.27	Irregular	Radial	245.88'	271'	65,516.00
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17	F	2.00	Trapezoidal	Non-Radial	277.37'	227'	56,076.00
15	F	2.05	Irregular	Radial	280.86'	223.75'	56,859.00
23	C	2.20	Irregular	Radial	244.31'	222'	62,869.00
16	F	2.08	Corner Lot/Rectangular	Non-Radial/ Perp.	254.30' / 332.99'	211' / 238'	51,142.00
18	F	2.13	Trapezoidal	Non-Radial	249.63'	201'	61,641.00
37	G	2.03	Corner Lot/Irregular	Radial/Non-Radial	266.84' / 257.48'	191' / 234'	53,992.00
19	G	2.02	Rectangular	Radial/Non-Radial	226.43'	189'	57,897.00
38	G	2.00	Irregular	Non-Radial	220.98'	185'	57,041.00
32	B	2.04	Rectangular	Radial/Non-Radial	183.90'	182'	58,774.00
17	G	2.00	Irregular	Non-Radial	198.03'	175'	57,156.00
18	G	2.00	Irregular	Non-Radial	192.51'	168'	57,484.00
1	F	2.18	Corner Lot/Rectangular	Radial	816.32' / 318.35'	155' / 277'	55,665.00
20	G	2.10	Corner Lot/Irregular	Non-Radial/ Perp.	193.59' / 471.28'	150' / 387'	51,773.00
14	C	2.00	Irregular	Radial/Non-Radial	063.17'	143'	60,739.00
5	C	2.78	Irregular	Radial	100.29'	109'	65,339.00
Proposed Lot 1 (Trone)	C	2.81	Panhandle/irregular	Perpendicular	103.54'	093'	66,190.00
33	B	2.11	Corner Lot / Irregular	Radial/Non-Radial	083.09' / 448.56'	086' / 508'	44,134.00
28	C	2.68	Panhandle/irregular	Radial	069.14'	058'	61,717.00
30	C	3.13	Irregular	Radial	027.78'	054'	93,309.00
33	C	6.50	Panhandle/irregular	Radial	050.26'	050'	210,574.00
13	C	5.33	Panhandle/irregular	Radial/Non-Radial	031.42'	030'	174,925.00
29	C	5.56	Panhandle/irregular	Radial	027.77'	025'	153,474.00

Ranking by Buildable Area

Lot Number	Block	Lot Size (acres)	Shape	Alignment	Lot Frontage	Width at BRL	Buildable Area in S. F.
33	C	6.50	Panhandle/Irregular	Radial	050.26'	050'	210,574.00
33	G	5.82	Irregular	Radial	739.93'	654'	197,649.00
16	C	5.41	Irregular	Radial	521.34'	544'	178,907.00
13	C	5.33	Panhandle/Irregular	Radial/Non-Radial	031.42'	030'	174,925.00
15	C	5.00	Irregular	Radial	362.29'	408'	160,380.00
29	C	5.56	Panhandle/Irregular	Radial	027.77'	025'	153,474.00
27	B	3.69	Irregular	Radial/Non-Radial	564.74'	479.69'	108,639.00
30	C	3.13	Irregular	Radial	027.78'	054'	93,309.00
3	C	3.16	Irregular	Radial	417.46'	442'	90,029.00
21	C	2.79	Trapezoidal	Perpendicular	283.06'	276'	86,195.00
4	C	2.73	Irregular	Radial	266.35'	282'	84,754.00
22	C	2.79	Irregular	Radial	300.60'	292'	84,618.00
25	C	2.35	Irregular	Radial	247.83'	264'	70,122.00
Proposed Lot 1 (Trone)	C	2.81	Panhandle/Irregular	Perpendicular	103.54'	093'	66,190.00
27	C	2.27	Irregular	Radial	245.88'	271'	65,516.00
5	C	2.78	Irregular	Radial	100.29'	109'	65,339.00
23	C	2.20	Irregular	Radial	244.31'	222'	62,869.00
13	G	2.18	Trapezoidal	Radial	314.85'	258'	62,664.00
28	C	2.68	Panhandle/Irregular	Radial	069.14'	058'	61,717.00
18	F	2.13	Trapezoidal	Non-Radial	249.63'	201'	61,641.00
14	C	2.00	Irregular	Radial/Non-Radial	063.17'	143'	60,739.00
32	B	2.04	Rectangular	Radial/Non-Radial	183.90'	182'	58,774.00
19	G	2.02	Rectangular	Radial/Non-Radial	226.43'	189'	57,897.00
18	G	2.00	Irregular	Non-Radial	192.51'	168'	57,484.00
17	G	2.00	Irregular	Non-Radial	198.03'	175'	57,156.00
38	G	2.00	Irregular	Non-Radial	220.98'	185'	57,041.00
15	F	2.05	Irregular	Radial	280.86'	223.75'	56,859.00
20	C	2.00	Trapezoidal	Radial	260.71'	244'	56,787.00
17	F	2.00	Trapezoidal	Non-Radial	277.37'	227'	56,076.00
1	F	2.18	Corner Lot/Rectangular	Radial	816.32' / 318.35'	155' / 277'	55,665.00
Proposed Lot 2 (Vessali)	C	2.02	Irregular	Radial	391.36'	370'	54,844.00
37	G	2.03	Corner Lot/Irregular	Radial/Non-Radial	266.84' / 257.48'	191' / 234'	53,992.00
20	G	2.10	Corner Lot/Irregular	Non-Radial/ Perp.	193.59' / 471.28'	150' / 387'	51,773.00
16	F	2.08	Corner Lot/Rectangular	Non-Radial/ Perp.	254.30' / 332.99'	211' / 238'	51,142.00
2	C	2.07	Corner Lot/Rectangular	Radial	367.56' / 225.76'	321' / 270'	50,640.00
33	B	2.11	Corner Lot / Irregular	Radial/Non-Radial	083.09' / 448.56'	086' / 508'	44,134.00

# Attachment E

## Applicant's Variance Submittal







**LEGEND**

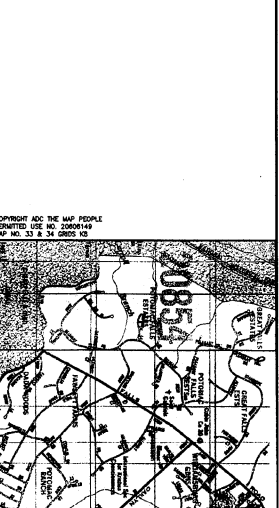
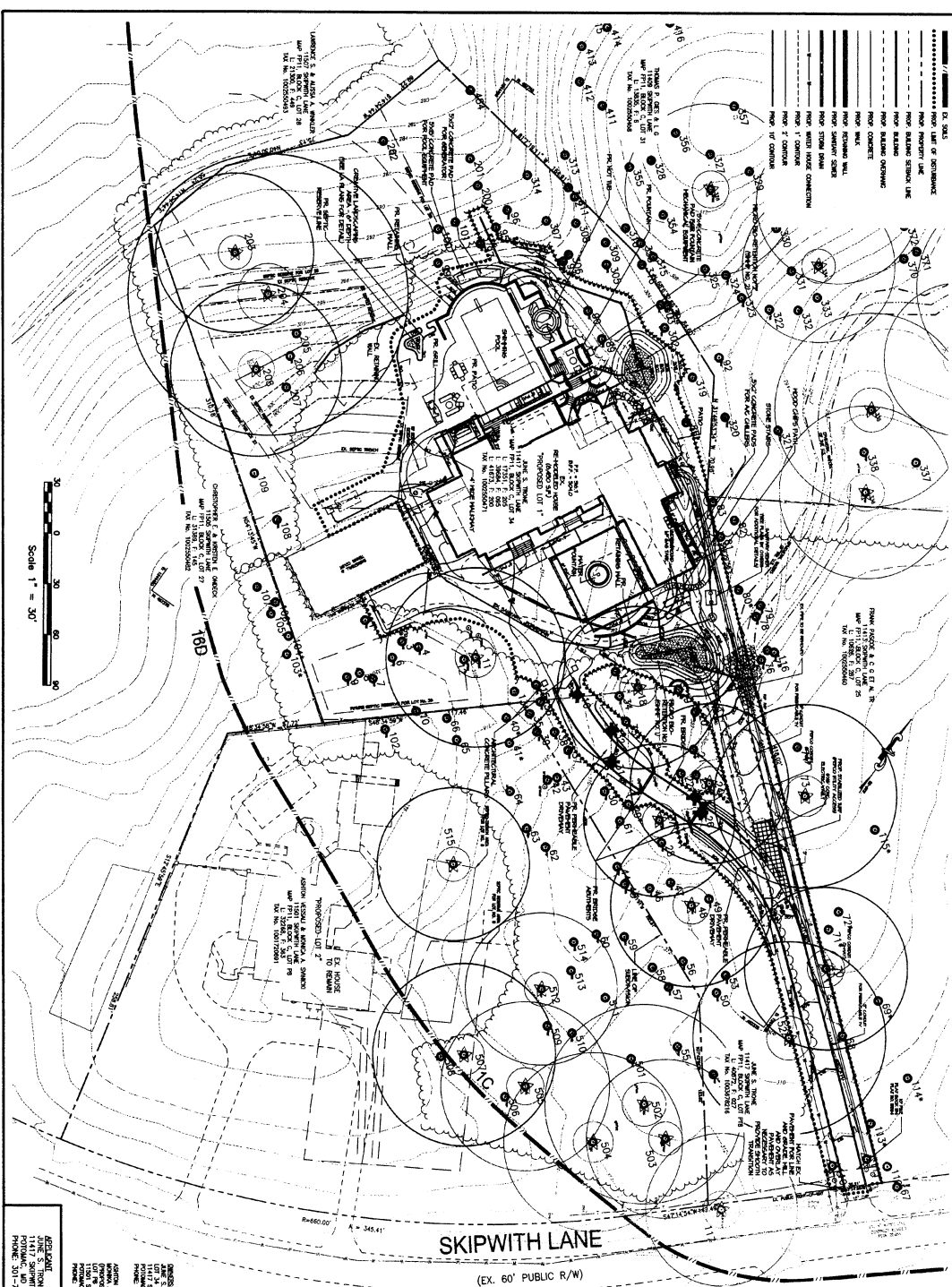
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# GREAT FALLS ESTATES

