




**Preliminary Plan, 120120300: Alfred House**

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 Richard Weaver, Acting Supervisor [richard.weaver@montgomeryplanning.org](mailto:richard.weaver@montgomeryplanning.org) 301-495-4544  
 John Carter, Division Chief, Area 3 [john.carter@montgomeryplanning.org](mailto:john.carter@montgomeryplanning.org) 301-495-4575

Completed: 2-8-13

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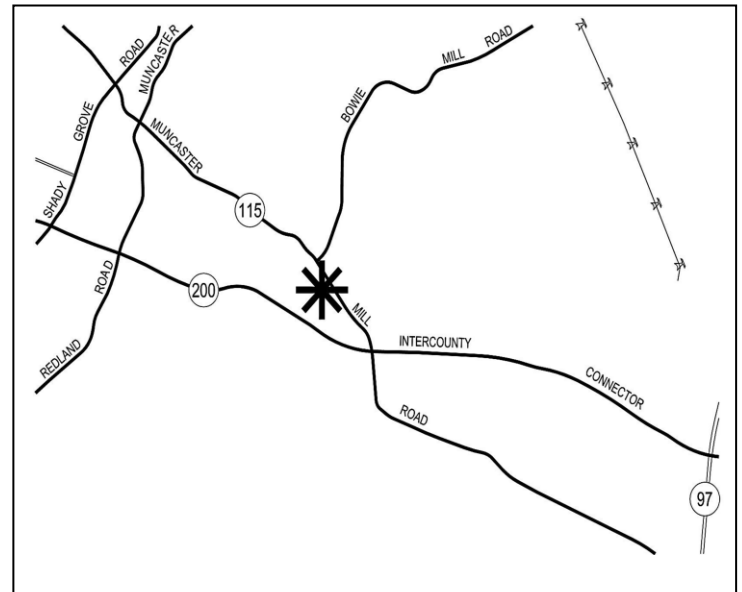
**Description**

**Preliminary Plan, 120120300: Alfred House**

One lot for the construction of a 34-bed domiciliary care facility (S-2815), on a 2.48 acre parcel, RE-1 Zone, located at 6020 Needwood Road, at the southwest corner of the intersection with Muncaster Mill Road, Derwood, in the Upper Rock Creek Master Plan area.

*Staff recommendation: Approval with conditions and adoption of the Resolution.*

**Application Filing Date:** June 21, 2012  
**Applicant:** Dr. Veena Alfred, Trustee  
**Review Basis:** Chapter 50 and Chapter 22A



**Summary**

- A request for one lot to accommodate an approved special exception domiciliary care facility.
- Approval of the Final Forest Conservation Plan is included as part of this Preliminary Plan.
- Staff has not received any correspondence from citizens regarding this plan.

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

- 1) Approval under this Preliminary Plan is limited to one lot for an assisted living facility and a group home not to exceed 39 beds (34 in the assisted living facility and 5 in the existing group home) with 12 employees on site.
- 2) The Applicant must comply with conditions of the Montgomery County Board of Appeals approval for Special Exception S-2815.
- 3) The Applicant must comply with the conditions of approval for the final forest conservation plan approved as part of this Preliminary Plan, including the following:
  - a) The Final Sediment Control Plan must be consistent with the final limits of disturbance shown on the approved final forest conservation plan.
  - b) The Applicant must comply with all tree protection and tree save measures shown on the approved final forest conservation plan, including recommendations specified in the arborist's report dated December 3, 2012. Tree save measures not specified on the final forest conservation plan may be required by the M-NCPPC forest conservation inspector at the pre-construction meeting.
  - c) The Applicant must plant a quantity and size of trees that total ninety-five caliper inches for mitigation of the Protected Tree Variance within the later of i) one year, or ii) two growing seasons after issuance of the Use and Occupancy Permit for the new building. Trees must be native, canopy species and should be a minimum of 3-inch DBH. Size, species and specific location of trees planted must be approved by M-NCPPC forest conservation inspector prior to planting.
  - d) Prior to recordation of the plat, the Applicant must obtain Staff approval of a Certificate of Compliance Agreement for use of an approved M-NCPPC offsite forest mitigation bank to satisfy the forest planting requirements.
- 4) Prior to issuance of building permits, a revised landscape plan that comports with the certified Preliminary Plan must be submitted for review and approved by Staff.
- 5) The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated November 30, 2012, 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 MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 6) Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
- 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 November 30, 2012, 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 – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
- 8) The Planning Board has accepted the recommendations of the Maryland State Highway Administration ("MDSHA") in its letter dated August 8, 2012, 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 MDSHA provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

- 9) Prior to issuance of access permits, the Applicant must satisfy the provisions for access and improvements as required by MDSHA.
- 10) The Applicant must dedicate and show on the record plat(s) the following dedication:
  - a) 35 feet from the existing pavement centerline along the Subject Property frontage with Needwood Road.
  - b) 40 feet from the existing pavement centerline along the Subject Property frontage with Muncaster Mill Road.
- 11) The Applicant must construct all road improvements within the rights-of-way shown on the approved Preliminary Plan to the full width mandated by the Master Plan and/or to the design standards imposed by all applicable road codes. Only those roads (or portions thereof) expressly designated on the Preliminary Plan, "To Be Constructed By \_\_\_\_\_" are excluded from this condition.
- 12) The Applicant must construct and complete an 8-foot wide shared use path along the Needwood Road frontage prior to issuance of Use and Occupancy permits for the new structure.
- 13) The record plat must show necessary easements.
- 14) The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for eighty-five (85) months from the date of mailing of the Planning Board Resolution

## SITE DESCRIPTION

The subject property is located on the south side of Needwood Road at the southwestern corner of its intersection with Muncaster Mill Road (MD 115) in Rockville, Maryland. The site consists of 2.48 acres of land, zoned RE-1 and identified as Parcel P927, on tax map HT122 (“Property” or “Subject Property”). The Property is improved with a one-story ranch style home that currently provides services (group home) for five elderly persons. The Property has approximately 435 feet of frontage along Needwood Road and approximately 200 feet of frontage along Muncaster Mill Road. Existing access to the site is from Needwood Road.