## PROPOSED LOTS 1 & 2

### PRELIMINARY PLAN

#### PLAN NO: 120110420



**GENERAL NOTES**

1. THE ENGINEER HAS CONDUCTED VISUAL INSPECTIONS OF THE SITE AND HAS REVIEWED THE RECORD PLANS AND SURVEY DATA FOR THE PROPOSED LOTS 1 & 2.
2. THE ENGINEER HAS CONDUCTED VISUAL INSPECTIONS OF THE SITE AND HAS REVIEWED THE RECORD PLANS AND SURVEY DATA FOR THE PROPOSED LOTS 1 & 2.
3. THE ENGINEER HAS CONDUCTED VISUAL INSPECTIONS OF THE SITE AND HAS REVIEWED THE RECORD PLANS AND SURVEY DATA FOR THE PROPOSED LOTS 1 & 2.
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17. THE ENGINEER HAS CONDUCTED VISUAL INSPECTIONS OF THE SITE AND HAS REVIEWED THE RECORD PLANS AND SURVEY DATA FOR THE PROPOSED LOTS 1 & 2.
18. THE ENGINEER HAS CONDUCTED VISUAL INSPECTIONS OF THE SITE AND HAS REVIEWED THE RECORD PLANS AND SURVEY DATA FOR THE PROPOSED LOTS 1 & 2.
19. THE ENGINEER HAS CONDUCTED VISUAL INSPECTIONS OF THE SITE AND HAS REVIEWED THE RECORD PLANS AND SURVEY DATA FOR THE PROPOSED LOTS 1 & 2.
20. THE ENGINEER HAS CONDUCTED VISUAL INSPECTIONS OF THE SITE AND HAS REVIEWED THE RECORD PLANS AND SURVEY DATA FOR THE PROPOSED LOTS 1 & 2.

**SITE ANALYSIS**

NO.	DESCRIPTION	REMARKS
1	EXISTING LOT 1	REMOVED 12,100 SF
2	EXISTING LOT 2	REMOVED 12,100 SF
3	EXISTING LOT 3	REMOVED 12,100 SF
4	EXISTING LOT 4	REMOVED 12,100 SF
5	EXISTING LOT 5	REMOVED 12,100 SF
6	EXISTING LOT 6	REMOVED 12,100 SF
7	EXISTING LOT 7	REMOVED 12,100 SF
8	EXISTING LOT 8	REMOVED 12,100 SF
9	EXISTING LOT 9	REMOVED 12,100 SF
10	EXISTING LOT 10	REMOVED 12,100 SF
11	EXISTING LOT 11	REMOVED 12,100 SF
12	EXISTING LOT 12	REMOVED 12,100 SF
13	EXISTING LOT 13	REMOVED 12,100 SF
14	EXISTING LOT 14	REMOVED 12,100 SF
15	EXISTING LOT 15	REMOVED 12,100 SF
16	EXISTING LOT 16	REMOVED 12,100 SF
17	EXISTING LOT 17	REMOVED 12,100 SF
18	EXISTING LOT 18	REMOVED 12,100 SF
19	EXISTING LOT 19	REMOVED 12,100 SF
20	EXISTING LOT 20	REMOVED 12,100 SF

**MORRIS & RITCHE ASSOCIATES, INC.**  
 ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS  
 1450 PARK CENTER DRIVE, SUITE A  
 LAUREL, MARYLAND 20707  
 (410) 321-1000  
 FAX (410) 785-7588

**P1**

GREAT FALLS ESTATES  
 PROPOSED LOTS 1 & 2  
 A SUBDIVISION OF LOTS 34, P8 & P8 BLOCK C  
 PRELIMINARY PLAN

**MIRA**

THE MARYLAND BOARD OF PROFESSIONAL ENGINEERS

DATE: 07/13/2011  
 TIME: 10:00 AM  
 PROJECT: GREAT FALLS ESTATES  
 SHEET: 1 OF 1

**REVISIONS**

NO.	DATE	DESCRIPTION	BY	CHK
1	07/13/2011	ISSUED FOR PERMIT	JM	MR
2	07/13/2011	REVISIONS	JM	MR
3	07/13/2011	REVISIONS	JM	MR
4	07/13/2011	REVISIONS	JM	MR
5	07/13/2011	REVISIONS	JM	MR
6	07/13/2011	REVISIONS	JM	MR
7	07/13/2011	REVISIONS	JM	MR
8	07/13/2011	REVISIONS	JM	MR
9	07/13/2011	REVISIONS	JM	MR
10	07/13/2011	REVISIONS	JM	MR

**BEFORE THE MONTGOMERY COUNTY PLANNING BOARD  
OF THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION**

IN THE MATTER OF:

**PRELIMINARY PLAN NO. 120110420**

For the Resubdivision of: The Trone Property - Lot 34 and Lot  
PT8 (.5 acres), Block C, Great Falls Estates, 11417 Skipwith  
Lane in Potomac; The Vessali Property - Lot P8 (2.02 acres),  
Block C, Great Falls Estates, 11501 Skipwith Lane in Potomac

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**AMENDED REQUEST FOR FOREST CONSERVATION VARIANCE**

June S. Trone, as to the property identified on the Preliminary Plan as the “Trone Property”, being Lot 34 and Lot PT8 (collectively herein the “Subject Property”) and Ashton Vessali and Monica Svinicki, as to the property known as Part of Lot 8 (herein the “Vessali Property”), the Applicants for approval of Preliminary Plan 120110420, hereby request a Forest Conservation Variance, pursuant to Section 22A-21 of the Montgomery County Code, 2004, as amended, (the “County Code”), in connection with the coordinated review of the above referenced Preliminary Plan of resubdivision and the Final Forest Conservation Plan for the Subject Property and in support thereof states as follows:

This Forest Conservation Variance request is for thirteen (13) protected trees identified as Tree Nos. 11, 18, 24, 27, 48, 52, 70, 73, 203, 204, 208, 507 and 515 (the “Variance Trees”). Specifically, the requested Variance is submitted to secure approval of the future disturbance of eight (8) protected trees, Tree Nos. 11, 18, 24, 27, 48, 52, 70 and 73, on the Subject Property and is required for five (5) other protected trees, Tree Nos. 203, 204, 208, 507 and 515, which are located within the reserve septic fields on the Subject Property and Vessali Property and are considered as “removed” because it is permissible for the property owner to remove any or all of those five trees without further M-NCPPC approval. The Variance Tree disturbances to Tree Nos. 11, 18, 24, 27, 48, 52, 70 and 73 will occur during the construction of stormwater management facilities in front of the existing, renovated Trone residence and the relocation of a portion of the existing driveway. The critical root zones of the eight (8) Variance Trees on the Subject Property will be disturbed as a result of the required site work and the implementation of



tree protection measures. None of the Variance Trees will be removed. The Variance Trees are identified on the proposed Final Forest Conservation Plan, the Critical Root Zone Disturbance Plan – Tree Variance Request and in the table below.

**I. Site Description**

Lot 34, Block C, Great Falls Estates Subdivision (Tax Identification Number 10-02550471) per Plat No. 24235 is owned by June S. Trone (“Mrs. Trone”). The adjacent property owned by Ashton A. Vessali and Monica A. Svinicki (“Vessali” or “Vessali Property”) was previously identified as Lot 8, Block C, Great Falls Estates Subdivision per Plat No. 11062. A portion of the Vessali Property “Lot “PT8” was conveyed by deed to Mrs. Trone in order to enable her to increase the width of her front yard, eliminate the “pipestem” configuration and provide sufficient land area for her to reconfigure a portion of the driveway in order to properly align with the vehicular courtyard and garage entrance that is currently under construction on her property. In addition, Mrs. Trone wanted the assurance that could only result from ownership, that existing trees that framed her new driveway would be protected in perpetuity. The Tax Identification Number for “Lot PT8” is 10-03678216.

**II. The Variance Request**

As discussed in the Justification Statement, a preliminary plan of subdivision is required to properly return the Vessali Property to a record lot and to consolidate the Trone lot with the acquired, Lot PT.8. The proposed resubdivision is subject to the County’s Forest Conservation Act codified as Chapter 22A of the County Code (“County’s Forest Conservation Act”). A Natural Resources Inventory/Forest Stand Delineation, Number 420110950, was approved on March 29, 2011. None of the thirteen (13) trees for which a variance is requested are proposed to be removed pursuant to the Preliminary Forest Conservation Plan. The critical root zones of eight (8) trees, Tree #s 11, 18, 24, 27, 48, 52, 70 and 73, located on the Subject Property will be disturbed due to their proximity to the proposed driveway construction. Even though the disturbance will be very minor, stress reduction measures will be implemented in accordance with the directions of the Applicants’ certified arborist from Davey Resource Group (formally Care of Trees). Although the CRZ’s of the eight trees will be disturbed, approval of the proposed variance will significantly reduce CRZ disturbances to Tree #11 and will save Tree #

18 from removal under the approved sediment control permit plan for the renovations of the Trone Residence.

The site work that will disturb the CRZ's of the eight trees includes: (i) the removal of impervious asphalt from the portion of the driveway that will not be reconfigured; (ii) the construction of a bridge to span an environmentally sensitive area; and (iii) the installation of permeable pavement and stone under the portion of the driveway that will not be reconfigured to improve air and oxygen flow to enable those trees that had critical root zones disturbed in the 1980's to regain root growth that has been inhibited since the original driveway was constructed. No protected tree will be removed under the proposed variance plan and all site work will be supervised by and under the direction of the Applicants' certified arborist from The Davey Resource Group.

Three (3) of the protected trees (Tree #s 203, 204 and 208) that will not be disturbed by construction are located within an existing septic reserve easement area for the adjoining lot, Lot 28, Block C of the Great Falls Estates subdivision. These three trees must be counted as removed because they are within future septic or septic reserve areas that may be installed in the event of a future septic system failure. The other two (2) trees for which a Variance is requested (Tree #s 515 and 507) are located on the Vessali Property within an easement for a septic reserve or within existing septic trenches. Again, these trees must be counted as removed because of their location.

### **III. The Variance Requirements**

Pursuant to SB 666, Section 5-1607 of the Natural Resources Article of the Maryland Annotated Code (the "Natural Resources Article") currently requires a variance for the removal or disturbance of trees having a diameter of 30 inches when measured at 4.5 feet above the ground. Section 5-1611 authorizes a local jurisdiction to grant a variance:

"where owing to special features of a site or other circumstances, implementation of this subtitle would result in unwarranted hardship to the applicant."

Following the enactment of SB 666, the Montgomery County Council enacted "conforming amendments" to Chapter 22A of the County Code (Expedited Bill 53-10) to specify when a variance from Chapter 22A (hereafter a "Chapter 22A Variance") was required. The

existing variance provisions of the County's Forest Conservation Act were then applied to such variance requests.

Section 22A-21(a) establishes the "minimum criteria" for securing a Chapter 22A Variance. Applicants seeking a variance from any Chapter 22A requirement must:

- (1) describe the special conditions peculiar to the property which would cause the unwarranted hardship;
  - (2) describe how enforcement of this Chapter will deprive the landowner of rights commonly enjoyed by others in similar areas;
  - (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; and
  - (4) provide any other information appropriate to support the request."
- See §22A-21(b).

A Chapter 22A Variance that meets the "minimum criteria" set out in Section 22A-21(a) of the County Code may not be approved if granting the request:

- (1) will confer on the applicant a special privilege that would be denied to other applicants;
- (2) is based on conditions or circumstances which result from the actions by the applicant;
- (3) is based on a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or
- (4) will violate State water quality standards or cause measurable degradation in water quality."

Analysis of the variance includes the County Council's stated first priority objective of the County's Forest Conservation Act "to save, maintain, and plant trees and forested areas for the benefit of County residents and future generations." The tools employed by the Planning Board when implementing that first priority objective, including the authority to approve or reject a variance request, are best applied on a case-by-case basis giving due consideration to the extent by which the approval of a plan or a variance promotes the Council's first priority objective of tree preservation. (See Section 22A-2(b) (1) of the County Code.)

**IV. Compliance with the Variance Requirements**

**A. Section 22A-21(a)(1) - Description of the Special Conditions Peculiar to the Subject Property which would cause the Unwarranted Hardship.**

The dwelling on the Trone Property is in the last phase of an extensive and complex renovation project, nearing 90% completion. The existing driveway that previously provided vehicular access to the Trone property will not function properly and will not allow vehicular access to the completed vehicle courtyard and garage unless it is partially reconfigured. The proposed realignment of the driveway has been designed to avoid the extensive grading that would be required to maintain the existing driveway in a less angular alignment. Without the requested variance, Mrs. Trone will suffer unwarranted hardship by being unable to have access to the garage that was designed and for which proper permits were issued before the law requiring a variance was enacted. Because the Trone Property is an existing improved platted lot, the renovation of the existing residence qualified for an exemption from the forest conservation requirements of Chapter 22A of the Montgomery County Code (the "County Code"). Part of the renovation project included the realignment of a portion of the existing driveway serving the Trone Property in order to provide safe and efficient vehicular access to the redesigned garage. Consultant Mark Willard and Associates had advised Mrs. Trone that the relocation of a portion of the driveway within an easement on the Vessali Property (now Lot PT8) would also be approvable to proceed under the forest conservation exemption. However, contrary to that advice, Mrs. Trone learned from M-NCPPC, when the forest conservation exemption for the proposed driveway relocation in an easement area on adjacent property was rejected, that the relocation did not qualify for an exemption because land disturbing activities would not be confined to a single property, and that a forest conservation plan would be required.

To keep construction moving forward, the project engineer, MRA, prepared the required sediment control plans, including the on-site stormwater management facilities for the proposed renovation on the single platted lot. Following approval of the requisite Forest Conservation Exemption by M-NCPPC and the sediment control plans by DPS, the necessary permits were issued and the Trone's contractor began to renovate the Trone residence. That Forest Conservation Exemption request was approved after a meeting with Josh Penn at which the Trone's consultants explained the plan, discussed the desired reconfiguration of a portion of the driveway, and the forest conservation exemption. At that time, Mrs. Trone began to engage in discussions with her neighbors (the Vessalis) to acquire a portion of their property to relocate the driveway, as was necessary. However, that sale was contingent upon approval by the Vessalis' mortgage companies. To avoid delays, the renovation work to the residence on the Trone

Property continued under the Forest Conservation Exemption and land disturbing activities were confined to the Trone's existing lot as specified under the Exemption. It was understood by all parties, including staff that the realignment of the driveway would need to be addressed under the auspices of a forest conservation plan at a later date.

Pursuant to Section 22A-5 of the Montgomery County Code, a Forest Conservation Exemption requires the applicant to execute a Declaration of Intent as a condition of the Forest Conservation Exemption. A Declaration of Intent "is an affirmation by an applicant that property is subject to the following activities and limitations and therefore is eligible for an exemption from the Forest Conservation Law." COMCOR 22A.00.01.12.

As a condition of the Forest Conservation Exemption for the Trone Property, a Declaration of Intent was executed. Section 22A-5(a)(3) of the County Code states that forest conservation exemptions are "subject to a declaration of intent filed with the Planning Director stating that the lot will not be the subject of additional regulated activities under this Chapter within 5 years of the cutting, clearing, or grading of forest." The Declaration of Intent for the Trone Property required that the property not be the subject of any regulated activity within five years. Section 22A-19 requires compliance with the conditions of the Forest Conservation Exemption. Non-compliance includes "if within 5 years, an application for a development or other approval regulated by this Chapter is submitted for the tract or lot covered by the exemption..." See Section 22A-19(a)(1).

In July 2011, Mrs. Trone filed this preliminary plan of resubdivision to merge PT8, acquired from the Vessalis, into the Trone Property and to re-establish the Vessali Property as a buildable lot. Since the Declaration of Intent prevents an exemption from continuing if the applicant undertakes any regulated activity, the Forest Conservation Exemption ceased once the preliminary plan was filed. Section 22A-19(a)(1). In order to remedy the cessation of the Forest Conservation Exemption, allow the renovation of the Trone residence to be completed, as well as the forest conservation requirements of this preliminary plan of resubdivision to be met, Mrs. Trone must submit a forest conservation plan for the Trone Property and Vessali Property. As a result, the requirements to obtain a variance under Chapter 22A-21 are triggered to secure the disturbance of eight (8) protected trees and for the five (5) protected trees located within existing septic field reserves. *If Mrs. Trone is unable to gain approval of a forest conservation plan, including the requested variance, she will be unable to fully comply with the Montgomery*

*County Code, remedying the requirements of Section 22A-19, and thereby, suffer an undue hardship.*

Further, the proposed resubdivision of the Subject Property has been designed to facilitate the construction of a new driveway that provides for the placement of required stormwater management facilities in compliance with the State and County Environmental Site Design standards in an un-forested area of the Trone Property. The existing driveway is located within a pipestem that will be widened by the resubdivision to create the space to install, construct and maintain the requisite stormwater management facilities at the topographical lowest draining area on the Trone Property. The existing driveway cannot serve the renovated Trone Residence due to the change in topography. In fact, substantial grading would be required to utilize the existing driveway coupled with the grading and removal of protected trees for the installation of the stormwater management facilities. To limit land disturbing activities, only the northern portion of the existing driveway will be relocated and newly constructed. Properties in similar locations and zone that were developed under prior stormwater management standards did not require the same amount of surface area for gravity determined locations now required by the Environmental Site Design criteria.