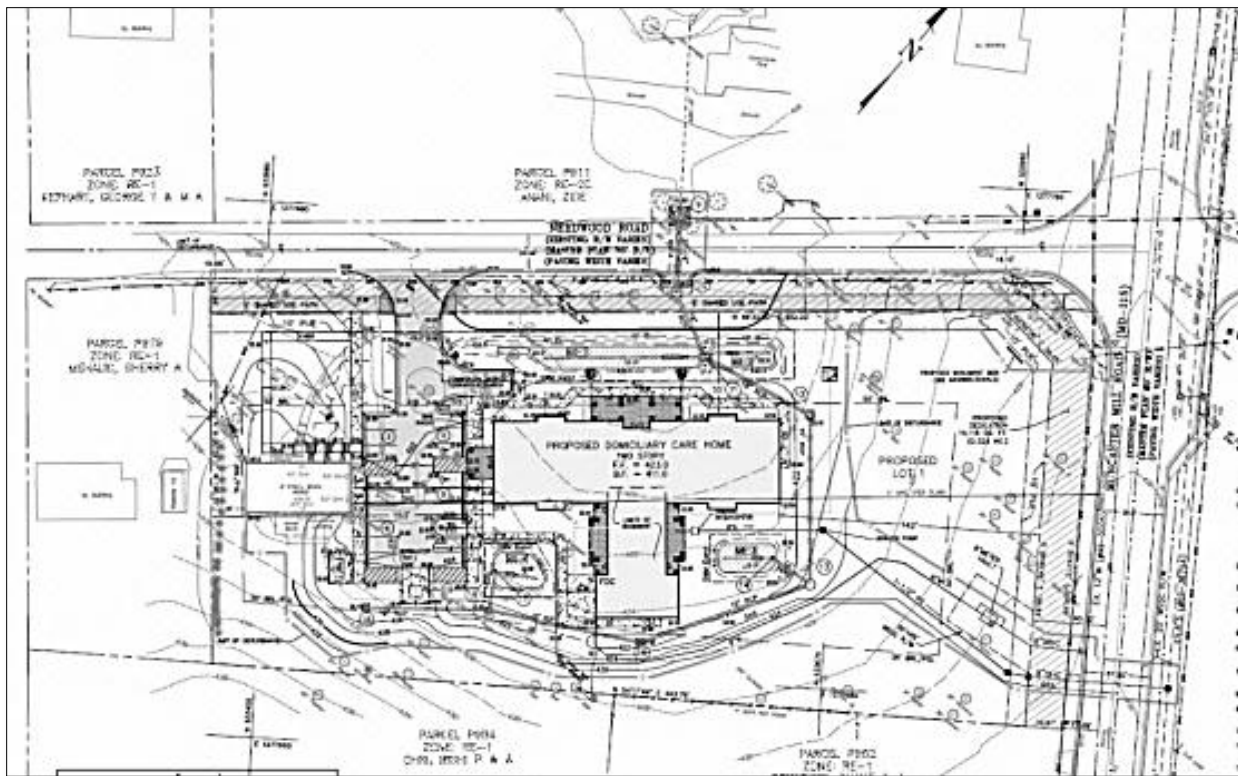
The Property is generally flat and consists of mature trees within its interior as well as along the southern, western, and eastern boundaries. The Property is not located in a Special Protection Area (SPA). It is in water category W-1 and sewer category S-1.

The surrounding area, within which the Subject Property is located, is generally bounded by Muncaster Mill Road to the north, Bowie Mill Road to the northeast, and Rock Creek Regional Park to the south and west. Adjacent to the Subject Property to the west (rear) is a single-family detached home. A single-family dwelling is located across the street from the Property (northwest) and the Inter-County Connector (ICC/MD Rt. 200) lies farther to the west. The Montgomery Hospice at Casey House is located on Muncaster Mill Road, to the northeast and Colonel Zadok Magruder High School lies to the southeast of the Property.

## PROJECT DESCRIPTION

Preliminary Plan No. 120120300 (“Application” or “Preliminary Plan”) is a request to create one lot to accommodate an approved special exception use for a 2-story, 21,576 square-foot, 34-bed assisted living facility (Special Exception S-2815) and an existing group home for five people that operates from a converted single family home. The assisted living facility will be dedicated to provide daily support for frail and elderly residents. The facility does not provide Alzheimer’s care. Dr. Veena Alfred “Applicant” and owner of the facility, also plans to continue the existing group home use on the Property and which was approved as part of the special exception.

## PRELIMINARY PLAN



The new building will be built in the center of the Property and setback approximately 51.5 feet from Needwood Road and approximately 142 feet from Muncaster Mill Road. The setback from the rear (southeast) property line is approximately 40 feet. The existing group home, with five residents and two non-resident staff will continue to operate within the converted single family dwelling on the Property. The group home is currently setback approximately 79.5 feet from Needwood Road and approximately 18 feet from the adjoining (west) side lot line and will remain in that location.

Access to the facility will continue to be from Needwood Road via an asphalt driveway. The driveway will be widened to accommodate vehicular circulation and traffic generated by the two uses. A total of 17 spaces are provided (3 spaces for the existing use and 14 spaces for the proposed use) to serve parking requirements of staff as well as visitors. The single parking area is located between the two facilities and consolidated to minimize impervious areas on-site and allow for open space. The Applicant will also be required to construct certain frontage improvements including a shared use bike path and storm drain systems.

### **FRONT ELEVATION (NEEDWOOD ROAD)**



### **COMPLIANCE WITH PRIOR APPROVALS**

The Montgomery County Board of Appeals granted approval of Special Exception S-2815, with conditions, pursuant to Section 59-G-2.27 of the Zoning Ordinance, to build and operate an assisted living facility. Landscape and Lighting plans were approved as part of the special exception application. The Application remains substantially unchanged from that which was approved by the Board of Appeals for the special exception. Compliance with the conditions of the special exception approval will also be a condition of approval for the Preliminary Plan Application.