Special features that affect the redevelopment of the Trone Property also include two existing easements for septic reserve areas to serve adjoining lots. The existence of these easements, established by the original developer and not these applicants, and the severe slopes in the rear of the Trone Property further restrict the location of stormwater management facilities that comply with current Environmental Site Design standards. These special conditions constrain the area of the Subject Property suitable for development to the northwest corner of the property and that is the location of the existing and recently renovated residence.

**B. Section 22A-21(a)(2) - Description of How Enforcement of Restriction on Disturbance of Certain Trees Deprives the Applicants of Rights Commonly Enjoyed by Others in Similar Areas.**

Enforcement of the requirements of Section 5-1607(c)(2) of the Natural Resources Article and Section 22A-12(b)(3) of the County Code, prohibiting the disturbance of certain identified trees, will deprive the Applicants of the right to be in compliance with the Montgomery County Code, to complete the renovation of her residence and to install a driveway to accommodate the most functional location of the required stormwater management facility.

**C. Section 22A-21(a)(3) - Verification that State Water Quality Standards will not be Violated, that a Measurable Degradation in Water Quality will not Occur as a Result of Granting the Variance and Other Limitations on the Grant of the Variance.**

The legislative intent of the State law governing stormwater management is to enhance water quality throughout the State by requiring facilities that disperse and treat stormwater be located on the development site in order to maximize ground infiltration and eliminate runoff. The variance will allow a driveway design and location that will accommodate current Environmental Site Design standards, protecting water quality.

The relocation of the driveway will make available un-forested area for the stormwater management environmental site design facilities in the most appropriate environmentally sensitive location. The installation and placement of the facility will have a positive impact on the neighborhood.

Further, the location proposed for the driveway was carefully selected to limit the impact on the trees and retain the most existing trees, as was the design of the renovations to the residence. The relocated driveway will be constructed of porous pavement facilitating on-site water infiltration near the forested areas. It will include a bridge that not only spans a considerable area of critical root zone, but also enables stormwater to flow over a natural vegetated flat swale and thus, avoiding the need for culverts or drainage pipes crossing under the relocated driveway. The culvert in that area of the existing driveway will be removed, returning the area to its natural drainage patterns. All of these factors and the stormwater management trenches along the existing and new portion of the driveway contribute significantly to objectives of the current stormwater management regulations by interrupting the flow of stormwater to allow for enhanced on-site infiltration.

Granting the requested Chapter 22A Variance will not confer on the Applicants a special privilege that would be denied to other applicants. All applicants must comply with the Forest Conservation requirements of Chapter 22A, if they are not exempt, and new construction and redevelopment must comply with the Environmental Site Design standards. The Applicants are merely redeveloping a small portion of the subject property in compliance with the mandated RE-2 Zoning and County Council adopted Master Plan. The filing of the forest conservation plan is required to allow the Applicants to comply with the Forest Conservation requirements of Chapter 22A. Also, the contributing conditions or circumstances necessitating the requested



variance are the result of the combination of site topography, more restrictive stormwater management standards and the non-availability of alternative stormwater management sites due to septic easements granted long before the applicant acquired the property and did not result from any action by the Applicant. The requested Chapter 22A variance is based solely on conditions peculiar to the site and other circumstances, not on a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. Also, granting the requested variance will not violate State water quality standards or cause measurable degradation in water quality.

**D. Section 22A-21(a)(4) – Other Information In Support the Requested Variance**

The Trone Property is forested with mature trees and the owner has taken many precautions to limit the removal of trees on site. Mrs. Trone requested approval of a variance from Chapter 22A in order to control the long term retention of all of the protected trees that may be disturbed by the relocation of the driveway that provides the only vehicular access to her renovated residence. Mrs. Trone does not intend to remove any protected tree on her property even though she could have done so under the approved sediment control permit and the Forest Conservation Exemption. In fact, it is of prime concern to retain as many trees as possible and the owners of the Subject Property have retained experienced, highly qualified arborists to plan, design and oversee the relocation of the driveway and the installation of ESD storm water management facilities that will double the capacity to manage stormwater on site. Mrs. Trone has, and will continue to undertake extraordinary tree protection measures to minimize the disturbance of critical root zones of existing trees caused by site work construction. The Applicant's proposed tree disturbance mitigation measures that are proposed on the Final Forest Conservation Plan will be implemented by the recommending consultant, Davey Resource Group and not contracted out to a firm unfamiliar with the plans. The Applicant has taken the necessary steps to assure that the granting of the requested variance will leave the Subject Property and protected trees in a better condition than if the renovation was continued under the existing sediment control permit plan.

**Conclusion.**

For all of the reasons set forth above, the requested Variance should be approved by the Planning Board.

Date

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Respectfully Submitted,

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Stephen J. Orens

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Casey L. Cirner  
Miles & Stockbridge, P.C  
11 N. Washington Street, Suite 700  
Rockville, Maryland 20850  
(301) 672-1600

### Trees to be Impacted

<b>Tree Id #</b>	<b>Species</b>	<b>DBH</b>	<b>% of CRZ Impacted</b>	<b>Condition</b>	<b>Removed Per this Plan</b>	<b>Comment</b>
11	Chestnut Oak	35	21%	Fair	No	Disturbance By Driveway Reconstruction & Existing LOD
18	Black Oak	34	52%	Fair	No	Disturbance by SWM #1 & Driveway Fills and Swale
24	Chestnut Oak	31	56%	Fair	No	Disturbance by Driveway Removal & Fills and Bridge Abutments/Piers
27	White Oak	30	27%	Fair	No	Disturbance by Driveway Fills & Bridge Abutments/Piers
48	Chestnut Oak	34	20%	Fair	No	Disturbance by Driveway Fills, Bridge Abutment & Swale Grading
52	White Oak	38	32%	Good	No	Disturbance by Permeable Driveway and Minor Fills
70	Red Oak	34	38%	Good	No	Disturbance by Permeable Driveway and Minor Fills
73	Chestnut Oak	36	34%	Good	No	Disturbance by Driveway Removal and Minor Fills
203	Chestnut Oak	31	—	Fair	No	Located in existing septic reserve on Proposed Lot 1
204	Chestnut Oak	55	—	Fair	No	Located in existing septic reserve on Proposed Lot 1
208	Southern Red Oak	34	—	Fair	No	Located in existing septic reserve on Proposed Lot 1
507	White Oak	36	—	Fair	No	Located in existing septic trench for Proposed Lot 2
515	White Oak	30	—	Good	No	Located in existing septic reserve for Proposed Lot 2

Area 3 Team-Montgomery County Planning Department  
The Maryland National Capital Park & Planning Commission

**Revised Statement of Justification  
In Support of Preliminary Plan Application No. 120110420**

**REVIEW TYPE:** Preliminary Plan of Subdivision (Resubdivision)  
**APPLYING FOR:** Boundary line adjustment between two existing one family lots  
**PROJECT NAME:** Great Falls Estates  
**CASE #:** 120110420  
**REVIEW BASIS:** Chapter 50, Montgomery County Subdivision Regulations  
**ZONE:** RE-2  
**LOCATION:** Trone Property: 11417 Skipwith Lane, Potomac, MD 20854  
Lot PT8 (.5 acres), Block C, Great Falls Estates  
Vessali Property: 11501 Skipwith Lane, Potomac, MD 20854  
**MASTER PLAN:** Potomac Subregion (Potomac)  
**APPLICANT:** June Trone and Ashton A. Vessali and Monica A. Svinicki  
**ENGINEER:** Morris & Ritchie Associates, Inc.  
**ATTORNEY:** Miles & Stockbridge, P. C.

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**APPLICANTS' REQUESTED RECOMMENDATION**

Approval, subject to the following conditions:

- 1) Approval under this preliminary plan is limited to adjusting the boundary between two existing one family lots.
- 2) The applicant must comply with the conditions of the MCDPS stormwater management approval dated October 28, 2011. These conditions may be amended by MCDPS, provided the amendments do not conflict with other conditions of the preliminary plan approval.
- 3) The applicant must comply with the conditions of approval of the forest conservation variance reviewed in conjunction with this Preliminary Plan.
- 4) The record plat must show necessary easements.

**SITE DESCRIPTION**

The Trone Property is Lot 34, Block C, Great Falls Estates Subdivision (Tax Identification Number 10-02550471) per Plat No. 24235 and is owned by June S. Trone ("Mrs. Trone"). The Vessali Property was previously identified as Lot 8, Block C, Great Falls Estates Subdivision per Plat No. 11062 owned by Ashton A. Vessali and Monica A. Svinicki ("Vessali"). The Vessali Property is now identified as one of two "Parts" of Lot 8 in Block C, Great Falls Estates Subdivision. (Tax Identification Numbers 10-01720691). The other "Part" of

Lot 8 (“Lot PT8”) was severed from the Vessali Property when it was conveyed by deed to Mrs. Trone. The purpose of that transaction was to enable Mrs. Trone to reconfigure a portion of the driveway serving the Trone Property and to assure Mrs. Trone that existing trees in the vicinity of the driveway would be protected in the future. (The Tax Identification Number for “Lot PT8” is 10-03678216). The several properties are collectively the “Subject Properties.”

All of the Subject Properties are depicted on Tax Map FP11 with frontage on Skipwith Lane. The Subject Properties are part of an eclectic neighborhood of single-family homes at the southern end of Falls Road, within the boundaries of the 2002 Approved and Adopted Potomac Subregion Master Plan.

All are classified in the RE-2 residential one-family zone, a zone with a two acre minimum lot size. The Trone Property (Lot 34) contains 2.3 acres of land and is improved with an existing single-family dwelling. Lot PT8 is 0.5 acres of unimproved land. The Vessali Property consists of 2.02 acres and is also improved with a single-family dwelling.

## **PROJECT DESCRIPTION**

The sole purpose of this Preliminary Plan application is to adjust the boundaries of two existing developed lots. The dwelling on the Trone Property is in the last phase of an extensive and complex renovation project. This major renovation was designed by Christian Zapatka Architect, LLC in 2009. A main element of the design was avoiding the removal and disturbances of as many of the trees on the Trone Property as possible. While the architectural design work for the renovation was ongoing, Mrs. Trone and her husband, David Trone assembled a team of consultants to implement the renovation and related site work. The consultant team included Mark Willard and Associates for landscape architecture, Morris & Ritchie Associates, Inc. (“MRA”) for site engineering and the Davey Resource Group (formally Care of Trees), certified arborists to monitor and assist with any tree disturbances. Understanding the time associated with fully renovating this home and the amount of time needed to occupy a rental home, the Trone’s consultant team and construction contractor commenced construction of the renovation project.

The renovation of the residence on a single recorded lot was entitled to proceed under a forest conservation exemption that, as amended, also enabled Mrs. Trone to secure a minor lot line adjustment at the northeast portion of the rear of the Trone Property to accommodate

additional stormwater management in the rear “drainage area.” Mrs. Trone and her neighbors Tom and Lucy Gies agreed to a minor lot line adjustment to provide the additional area needed to accommodate stormwater management “on-site.” The adjusted lotline was platted under the minor subdivision process and was also exempt from forest conservation requirements.

Mark Willard had advised Mrs. Trone that the relocation of a portion of the driveway serving the residence within an easement on the Vessali Property (now Lot PT8) would also be approvable to proceed under the forest conservation exemption. Mrs. Trone relied on that advice, but learned from M-NCPPC when the forest conservation exemption for the proposed driveway relocation in an easement area on adjacent property was rejected that the relocation did not qualify for an exemption and that a forest conservation plan would be require

Mrs. Trone realized Lot 34 and the easement area (Lot PT8) had to be under common ownership. Although the proposed easement provided some protection of the trees within the easement area, the more appropriate way to proceed with the redesign of a portion of the driveway was for Mrs. Trone to acquire, in fee simple, the area for the relocated driveway (Lot PT8). This would also provide for total control over the trees near the relocated driveway. Mrs. Trone then had MRA, along with The Davey Resource Group, take over the project moving forward.

Because the Trone Property is an existing improved platted lot, the renovation of the existing residence qualified for an exemption from the forest conservation requirements of Chapter 22A of the Montgomery County Code (the “County Code”). To keep construction moving forward, the project engineer, MRA, prepared the required sediment control plans, including the on-site stormwater management facilities for the proposed renovation. Following approval of the Forest Conservation Exemption and the sediment control plans, the necessary permits were issued by DPS and the Trone’s contractor began to renovate the Trone residence.

The initial Forest Conservation Exemption request was approved after a meeting with Josh Penn at which the Trone’s consultants explained the plan, discussed the desired reconfiguration of a portion of the driveway, and the forest conservation exemption. At that time Mrs. Trone began to engage in discussions with her neighbors (the Vessalis) to acquire a portion of their property. However, that sale was contingent upon approval by the Vessalis’ mortgage company.



The Trone Property is divided into two on-site “drainage areas” draining both to and away from Skipwith Lane because of its topographical characteristics. The front and rear yards are in different “drainage areas,” which provide a certain disconnection with regard to construction and sediment control/stormwater management approval. The sediment control plan was submitted to DPS with the understanding that the detailed engineering of the stormwater management facilities for the front “drainage area” was a “work in progress.” While the renovation of the residence was continuing under the issued permits, MRA’s Tom Neugebauer received comments from DPS regarding the proposed use of several dry wells in the front “drainage area.” DPS rejected the dry well alternative designs for technical size and separation reasons. Locating additional drywells at a greater linear separation was contrary to Mrs. Trone’s tree protection goals. Therefore, the bio retention facility depicted on the Preliminary Plan was proposed for the front “drainage area.” In order to move forward with the renovation, the sediment control plan approved by DPS was understood to be an interim plan for purposes of the front “drainage area” because it located the front bio retention facility in a location that required retention of the driveway in its existing configuration.

Perplexed that the permitting and approval process was going to be more complicated than she had been led to believe if she wanted to reconfigure the driveway, Mrs. Trone acquired Lot PT8 from the Vessalis. The configuration of Lot PT8 was determined in the field by the Trone’s in order to include certain trees they desired to acquire and protect. Shortly thereafter, the Trone’s sought to change the shape of Lot PT8 in the manner suggested by M-NCPPC staff although it did not encompass all of the trees that the Trone’s desired to protect. The Vessalis’ mortgage companies were then contacted to approve the revision to Lot PT8. The Trone’s moved forward with the preliminary plan of resubdivision to re-establish the Vessali Property as a “buildable lot” and merge Lot PT8 and Lot 34 into a single record lot. The severance of Lot PT8 from The Vessali’s Lot 8, triggered the preliminary plan process, which was then the only means of simultaneously re-establishing the remaining Vessali Property as a buildable “record lot” and joining together the Trone Property, Lot PT8 and Lot 34, into a single record lot. The submission of a preliminary plan application triggered the requirements for both a forest conservation plan and a Chapter 22A variance.

A pre-submission meeting was held on March 11, 2011 with Josh Penn of the Environmental Planning Division and Richard Weaver of the Development Review Division.

Other M-NCPPC staff also attended that meeting. Having resolved the stormwater management requirements for the rear “drainage area” via the minor subdivision application, the meeting at M-NCPPC focused on the revised site design of the front portion of the Trone Property. The revised site design was prepared by MRA after the issuance of the sediment control permit and it depicted the partial relocation of a portion of the driveway within a portion of the adjacent Vessali Property that became Lot PT8. At that meeting it was explained that the proposed relocation of a portion of the driveway would minimize the CRZ disturbances to protected trees during site work and benefit trees that had been previously disturbed by the construction of the original driveway in the 1980’s

While the front area site design was under discussion at DPS and M-NCPPC, work continued on the Trone residence renovation under the approved sediment control plan and building permits. Between the date of initial meeting with M-NCPPC staff and the completion of the next generation of the redesigned site-plan the Maryland General Assembly amended the statewide requirement for stormwater management and imposed the environmental site design (“ESD”) criteria to land disturbing activities that did not yet have an approved sediment control plan. Although Mrs. Trone had an approved sediment control permit, that permit was based on an interim site design that called for the existing driveway to remain in its current location without the replacement of impervious asphalt with pervious materials.

That interim site design required the removal of at least one protected tree and the disturbance of the critical root zones of other trees and that was unacceptable to Mrs. Trone. In addition, the approved bio retention facility, while permissible as a “grandfathered” plan, was not capable of handling the amount of stormwater that could be accommodated by an upgraded facility that complied with the then recently enacted ESD standards for stormwater management. Had Mrs. Trone chosen to do so, she could have abandoned the preliminary plan, which protects trees and creates a more natural environment for the reconfigured driveway, and proceeded under the approved sediment control permit. Had she done so, the approved bio retention facility would have been a “grandfathered” stormwater management pond and even though protected trees would have to be removed and critical root zones of other trees disturbed under that plan, no forest conservation plan or Chapter 22A variance would have been required.

The current ESD compliant design (which is depicted on the preliminary plan) for an appropriately sized bio-retention facility located to take advantage of existing grade was

reviewed by DPS and was found to be approvable. That plan was submitted to M-NCPPC staff for informal review and discussion. The Preliminary Plan and Forest Conservation Plan drawings have been revised and resubmitted to the Staff of Planning Area 3 for formal review.

This Preliminary Plan application proposes the reconfiguration of the common lot line of Lots 8 and 34 and is a resubdivision of a platted record lot (Lot 34) and two parts of another platted record lot (both parts of Lot 8) into two reconfigured lots. As a resubdivision, the Preliminary Plan must be reviewed under Section 50-35 of the Montgomery County Code. The Applicants submit that the pending Preliminary Plan application meets or exceeds all of the applicable standards of Chapter 50 of the Montgomery County Code (the "Subdivision Regulations"), including the resubdivision criteria discussed below.

As proposed, the lot size, width, shape and orientation are appropriate for the location of the subdivision in compliance with Section 50-29 of the Subdivision Regulations. The proposed lots will have frontage on Skipwith Lane in accordance with Section 50-29(a)(2) of the Subdivision Regulations.

This Preliminary Plan proposes to resubdivide the Trone and Vessali Properties and Lot PT8. The proposed resubdivision will merge the Trone Property and Lot PT8 into a single lot totaling 2.81 acres (The "Reconfigured Trone Lot") and re-establish the northeast boundary line of the Vessali Property (also part of Lot 8), restoring its status as a buildable record lot (the "Reconfigured Vessali Lot").