### **ANALYSIS AND FINDINGS – Chapter 50**

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

The findings for Special Exception S-2815 included a finding of substantial conformance with the Upper Rock Creek Master Plan (“Master Plan”) by the Board. This proposed Preliminary Plan does not include any substantial changes from the layout, lot configuration and statement of operations that were included in the record of the special exception application, therefore; this Application is also in substantial conformance with the Upper Rock Creek Master Plan.

At the time of the special exception review, the Board considered the Housing chapter of the Master Plan which recommends a balance between the achieving countywide policies for encouraging the broadest possible range of housing choices for the full range of residents’ ages and incomes with equally important policies for preservation of a low-density housing resource and

protection of sensitive resources. The Housing chapter recognizes that adequate housing for the elderly is an important element of the overall goal. As such, the project will contribute to increased housing choices in this part of Montgomery County and will further both county policies for the provision of housing and overall land use goals to protect sensitive resources in the Upper Rock Creek Area Master Plan.

Needwood Road is identified as a primary residential street with a 70-foot-wide right-of-way and Muncaster Mill Road (MD 115) is identified as an arterial highway with an 80-foot-wide right-of-way. The Preliminary Plan shows the necessary dedication for the future widening of Needwood Road and Muncaster Mill Road in accordance with the Master Plan.

The Countywide Bikeways Functional Master Plan (“Bikeways Plan”) recommends two bikeway facilities that abut the Subject Property. The first is on Muncaster Mill Road which is projected to have on-road bike lanes from Georgia Avenue to Woodfield Road (BL-35). The Bikeways Plan identifies BL-35 as an important cross-county connection to be implemented as part of future roadway improvements to Muncaster Mill Road by MDSHA. The Applicant will be required to dedicate land along Muncaster Mill Road to allow for the eventual MDSHA improvements but since no design has been approved for Muncaster Mill Road, MDSHA does not require any frontage improvements by the Applicant.

The Bikeways Plan also recommends a dual bikeway, to include a shared use path and bike lanes, along Needwood Road between Redland and Muncaster Mill Roads (DB-14). The Applicant will dedicate the necessary right-of-way to provide for these improvements but cannot build the bike lanes because the design of Needwood Road is tied to the MDSHA capital project for Muncaster Mill Road. However, the Preliminary Plan shows an eight-foot shared use path that will be constructed by the Applicant along the Property’s frontage in a manner recommended by the Bikeways Plan and in accordance with MCDOT standards. The shared use is designed in such a way at the edge of the right-of-way, so that it will not need to be replaced or relocated when any future intersection improvements are constructed within the Needwood Road right-of-way by others.

The Preliminary Plan is in substantial conformance with the Upper Rock Creek Master Plan and the Countywide Bikeways Functional Master Plan.

### **Adequate Public Facilities**

#### **Transportation**

The project will generate a maximum of 11 peak-hour trips during the weekday peak periods. The Local Area Transportation Review (LATR) guidelines exempt projects generating fewer than 30 peak-hour trips. Therefore, this project meets the LATR requirements. The Property is located in the Rural East Policy Area where there is no Policy Area Mobility Review trip mitigation requirement according to the current Subdivision Staging Policy.

The existing single vehicular access point on Needwood Road will be widened to commercial driveway standards to accommodate the additional vehicular traffic and circulation. The Applicant

must construct the eight-foot wide shared use path along the Needwood Road frontage, interim curb and gutter to direct runoff into a new enclosed storm drain system and a four-foot wide grass lawn panel. All improvements within the right-of-way will be built in such a way so they will not need to be relocated or rebuilt when the final improvements are made to Needwood Road and Muncaster Mill Road.

The internal parking lot has been accepted by the Montgomery County Department of Fire and Rescue Services. The Applicant will be required to dedicate and construct certain frontage improvements that are reasonable to support the lot and use. Staff finds that the proposed access point and on-site vehicular and pedestrian circulation system shown on the Preliminary Plan are adequate.

#### Other Public Facilities

Public facilities and services are available and will be adequate to serve the proposed development. The Property is in water category W-1 and sewer category S-1 and will be served by public water and sewer. Other public facilities and services, such as police stations, firehouses, and health services, are operating according to the Subdivision Staging Policy resolution currently in effect and will be adequate to serve the Property. Electrical, gas, and telecommunications services are also available to serve the Property. No School Facility Payment is required since the use does not generate any students.

#### Environment

##### Environmental Guidelines

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) was approved for the Property on February 16, 2010. The NRI/FSD identified all of the required environmental features on and adjacent to the Property, as further described in the *Environmental Guidelines for Environmental Management of Development in Montgomery County*. The topography on the Property is gently sloping to the west. There are no streams, wetlands, 100-year floodplains, stream buffers, highly erodible soils, or steep slopes. This Property is not located within a Special Protection Area (SPA) or the Patuxent River Primary Management Area (PMA).

##### Forest Conservation

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. A Preliminary Forest Conservation Plan, including a variance request for the removal of nine (9) specimen trees, and impacts to the critical root zones of seven (7) specimen trees, was approved by the Planning Board at a public hearing on January 19, 2012 as part of a Special Exception Application S-2815.

This Application included a Final Forest Conservation Plan. The amount of forest clearing has not changed on the Final Forest Conservation Plan; however, the net tract area for the project increased from 2.34 acres to 2.52 acres. The increase is due to updated calculations of the area of dedication that the Application proposes (less area deducted from net tract area) and the inclusion of additional offsite area that will be disturbed for the construction of the shared use path along



Needwood Road. The increase in net tract area results in an increase in the planting requirement from 1.06 acres to 1.12 acres. The forest planting requirement will be satisfied at an approved off site forest mitigation bank.