The purpose of merging 0.5 acres into the existing Trone Property as detailed above, is to increase the size of the Trone Property to reconfigure a portion of the existing driveway serving the Trone Property and to accommodate stormwater management compliant with the environmental site design criteria to the maximum extent practicable. The existing driveway apron connection to Skipwith Lane will remain unaltered. All of the existing single-family dwellings, including the renovated Trone dwelling, will be retained. No additional lots will be created.

#### **MASTER PLAN COMPLIANCE**

The proposed re-subdivision is in compliance with the general land use and zoning recommendation of the Approved and Adopted Potomac Subregion Master Plan (the "Master Plan"). The Master Plan does not contain any site-specific recommendations for the Trone

Property, the Vessali Property or Lot PT8. Nor does the Master Plan specifically identify any of these properties. However, the Master Plan does confirm the existing zoning for all developed land in the Master Plan area, which includes all of Skipwith Lane including the two reconfigured lots proposed by this Preliminary Plan. (Master Plan p. 40).

### **PUBLIC FACILITIES**

The two reconfigured lots will continue to be served by public water and previously approved and adequate individual septic systems. The septic reserve area on the Reconfigured Trone Lot was relocated as part of the renovation of the residence and that relocation was approved by DPS. All other required public facilities are adequate to serve the proposed resubdivision. Therefore, both of the reconfigured lots will continue to be served by adequate public facilities.

The reconfigured lots will not generate any additional peak hour traffic and are exempt from both Local Area Transportation Review and Policy Area Mobility Review. Both reconfigured lots will retain their respective, existing access to Skipwith Lane. However, the western portion of the Trone Lot driveway will be reconfigured around the proposed stormwater management environmental site design facilities.

No additional dedication is required for the 60-foot Secondary Residential Street right of way for Skipwith Lane. Sidewalks are not required along Skipwith Lane and pedestrian circulation will continue to be safe and adequate along the cul-de-sac in this low density neighborhood. The requisite public utility easements are already in place.

### **FOREST CONSERVATION**

The proposed resubdivision is subject to the County's Forest Conservation Act codified as Chapter 22A of the County Code. A Natural Resources Inventory/Forest Stand Delineation, Number 420110950, was approved on March 29, 2011. Because planned site work will disturb the critical root zones of protected trees, Mrs. Trone has requested a forest conservation variance pursuant to Section 22A-11 of the County Code to disturb critical root zones. **No protected trees will be removed pursuant to the requested variance.** The Applicant has filed herewith a request for a Forest Conservation Variance. For the reasons articulated in the Forest Conservation Variance Request, the variance should be granted.

A forest conservation variance is required because site work will disturb the critical root zones (“CRZ”) of eight (8) protected trees identified on the Forest Conservation Plan as Tree #s 11, 18, 24, 27, 48, 52, 70 and 73 and five (5) protected trees, Tree Nos. 203, 204, 208, 507 and 515, are located within existing septic reserve fields. Although the CRZ’s of the eight trees will be disturbed, approval of the proposed variance will significantly reduce CRZ disturbances to Tree #11 and will save Tree # 18 from removal under the approved sediment control permit plan.

The site work that will disturb the CRZ’s of the eight trees includes: (i) the removal of impervious asphalt from the portion of the driveway that will not be reconfigured; (ii) the construction of a bridge to span an environmentally sensitive area; and (iii) the installation of permeable pavement and stone under the portion of the driveway that will not be reconfigured to improve air and oxygen flow to enable those trees that had critical root zones disturbed in the 1980’s to regain root growth that has been inhibited since the original driveway was constructed. No protected tree will be removed under the proposed variance plan and all site work will be supervised by and under the direction of the Applicants’ certified arborist from The Davey Resource Group (formally Care of Trees).

The eight protected trees are identified on the proposed Preliminary Forest Conservation Plan and the Critical Root Zone Disturbance Comparison Plan. The paragraphs below compare the CRZ disturbances under the approved sediment control permit plan to the tree enhancements under the proposed preliminary plan and variance.

#### **COMPARISON OF THE PRELIMINARY PLAN TO THE SEDIMENT CONTROL PLAN**

Summary of tree enhancements under the Preliminary Plan:

- ✓ **Approval** of the requested variance and approval of the Preliminary Plan will preserve Protected Tree #18 by relocating the bio-retention facility;

**Rejection** of the requested variance will require the removal of Protected Tree #18 under the existing forest conservation exemption and sediment control permit.

- ✓ **Approval** of the requested variance and approval of the Preliminary Plan will preserve Protected Tree #11.

**Rejection** of the requested variance will probably require the removal of Protected Tree # 11 under the existing forest conservation exemption and sediment control permit considering the impact of the limits of disturbance to the critical root zones.

- ✓ **Approval** of the requested variance and approval of the Preliminary Plan will subject the Trone Property to the forest conservation requirements of Chapter 22A;

**Rejection** of the requested variance will result in proceeding under the existing forest conservation exemption and sediment control permit that does not subject the Trone Property to the forest conservation requirements of Chapter 22A.

- ✓ **Approval** of the requested variance and approval of the Preliminary Plan will provide for off-site reforestation as contemplated by Chapter 22A

**Rejection** of the requested variance will result in proceeding under the existing forest conservation exemption and sediment control permit that does not require off-site reforestation.

- ✓ **Approval** of the requested variance and approval of the Preliminary Plan will provide enhanced stormwater management in compliance with the current ESD stormwater management regulations in a neighborhood that needs such enhancements;

**Rejection** of the requested variance will result in proceeding under the existing forest conservation exemption and sediment control permit that provides for stormwater management under the old standards which means a smaller bio-retention facility that provides less volume and treats a smaller drainage area.



- ✓ **Approval** of the requested variance and approval of the Preliminary Plan will restore the natural environment for Tree # 73 and Tree # 24 and other mature adjacent trees by removing part of the existing driveway, providing soil restoration by the arborist, and adding fill and plantings;

**Rejection** of the requested variance will result in proceeding under the existing forest conservation exemption and sediment control permit and the driveway will be re-paved.

- ✓ **Approval** of the requested variance and approval of the Preliminary Plan will provide for root growth for Tree #52 and Tree # 70 by replacing the paved driveway with a pervious pavement system that will allow water and air to penetrate the root systems;

**Rejection** of the requested variance will result in proceeding under the existing forest conservation exemption and sediment control permit and the driveway will be re-paved, but not to allow water and air to penetrate the root systems

- ✓ **Approval** of the requested variance and approval of the Preliminary Plan will require the Applicant to provide additional off site mitigation as suggested by Laura Miller;

**Rejection** of the requested variance will result in proceeding under the existing forest conservation exemption and sediment control permit and five (5) of the eight (8) trees will be disturbed and two (2) will be removed without additional off site mitigation.

### **Tree by Tree Disturbance Comparison**

A tree by tree comparison of the associated disturbances under the Preliminary Plan and the existing forest conservation exemption and sediment control permit is provided below. Note that while the critical root zones of eight (8) trees are disturbed under the Preliminary Plan, and the critical root zones of five (5) trees are disturbed under the existing forest conservation exemption and sediment control permit, two (2) additional trees would be removed under the existing sediment control permit plan. Under the Preliminary Plan no trees are being removed – only mostly minor disturbances are proposed.

**Tree #27 -30” White Oak**

**Sediment Control Permit Plan:** This is the only tree that will be disturbed under the Preliminary Plan that is not proposed for disturbance or removal under the Sediment Control Permit Plan. *No impact to this tree is shown on the Sediment Control Permit Plan.*

**Preliminary Plan:** However, the preliminary plan proposes to disturb only 29% of the CRZ of this tree. The disturbance is reduced by the installation of a bridge and further reduced by the bridge re-design that removed the pilings in the bridge span. Otherwise, a pipe culvert and driveway fill embankment would be required to install the driveway in this location causing an additional 1,100 sq. ft. of disturbance to the critical root zone.

The Preliminary Plan shows four conditions with respect to roots: a) grade fill behind both abutments for proposed pavement will be mitigated by inserting permanent Root Aeration Matting on existing grade, b) the abutment pilings and excavation will be a root loss generally, however, initial excavation will be by Super Sonic Air Tools (“SSAT”) to uncover and prune or redirect roots as the situation allows, c) SSAT Investigation shows the tulip poplar roots which are proposed for removal project the greatest mass of roots in the abutment area and therefore, the removal of the tulip poplars will enhance the growth of this tree, d) between the abutments the bridge span has been redesigned to disallow pilings in the span but Root Protection Matting will be placed temporarily during construction to protect soils and roots from foot traffic and stockpile. *Overall impact from the Preliminary Plan is Moderate to Low.*

**Tree #70- 34” Red Oak & Tree #52 White Oak- 38”**

**Sediment control Permit Plan:** This plan leaves the current drive intact (installed in the 1980’s) with only a re-surfacing. Very little if any roots were discovered under the pavement with the SSAT Investigation as it is the experience that with little air or water or nutrients there is no reason for roots to re-grow there since initial construction.

**Preliminary Plan:** This plan shows the existing pavement to be removed and replaced with Permeable Paving with 18” of drainage stone underneath the new pavement to collect and store

run-off. Additional air and water should be available underneath the drive to finally allow some restoration of roots underneath. *This is an enhancement of growing conditions.*

**Tree #73- 36.5” Chestnut Oak**

**Sediment control Permit Plan:** This plan as with Tree #70 leaves the current drive in place merely re-surfacing the paving.