#### Variance Request

Section 22A-12(b) (3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection (“Protected Trees”). Any impact to these trees, including removal of the subject tree or disturbance within the tree’s critical root zone (CRZ) requires a variance. An application for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that: measure 30 inches or greater, Diameter at Breast Height (DBH); are part of an historic site or designated with an historic structure; are designated as national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

A variance request for the removal of nine (9) Protected Trees that are 30 inches and greater, DBH, and impacts to seven (7) Protected Trees was approved as part of the Preliminary Forest Conservation Plan approval; however, the Final Forest Conservation Plan includes revisions to the approved variance request. The revisions are due to the addition of the shared use path along Needwood Road (additional tree removal), relocation of the proposed sewer connection (reduction in number of trees impacted), and recommendations by a certified arborist to remove one additional Protected Trees. The variance approval had included impacts to tree #14, but this tree will no longer be disturbed. Because of certain modifications to the limits of disturbance brought about during the Application review, the Applicant submitted a revised variance request (dated December 19, 2012) on January 3, 2013 (Attachment--E). The Final Forest Conservation Plan now proposes to remove eleven (11) Protected Trees that are subject to the variance provision, and to impact, but not remove, four (4) others that are considered high priority for retention under Section 22A-12(b) (3) of the County Forest Conservation Law.

The Final Forest Conservation Plan includes a request for a variance for the removal of two additional Protected Trees. Tree #2, a 28” DBH loblolly pine in fair condition, was previously granted a variance for impacts only. Due to the required construction of the shared use path along Needwood Road, this tree will experience additional impact that now requires that it be removed. Tree #30, a 31” DBH tuliptree that is in fair condition was also previously granted a variance for impacts only. Tree protection measures will be employed to attempt to save the tree, but based on the arborist’s conclusion that the tree is in declining health, the variance request was amended to show removal of the tree.. Mitigation for the removal of these two additional Protected Trees has been added to the mitigation requirement for the previously approved variance and the additional tree plantings have been included in the Final Forest Conservation Plan. The other change to the variance granted with the Preliminary Forest Conservation Plan is to show that no impact will now occur to Tree #14, a 32” DBH Norway maple. An adjustment to the proposed limits of disturbance for the building’s water and sewer line connections dictate that disturbance to the tree’s critical root zone is no longer necessary. The following table summarizes the revised variance request.

### Protected Trees to be removed

Tree Number	Species	DBH Inches	Status
2	Loblolly Pine	28*	Fair condition; Shared use path; entrance; previously approved for impact only
3	Silver Maple	30	Fair condition; Needwood Rd. right of way; drainage swale
4	Silver Maple	58	Poor condition; Needwood Rd. right of way; drainage swale
5	Red Maple	34	Fair/Poor condition; Needwood Rd. right of way; drainage swale
6	Red Maple	33	Poor condition; Needwood Rd. right of way; drainage swale
7	Red Maple	30	Fair condition; storm drain outfall improvement as required by MCDPS
9	Silver Maple	33	Good condition; building and stormwater facility
24	E. Red Cedar	30	Good condition; grading, storm drain construction
28	Red Maple	30	Good condition; parking lot and storm drain construction
29	Tuliptree	41	Good condition; grading for parking lot, drainage
30	Red Maple	31	Fair condition; parking lot, drainage; previously approved for impact only

\*This tree is subject to the variance requirement because it has a DBH greater than the current County champion

### Protected Trees to be affected but retained

Tree Number	Species	DBH Inches	CRZ Impact	Status
11	Silver Maple	40	30%	Good condition; grading for drainage; water and sewer connections
15	Black Cherry	31	29%	Good condition; water and sewer connections
19	Silver Maple	46	7%	Fair condition; storm drain construction
31	Tuliptree	34	20%	Good condition; grading for parking lot and drainage

### *Unwarranted Hardship*

As per Section 22A-21, a variance may only be considered if the Planning Board finds that leaving the requested trees in an undisturbed state would result in an unwarranted hardship. Development on the Property is constrained by the existing conditions on the site. The Property contains an existing house to remain in its current use as an assisted living residence, and a driveway and parking lot will be constructed for the existing and proposed buildings. Of the eleven Protected Trees proposed for removal, five are located within the proposed dedication for Needwood Road, and will be impacted by the construction of the required shared use path, storm drain and stormwater management measures. The condition of these trees has already been impacted by pruning for overhead wires. An additional tree located offsite, at the outfall of an existing storm drain across Needwood Road will be removed due to required upgrades to the storm drain structure. The remaining five Protected Trees that are proposed for removal and the additional four Protected Trees that will be impacted are scattered throughout the Property. The layout of the development was designed to cluster the new building near the existing building to minimize impacts due to necessary infrastructure. Staff has reviewed this Application and based on the

number and size of the Protected Trees found on the Property and the proximity of these trees to the existing development on the site, finds that there would be an unwarranted hardship if a variance were not considered.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate, in order for a variance to be granted. Staff has made the following determinations in the review of the variance request and the proposed forest conservation plan:

*Variance Findings*

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

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

Granting the variance will not confer a special privilege on the Applicant as the removal and disturbance to the Protected Trees are due to the development of the Property. The 2.48-acre Property contains numerous Protected Trees located within the developable area of the site. Granting a variance request to allow land disturbance within the developable portion of the site is not unique to this Applicant. The development of the Property is dictated by the existing entrance driveway, building and storm drain outfall, and the need to provide utility connections out to Muncaster Mill Road. Staff believes that the granting of this variance is not a special privilege that would be denied to other applicants.

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

The need for the variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon existing site conditions, including the existing driveway and building, and the number and locations of the Protected Trees.

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

The need for a variance is a result of the existing conditions and the proposed site design and layout on the Subject Property, 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 variance will not violate State water quality standards or cause measurable degradation in water quality. The Protected Trees being removed or disturbed are not located within a stream buffer, wetland, or special protection area. Mitigation for the removal of these trees will replace the functions currently provided by the Protected Trees. In addition, Montgomery County

Department of Permitting Services has found the stormwater management concept for the proposed project to be acceptable as stated in a letter dated November 30, 2011. The stormwater management concept incorporates Environmentally Sensitive Design.

*Mitigation for Trees Subject to the Variance Provision*

There are eleven (11) Protected Trees proposed for removal in this variance request. Mitigation for the removal of these trees is recommended. Mitigation should be at a rate that approximates the form and function of the trees removed. Therefore, Staff is recommending that replacement occur at a ratio of approximately 1" DBH for every 4" DBH removed, using trees that are a minimum of 3" DBH. For example, this means that for the 378 caliper inches of Protected Trees removed, they will be mitigated by the Applicant by planting 95 caliper inches of trees, with a minimum size of 3" DBH on the site. The Final Forest Conservation Plan as submitted for approval proposes to plant thirty-two (32) native, canopy trees with a minimum size of 3" DBH on the site. The proposed conditions of approval allow for some flexibility in the size, number and specific location of the trees to be planted with M-NCPPC Staff approval. While the trees recommended for mitigation will not be as large as the trees lost, they will provide some immediate canopy and ultimately replace the canopy lost by the removal of these trees. There is some disturbance within the critical root zones of four trees; however, they will receive adequate tree protection measures and no mitigation is recommended for these four trees.

*County Arborist's Recommendation on the Variance*

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was forwarded to the County Arborist. On January 11, 2013, the County Arborist issued recommendations on the variance request and recommended the variance be approved with mitigation.

Staff recommends that the tree variance, as revised, be granted with mitigation. The Applicant must plant a quantity and size of trees that total ninety-five caliper inches on-site, using native canopy trees for the recommended variance mitigation within one year or two growing seasons after the issuance of Use and Occupancy permits for the new building are issued.

Stormwater Management

The MCDPS approved a stormwater management concept for the Application in a letter dated November 30, 2011 (Attachment D). The concept consists of Environmentally Sensitive Design by the use of micro-bioretenion facilities.

Landscape and Lighting Plan

A landscape and lighting plan was approved as part of the Board of Appeals action on the special exception for this Property. Required elements of the Preliminary Plan, including storm water management facilities, water/sewer connections, building footprint adjustments and Final Forest Conservation Plan components conflict with some of the internal landscaping that was approved by the Board of Appeals with the special exception. Staff recommends that a revised landscape and

lighting plan that comports with the Certified Preliminary Plan be submitted for review and approval by the M-NCPPC staff prior to issuance of building permits. Staff advises that the Board of Appeals may also be required to review any revised landscape and lighting plan as part of their authority over the approved special exception and the exhibits included in that approval.

**COMPLIANCE WITH THE SUBDIVISION REGULATIONS AND ZONING ORDINANCE**

This Application has been reviewed for compliance with Chapter 50, the Subdivision Regulations. The size, width, shape, and orientation of the proposed lot is appropriate for the location of the subdivision. The approved use of the Property for an assisted living facility, which includes two buildings and parking, requires a lot larger in size and width than the minimum dimensions established by the RE-1 zone and the dimensional characteristics of the lot are not out of character with the surrounding lots. The rectangular shape provides ample area in which to construct the facility. The Application also meets all other applicable requirements of the Subdivision Regulations including conformance with the Master Plan and for the provision of Adequate Public Facilities.

The lot was reviewed for compliance with the dimensional requirements for the RE-1 zone as specified in the Zoning Ordinance. The lot meets the dimensional requirements for area, frontage, width, and the buildings can meet the setbacks in that zone. A summary of this review is included in Table 1 below.

**Table 1**

<b>PLAN DATA</b>	<b>Zoning Ordinance Development Standard</b>	<b>Proposed for Approval by the Preliminary Plan</b>
<b>Minimum Lot Area</b> RE-1 Zone	40,000 sq. ft.	107915 sq. ft. (2.48 ac)
<b>Lot Width</b> at street line at building line	25 ft. 125 ft.	435 ft. (approx.) 435 ft. (approx.)
<b>Minimum Setbacks:</b> Front - Needwood Road Front - Muncaster Mill Road Side (corner lot) Minimum rear setback	50 ft. 50 ft. 17 (one side) 35 ft	Must Meet Minimum* Must Meet Minimum* Must Meet Minimum* Must Meet Minimum*
<b>Maximum Building Height</b>	50 ft.	Must Meet Maximum*

\* To be determined at the time of building permit by MCDPS

## **CITIZEN CORRESPONDENCE AND ISSUES**

At the time of this writing, staff has not received any direct comments from the community either in support or in opposition to the Preliminary Plan Application.

## **CONCLUSION**

The proposed lot meets all requirements established in the Subdivision Regulations and the Zoning Ordinance, and the proposed lot and use comply with the recommendations of the Upper Rock Creek Area Master Plan. Access and public facilities will be adequate to serve the proposed lot, and the Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the Application. Therefore, Staff recommends approval of the Application with the conditions specified above.

### Attachments:

- A. Preliminary Plan
- B. Final Forest Conservation Plan
- C. Other Plans and Drawings
- D. Agency Approvals
- E. Tree Variance Request