**Preliminary Plan:** As with Tree #70 the current pavement section will be removed. However it will not be replaced in kind rather restored to a natural landscape, calling for soil/root restoration with the SSAT and beneficial fungi inoculant once final grade is reached. *Restoration of roots in the formerly paved area should result in enhanced root growth.* This is a positive enhancement for the tree although the percentage of CRZ disturbance is increased from 30% under the Existing plan to 35% under the Preliminary Plan.

**Tree #48- 34” Chestnut Oak**

**Sediment control Permit Plan:** This plan leaves the current drive in place merely re-surfacing the paving.

**Preliminary Plan:** A shallow, narrow swale is proposed along the toe of the slope to lead rainwater away from ponding at the curve of the new driveway. Root Investigation showed smaller roots in the area away from the tree thus SSAT Excavation in this area with root redirection and re-coating with topsoil will allow drainage yet the CRZ is to be minimally disturbed. A small area shall be excavated within the existing driveway to allow the SWM Permeable Paving to be installed after root pruning takes place. The remaining proposed pavement section is over grade fill protected by Root Aeration Matting for Low Impact. *Thus the comparative impact to the tree is greater under the Preliminary Plan yet relatively Low overall.*

**Tree #24- 31” Chestnut Oak**

**Sediment control Permit Plan:** The 1980's construction impacted as much as 40% of the CRZ, yet the tree is healthy today. No additional impacts would take place under the Sediment Control Permit Plan; the existing pavement of the driveway will remain.

**Preliminary Plan:** Under this Plan the existing paving section is removed, the sub-grade renovated as with Tree #73. *This is a positive enhancement.* Shifting the proposed drive on the other side of the tree leads to four conditions with respect to roots: a) grade fill behind the abutment for proposed pavement will be mitigated by inserting permanent Root Protection Matting on existing grade, b) the abutment pilings and excavation will generally cause root loss however initial excavation will be by SSAT to uncover and prune or redirect roots as the situation allows, c) SSAT Investigation shows the tulip poplar roots which are proposed for removal project the greatest mass of roots in the abutment area. Their removal will positively enhance the growth of Tree 24, d) between the abutments the bridge span has been redesigned to remove pilings from the middle of the span but Root Aeration Matting will be placed temporarily during construction to protect soils and roots from foot traffic and stockpile.

The proposed preliminary plan proposes to shift the impact to the other side of the tree while employing the specified mitigation techniques that were not previously available. While taking up the driveway on one side of a tree and placing it on the other side may seem to have a double impact two things should be remembered-

1. The 1980's construction impact to the trees has enabled the trees shown to remain as Fair to Good condition currently. *Thus CRZs shown under the current drive should be considered as minimal impact today and the removal of the driveway will enhance their growth.*
2. The proposed design today allows protection and stress reduction measures to be implemented that were not available in the past. Thus similar construction –such as a new drive and placement of fill can be nearly completely mitigated as to long term impact if the plan and specifications are followed.

*Thus, the overall impact from the Preliminary Plan is Moderate to Low and enhances growth.*

### **Tree #18 -34" Black Oak**

**Sediment control Permit Plan:** The Proposed LOD for the bio-retention facility excavation is right at the tree trunk. *This high impact warrants removal as shown on the Sediment Control Plan.*

**Preliminary Plan:** The proposed plan allows for the redesign of the bio-retention facility pushing it away from the tree. Grade fills are to be mitigated by Root Aeration Matting placed on existing grade prior to fill for the downstream side of the bio-retention facility embankment, as well as the grade fill behind the bridge abutment. This tree is no longer recommended for *removal under this plan because the CRZ disturbance is reduced to Moderate to High under this plan.*

**Tree #11 – 35” Chestnut Oak**

**Sediment control Permit Plan:** Proposed LOD / Tree Protection Plan is located very close to the trunk at the property line. *This tree may be recommended for removal during site construction.*

**Preliminary Plan:** Plan allows for pulling the LOD away from the tree to gain additional room and adjacent trees as well and only a 22% disturbance to the CRZ. *This tree will be impacted less than as shown on the Existing Plan.*

**STORMWATER MANAGEMENT**

The Stormwater Management Section of the Department of Permitting Services approved a stormwater management concept plan for the resubdivision on October 28, 2011. The stormwater management concept consists of Environmental Site Design facilities to the maximum extent practicable. The MCDPS approval letter notes that “the stormwater management concept proposes to meet required stormwater management goals via the use of micro biofiltration, porous pavement and other non-structural measures.”

**COMPLIANCE WITH SUBDIVISION REGULATIONS AND ZONING STANDARDS**

This application has been submitted for review as a resubdivision and for a determination of compliance with the resubdivision criteria in Section 50 29(b)(2) of the Montgomery County Code, Chapter 50, the Subdivision Regulations. Documentation provided for Staff consideration includes a comparison of the dimensional characteristics of the redesigned existing lots to the

other existing lots in the immediate area. The documentation establishes that the proposed size, width, shape and orientation of the redesigned lots are appropriate for the location of the subdivision. The application meets all other applicable sections, including the requirements for resubdivision as discussed below.

The redesigned lots comply with the dimensional requirements for the RE-2 zone as specified in the Zoning Ordinance. The proposed lots exceed the dimensional requirements for area, frontage, width, and setbacks in that zone.

### **CONFORMANCE WITH SECTION 50-29(b)(2)**

#### **A. Statutory Review Criteria**

In order to approve an application for resubdivision for residential uses in residential zones, the Planning Board must find that the proposed lot(s) comply with all seven of the resubdivision criteria, set forth in Section 50-29(b)(2) of the Subdivision Regulations, which states:

“Resubdivision. Lots on a plat for the Resubdivision of any lot, tract or other parcel of land that is part of an existing subdivision previously recorded in a plat book shall be of the same character as to *street frontage, alignment, size, shape, width, area and suitability for residential use* as other lots within the existing block, neighborhood or subdivision.”

#### **B. Neighborhood Delineation**

In administering Section 50-29(b)(2) of the Subdivision Regulations, the Planning Board must determine the appropriate “Neighborhood” for evaluating the application.

The neighborhood proposed by the Applicant, consists of 34 lots located along the roads that serve as the main access to Proposed Lots A and B from Falls Road. Thus, the neighborhood consists of 10 lots along Brickyard Road from Falls Road to Belmart Road, 8 lots along Belmart Road from Brickyard Road to Skipwith Lane and 18 lots along Skipwith Lane (the “Neighborhood”).



## C. Analysis

### Comparison of the Character of Proposed Lots to Existing lots in the defined neighborhood

When applying the resubdivision criteria to the reconfigured lots proposed by this Preliminary Plan, both of the two reconfigured lots are of the same character with respect to street frontage, alignment, size, shape, width, area and suitability for residential use as are the other existing lots located within the delineated Neighborhood. Therefore, the proposed resubdivision complies with the criteria of Section 50-29(b)(2) of the Subdivision Regulations. This determination is supported as summarized below and as shown in the table prepared by the Applicants' consultants.

**Frontage:** Lot frontages in the Neighborhood range from 27 feet to 816 feet. The ranges of lot frontage are grouped into three categories: (i) lots with less than 200 feet; (ii) lots within the 200 foot range; and (iii) lots with greater than 300 feet of lot frontage. 13 lots have frontage that is less than 200 feet, ranging from 27 feet to 198 feet. 13 lots have frontage in the 200 foot range, ranging from 220 feet to 283 feet. 10 lots have frontage exceeding 300 feet, ranging from 300 feet to 816 feet. Proposed Lot 1 will have 103.54 feet of frontage and Proposed Lot 2 will have 391.36 feet of frontage. The frontage for both proposed lots is well within the ranges of street frontage for groups (i) and (iii) within the Neighborhood delineation. In fact, Proposed Lot 1 increases the street frontage and width of the previous pipestem for the Trone Property and will mirror the pipestem of the neighboring Lot 31, which was previously approved by the Planning Board. **Therefore, the proposed lots will be of the same character as existing lots in the Neighborhood with respect to lot frontage.**

**Alignment:** In terms of alignment, 22 of the 34 lot lots in the Neighborhood align perpendicular to the street line in either a radial or standard perpendicular fashion. The remaining 14 lots are irregular in that they align to the street line with one non-radial side lot line (9 of the lots) or align in a non-radial fashion (5 of the lots). The alignment of the Reconfigured Trone Lot and the Reconfigured Vessali Lot (the side lots lines) to Skipwith Lane are perpendicular. The Reconfigured Trone Lot aligns in a standard perpendicular fashion and the alignment of the Reconfigured Vessali Lot is radial. Both

proposed lots align similar to 22 lots within the delineated Neighborhood. **The proposed lots are of the same character as existing lots with respect to the alignment criterion.**

**Size:** Lot sizes in the Neighborhood range from 2.00 acres to 6.50 acres. 20 lots are smaller than 2.5 acres and 14 lots are larger than 2.5 acres. Out of the 20 lots that are less than 2.5 acres, 6 of those lots are 2.00 acres and a total 12 of those lots are less than 2.10 acres. The Reconfigured Vessali Lot will be 2.02 acres and therefore, is in character with the group of lots within the Neighborhood less than 2.5 acres. The Reconfigured Trone Lot will be 2.81 acres and is in character with group of lots within the Neighborhood over 2.5 acres in size. **The size of the proposed redesigned lots is in character with the existing lots in the neighborhood.**