# A. PRELIMINARY PLAN

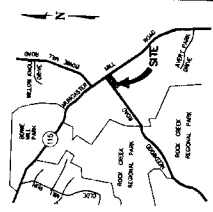
**Attachment-A**





# Final Forest Conservation Plan

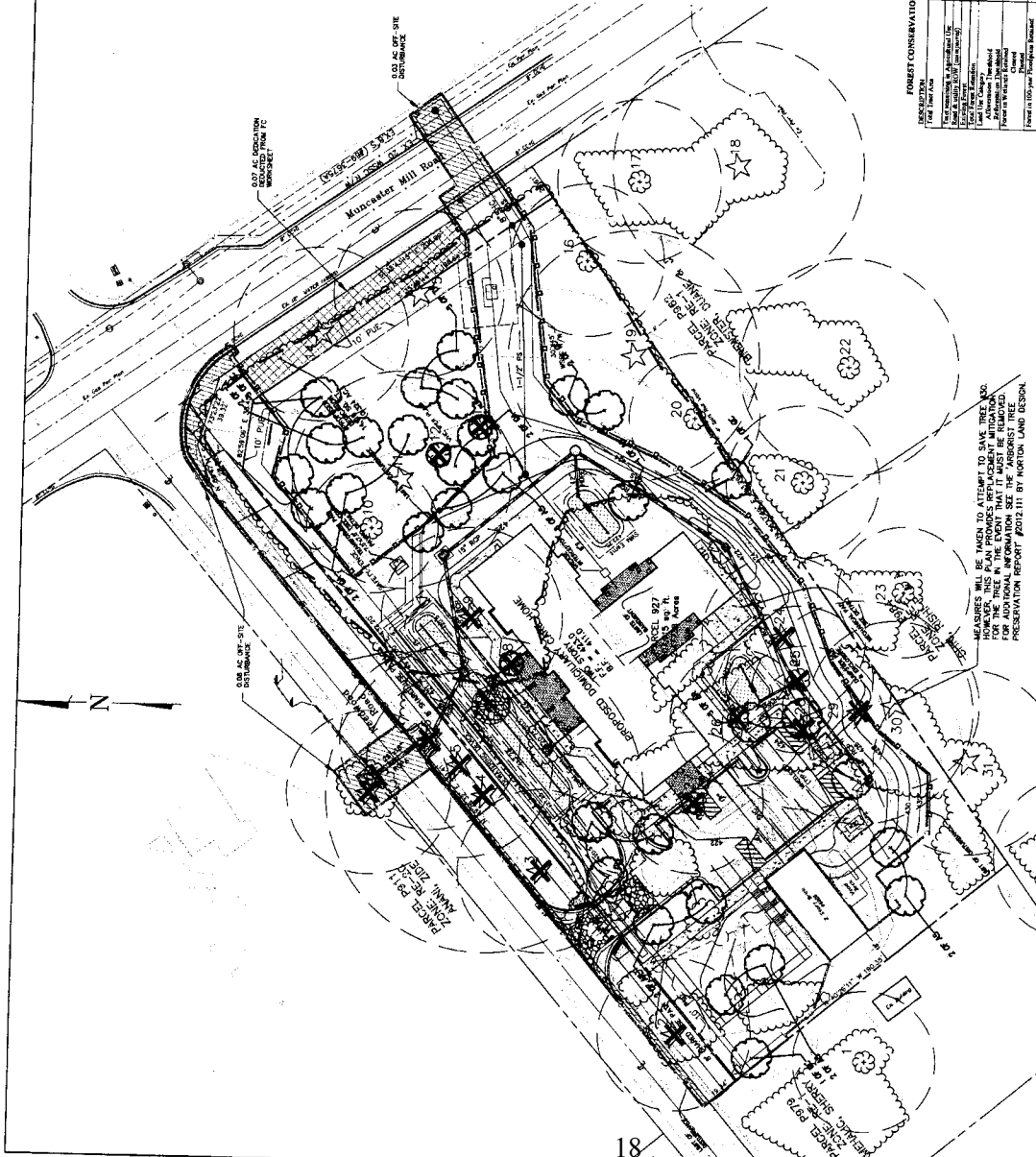
# Attachment-B



VICINITY MAP  
SCALE 1" = 2,000'

**LEGEND**

- SPONSOR TREE
- SHORELANT TREE
- PREVIOUS FOREST BOUNDARY
- TREE CANOPY
- TREE TO BE REMOVED
- PREVIOUSLY REMOVED TREE
- LIMIT OF DISTURBANCE
- CRITICAL ROOT ZONE RADIUS = 15 FEET PER INCH DBH
- TREE PROTECTION FENCE & NOTIFICATION SIGN (SEE TREE PROTECTION SIGN)
- POSTED SIGN (SEE POSTED SIGN)
- REMOVAL AREA (EXCLUDED FROM FC)
- OFF-SITE DISTURBANCE AREA ADDED TO TRACT AREA
- 5/1 FENCE
- LAPPI DIRT



NO.	DATE	DESCRIPTION
1	08/18/12	1st Sheet
2	08/18/12	2nd Sheet

NO.	DATE	DESCRIPTION
1	08/18/12	1st Sheet
2	08/18/12	2nd Sheet

**LS2.1**  
WSSC 22-ARWOOD

**FINAL FOREST CONSERVATION PLAN P927**

**ALFRED HOUSE/NEEDWOOD ROAD**

8TH ELECTION DISTRICT - MONTGOMERY COUNTY - MARYLAND

**MHG**  
Meadis, Handrick & Glasscock, P.A.  
Engineers, Planners & Surveyors  
6320 Montgomery Village Road  
Montgomery Village, Maryland 20886-1978  
Phone: 301-204-0000  
Fax: 301-204-0001  
www.mhg.com

Proj. No. 301-204-0000  
Date 01-15-13  
Scale 1"=30'  
Project No. 0810812  
Sheet 2 of 2

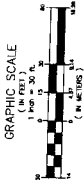
**FOREST CONSERVATION DETAIL TABLE**

Tree ID	Tree Name	DBH (inches)	Height (feet)	Health	Notes
1	Red Oak	12	15	Good	Remove
2	White Oak	10	12	Good	Remove
3	Red Oak	8	10	Good	Remove
4	White Oak	6	8	Good	Remove
5	Red Oak	4	6	Good	Remove
6	White Oak	3	4	Good	Remove
7	Red Oak	2	3	Good	Remove
8	White Oak	1	2	Good	Remove
9	Red Oak	1	2	Good	Remove
10	White Oak	1	2	Good	Remove
11	Red Oak	1	2	Good	Remove
12	White Oak	1	2	Good	Remove
13	Red Oak	1	2	Good	Remove
14	White Oak	1	2	Good	Remove
15	Red Oak	1	2	Good	Remove
16	White Oak	1	2	Good	Remove
17	Red Oak	1	2	Good	Remove
18	White Oak	1	2	Good	Remove
19	Red Oak	1	2	Good	Remove
20	White Oak	1	2	Good	Remove
21	Red Oak	1	2	Good	Remove
22	White Oak	1	2	Good	Remove
23	Red Oak	1	2	Good	Remove
24	White Oak	1	2	Good	Remove
25	Red Oak	1	2	Good	Remove
26	White Oak	1	2	Good	Remove
27	Red Oak	1	2	Good	Remove
28	White Oak	1	2	Good	Remove
29	Red Oak	1	2	Good	Remove
30	White Oak	1	2	Good	Remove
31	Red Oak	1	2	Good	Remove
32	White Oak	1	2	Good	Remove

I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON IS CORRECT AND THAT THIS PLAN AND THE INFORMATION CONTAINED THEREIN COMPLY WITH THE REQUIREMENTS OF EXISTING STATE AND COUNTY FOREST CONSERVATION LEGISLATION.