**Shape:** With respect to shape, 24 lots in the Neighborhood have an irregular shape and 10 lots resemble either a rectangle or trapezoid. The character of this Neighborhood as to shape is best defined as “eclectic.” Both of the proposed reconfigured lots will be irregular shaped lots. The Reconfigured Trone Lot will be an irregular shaped lot with a panhandle, increasing the width of the existing panhandle for the existing Trone Property. The Reconfigured Vessali Lot will also be irregularly shaped. Thus, the proposed lots are in character with the 24 irregularly shaped lots within the Neighborhood. **The shape of the proposed redesigned lots will be in character with shapes of the other existing lots.**

**Width:** Lot width is measured at the front building line (BRL). Lot widths in the Neighborhood range from 25 feet to 654 feet. Sixteen of the lots are at, or less than 200 feet in width at the BRL and 17 are greater than 200 feet in width at the BRL. The proposed reconfigured lots have lot widths of 93 feet and 370 feet. **The proposed redesigned lots will be in character with other existing lots in the neighborhood with respect to width.**

**Area:** The area of a lot is the area that is available for development and excludes the area within the front, rear and side yard setbacks established by the RE-2 zone. Existing

lots in the Neighborhood fall into three categories: (i) buildable areas that are less than 60,000 square feet; (ii) buildable areas ranging from 60,000 to 100,000 square feet; and (iii) buildable area that are greater than 200,000 square feet. The 14 lots within category (i) have a buildable area that range from 44,134 square feet to 60,000 square feet. 13 lots have a buildable area that range from 60,000 square feet to 100,000 square feet and 7 lots have a buildable area that range from 100,000 – 210,574 square feet. The Reconfigured Trone Lot will have a buildable area that is 66,190 square feet and is consist with those lots that comprise category (ii) – 13 lots. The Reconfigured Vessali Lot will have a buildable area that is 54,844 square feet and is in character with those lots that are less than 60,000 square feet (14 lots). Both of the proposed lots can accommodate large estate homes and the buildable area is in character with their respective groupings. **The proposed reconfigured lots will be of the same character as other lots in the neighborhood with respect to buildable area.**

**Suitability for Residential Use:** The existing lots that are proposed to be reconfigured by this preliminary plan are both improved with detached one family homes and there are no known limitations that would prohibit development on the proposed redesigned lots. The existing lots and the proposed redesigned lots are zoned residential and the land is suitable for residential use.

**RE-2 Development Standards:** The proposed lots satisfy the development standards of the RE-2 Zone. Compliance with those dimensional requirements is detailed in the following chart:

<b>59-C-1.34 Development Standards</b>		
<b>Standard</b>	<b>Required</b>	<b>Provided</b>
Lot Area	87,120 sf.	2 d.u./2 acres min.
Lot coverage	25%	8.5% max
Front yard	50 feet deep from the front lot line	50 ft. min.
Side yard	2 side yards, totaling 35 feet Each side yard must be at least 17	17 ft. min. one side 35 ft. min. total

	feet	
Rear yard	35 feet in depth	35 ft. min.
Lot width at front building line	150 feet measured along the front building line	150 ft. min.
Lot width at front street line	25 feet	25 ft. min.

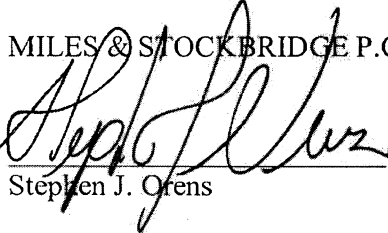
**RESUBDIVISION CONCLUSION**

Section 50-29(b)(2) of the Subdivision Regulations specifies seven criteria with which resubdivided lots must comply. They are: street frontage, alignment, size, shape, width, area and suitability for residential use within the existing block, neighborhood or subdivision. As set forth above, the two proposed reconfigured lots are of the same character as the other existing lots in the defined neighborhood with respect to each of the resubdivision criteria, and therefore, comply with Section 50-29(b)(2) of the Subdivision Regulations. The proposed reconfigured lots also meet all other requirements established in the Subdivision Regulations and the Zoning Ordinance, and the reconfigured lots comply with the recommendations of the Potomac Subregion Master Plan. Access and public facilities are adequate to continue to serve the reconfigured lots.

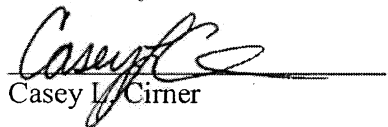
On behalf of the Applicants, the undersigned certify that the information set forth in this statement of justification is true, complete, and correct to the best of our knowledge, information, and belief.

Respectfully submitted,

MILES & STOCKBRIDGE P.C.

  
 Stephen J. Orens

7/12/2012  
 Date

  
 Casey L. Cirner

# Attachment F

## Agency Correspondence



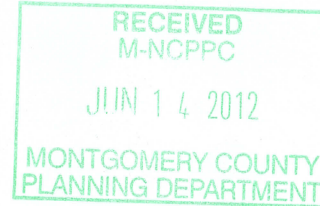
DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

Diane R. Schwartz Jones  
Director

October 28, 2011

Mr. Thomas Neugebauer P.E.  
MRA Inc.  
14280 Park Center Drive, Suite A  
Laurel, MD 20707



Re: Stormwater Management **CONCEPT** Request  
for Trone Property  
Preliminary Plan #: 120110420  
SM File #: 241190  
Tract Size/Zone: 2.8/RE-2  
Total Concept Area: 2.8ac  
Lots/Block: # 34  
Parcel(s): N/A  
Watershed: Potomac Direct

Dear Mr. Neugebauer:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **acceptable**. The stormwater management concept proposes to meet required stormwater management goals via the use of micro biofiltration, porous pavement and other non structural measures.

The following **item(s)/condition(s)** will need to be addressed **during/prior to** the detailed sediment control/stormwater management plan stage:

1. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.
2. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
3. An engineered sediment control plan must be submitted for this development.
4. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.

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

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

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255 Rockville Pike, 2nd Floor • Rockville, Maryland 20850 • 240-777-6300 • 240-777-6256 TTY  
www.montgomerycountymd.gov



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

If you have any questions regarding these actions, please feel free to contact Thomas Weadon at 240-777-6309.

Sincerely,



Richard R. Brush, Manager  
Water Resources Section  
Division of Land Development Services

RRB: tla CN 241190

cc: C. Conlon  
SM File # 241190

ESD Acres:	2.8ac
STRUCTURAL Acres:	N/A
WAIVED Acres:	N/A



DEPARTMENT OF TRANSPORTATION

Isiah Leggett  
County Executive

Arthur Holmes, Jr.  
Director

October 12, 2011

Mr. Richard Weaver, Planner/Coordinator  
Area 3 Planning Division  
The Maryland-National Capital  
Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan No. 120110420  
Great Falls Estates

Dear Mr. Weaver:

We have completed our review of the preliminary plan signed on July 12, 2011. This preliminary plan was reviewed by the Development Review Committee at its meeting on August 15, 2011. We recommend approval of the plan subject to the following comments:

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

1. The sight distances study has been accepted. A copy of the accepted Sight Distances Evaluation certification form is enclosed for your information and reference.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Sam Farhadi, our development review area engineer for this vicinity at (240) 777-2197.

Sincerely,

Gregory M. Leck, P.E. Manager  
Development Review Team

m:/subdivision/farhas01/preliminary plans/ 1-20110420, Great Falls Estates, FINAL.doc

Enclosures (2)

cc: June S. and David Trone  
Tim Madden; Morris & Ritchie Associates, Inc.  
Stephen J. Orens and Casey L. Cirner; Miles & Stockbridge PC  
John Carter; M-NCPPC Area 3  
Ki Kim; M-NCPPC Area 2  
Catherine Conlon; M-NCPPC DARC  
Preliminary Plan Folder  
Preliminary Plan Letters Notebook

cc-e: Marie LaBaw; MCFRS  
Sam Farhadi; MCDPS RWPR

**Division of Traffic Engineering and Operations**

---

100 Edison Park Drive, 4th Floor • Gaithersburg, Maryland 20878  
Main Office 240-777-2190 • TTY 240-777-6013 • FAX 240-777-2080  
trafficops@montgomerycountymd.gov





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

**SIGHT DISTANCE EVALUATION**

Facility/Subdivision Name: Great Falls Estates Preliminary Plan Number: 1-20110420

Street Name: Skipwith Lane Master Plan Road Classification: Tertiary

Posted Speed Limit: 25 mph

Street/Driveway #1 ( Skipwith Lane ) Street/Driveway #2 ( \_\_\_\_\_ )

Sight Distance (feet) OK?  
 Right 520' ✓  
 Left 390' ✓

Sight Distance (feet) OK?  
 Right \_\_\_\_\_  
 Left \_\_\_\_\_

Comments: Access to Skipwith Lane is an existing driveway. There is no change in grade or location proposed with the Preliminary Plan.

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**GUIDELINES**

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

\*Source: AASHTO

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

**ENGINEER/ SURVEYOR CERTIFICATE**

I hereby certify that this information is accurate and was collected in accordance with these guidelines.



Signature

29203

PLS/P.E. MD Reg. No.



**Montgomery County Review:**

Approved

Disapproved:

By: gmluck

Date: 10/12/11