DATE: 1/15/13

FRANK C. JOHNSON  
REGISTERED PROFESSIONAL FOREST CONSERVATION SPECIALIST  
MONTGOMERY COUNTY DEPT. OF NATURAL RESOURCES  
COUNTY OFFICE



**DEVELOPER'S CERTIFICATE**

The Undersigned hereby certifies that the information shown on this plan and the information contained therein is true and correct and that the information shown on this plan and the information contained therein is true and correct and that the information shown on this plan and the information contained therein is true and correct.

Developer Name: Meadis, Handrick & Glasscock, P.A.  
Address: 18200 Cobble Hill Road, Rockville, MD 20853  
Phone and Fax: (301) 452-8987  
Signature: [Signature]

**Sequence of Events for Proposals Required To Comply With Forest Conservation Plans and/or Tree-Save Plans**

1. An on-site pre-construction meeting shall be required after the limits of construction have been established and before any clearing or grading begins. The owner shall send an inspection staff prior to commencing construction to verify the limits of construction and discuss tree protection and tree save measures. The attendees at this meeting shall include the Forest Conservation Inspector, and DPS staff. The Forest Conservation Inspector, Forest Conservation Inspector, and DPS staff shall be present at the meeting.
2. No clearing or grading shall begin before any tree-protection measures have been installed. Tree-protection measures may include, but are not limited to:
  - a. Root protection
  - b. Crown reduction or pruning
  - c. Wrapping
  - d. Vertical staking
  - e. Back-sawing
  - f. Back-sawing
  - g. Vertical staking
  - h. Back-sawing

3. A State of Maryland licensed tree expert, or an International Society of Arboriculture (ISA) certified arborist, shall be present at the pre-construction meeting. Documentation of this certification must be on file with the Forest Conservation Inspector or sent to the Forest Conservation Inspector at 8777. The Forest Conservation Inspector will determine the exact method to carry out the tree-protection measures during the pre-construction meeting.

4. Temporary tree protection devices shall be installed per the Forest Conservation Plan/Tree-Save Plan and prior to any construction activities. Tree protection devices shall be installed prior to the pre-construction meeting. The Forest Conservation Inspector may make field adjustments to increase the survivability of trees and forest shown as saved on the approved plan. Temporary tree protection devices may include:
  - a. Chain-link fence (four feet high)
  - b. Support stakes with wire strung between the support poles (minimum 4 poles (minimum 4 feet high) with high visibility flagging)
  - c. 14 gauge 2x4x4 inch lumber flagging (approved by local TPA)
  - d. 1/2 inch diameter steel pipe (approved by local TPA)

5. After construction is completed, an inspection shall be requested. Corrective measures shall be taken as follows:
  - a. Pruning and replacement of dead and dying trees
  - b. Soil aeration
  - c. Weeding
  - d. Clean up of retention areas
6. After inspection and completion of corrective measures have been undertaken, all temporary protection devices shall be removed from the site. Removal of tree protection devices shall also operate for erosion and sediment control must be approved by the Forest Conservation Inspector. No additional grading, sodding, or hauled topsoil shall be placed after the tree protection fencing is removed.

**INSPECTIONS**

All field inspections must be requested by the applicant. Field inspections must be conducted as follows:

1. Tree-Save Plans and Forest Conservation Plans shall be reviewed (see Section 10.01).
2. After necessary tree-protection measures have been completed and protection measures are in place, the Forest Conservation Inspector will determine the level of compliance with the provisions of the forest conservation plan.
3. After completion of all construction activities, the Forest Conservation Inspector will determine the level of compliance with the provisions of the forest conservation plan.

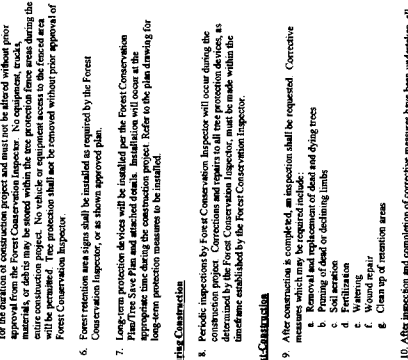
**Additional Requirements for Plans with Tree-Save Provisions**

1. Before the start of any required construction and before any planting, the applicant shall submit a copy of the approved plan to the Forest Conservation Inspector for review.
2. The planting is acceptable and prior to the start of construction, the applicant shall submit a copy of the approved plan to the Forest Conservation Inspector for review.
3. The applicant shall submit a copy of the approved plan to the Forest Conservation Inspector for review.

**SEQUENCE OF CONSTRUCTION**

1. Schedule a pre-construction meeting with the Developer's representative, Forest Conservation Inspector, and DPS staff. The meeting shall be held at least 48 hours prior to beginning construction. Contact the Forest Conservation Inspector for more information and tree save measures at 301-301-3000.
2. Install Tree Protection Fencing and perform Root Pruning operations. Install sediment control devices.
3. Clear, grub, and begin excavating and grading.
4. Begin building construction.
5. Begin storm drain construction.
6. Begin utility construction.
7. Begin earth & gutter and parking.
8. As various areas are completed, place topsoil and seed on grassed areas. Remove sediment control devices.
9. Upon completion and site stabilization, and after the approval of the sediment control Inspector, the sediment control structure shall be removed.
10. Upon completion, conduct final inspection with the Forest Conservation Inspector.
11. Remove tree protection fence.
12. Remove tree protection fence.

**DETAIL - ROOT PRUNING**



1. Root pruning shall be performed in a way that does not damage the tree's health.
2. Root pruning shall be performed in a way that does not damage the tree's health.
3. Root pruning shall be performed in a way that does not damage the tree's health.

**DETAIL - SHELTER BELT**



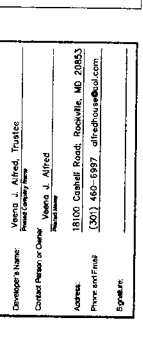
1. Shelter belts shall be planted in a way that does not damage the tree's health.
2. Shelter belts shall be planted in a way that does not damage the tree's health.
3. Shelter belts shall be planted in a way that does not damage the tree's health.

**DETAIL - SPECIMEN TREE**



1. Specimen trees shall be protected in a way that does not damage the tree's health.
2. Specimen trees shall be protected in a way that does not damage the tree's health.
3. Specimen trees shall be protected in a way that does not damage the tree's health.

**DETAIL - TEMPORARY SIGNAGE**



1. Temporary signage shall be installed in a way that does not damage the tree's health.
2. Temporary signage shall be installed in a way that does not damage the tree's health.
3. Temporary signage shall be installed in a way that does not damage the tree's health.

**FINAL FOREST CONSERVATION PLAN P927**

**ALFRED HOUSE/NEEDWOOD ROAD**  
8TH ELECTION DISTRICT - MONTGOMERY COUNTY - MARYLAND

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

5070 Widgeon Road, Suite 200  
Montgomery Village, Maryland  
20886-1278  
www.mhg.com

Project No. 001-18-000  
Drawing No. 001-18-000-01  
Date: 08/18/08

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**FINAL FOREST CONSERVATION PLAN P927**

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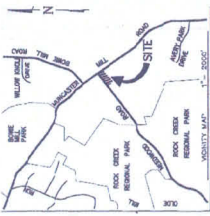
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# Other Plans and Drawings

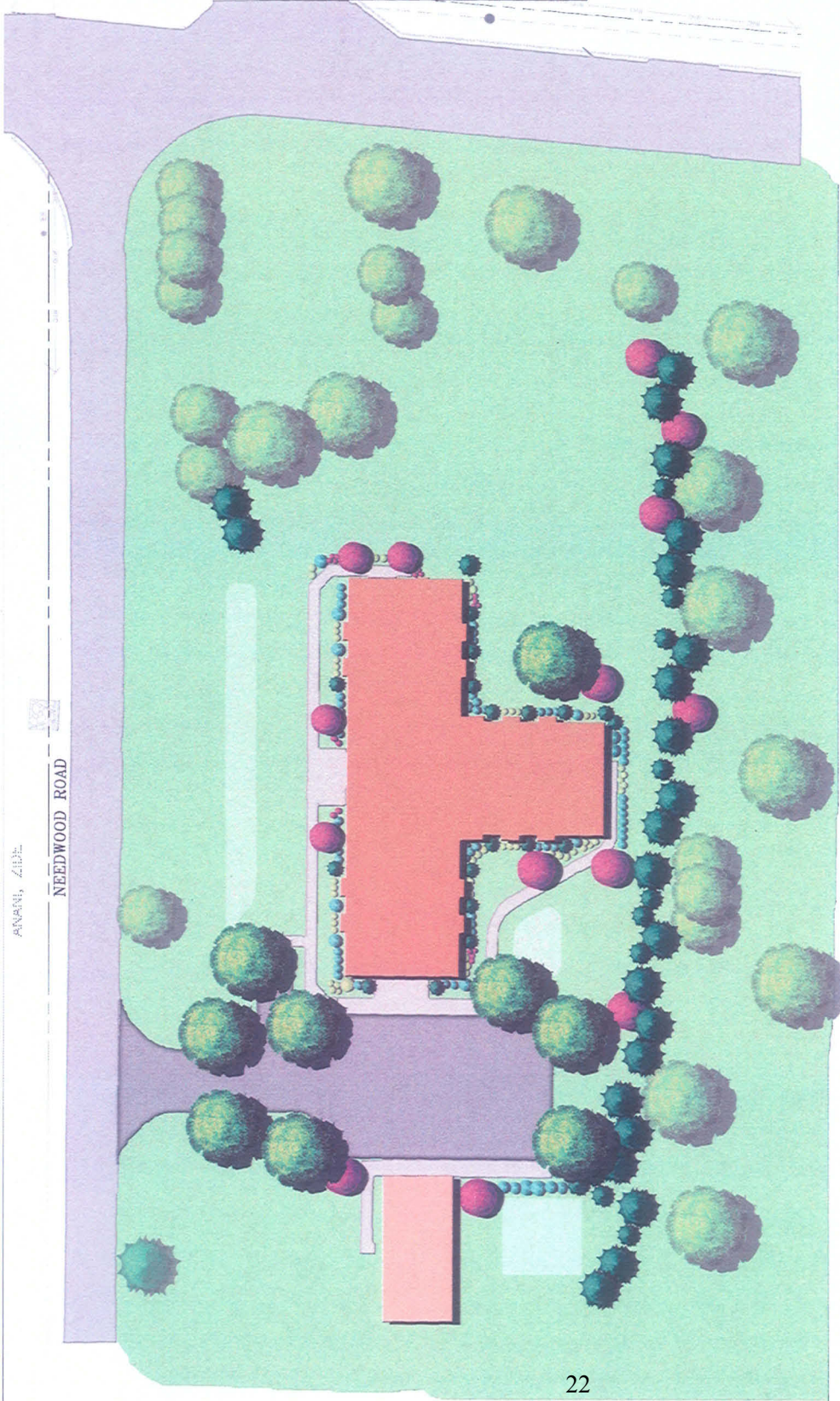
**Attachment-C**





**LEGEND**

- PROPOSED SHADE TREES
- PROPOSED ORNAMENTAL TREES
- PROPOSED EVERGREEN TREES
- PROPOSED DECIDUOUS SHRUBS
- PROPOSED EVERGREEN SHRUBS
- EXISTING TREES



TAX MAP HT 122

WSKC 223 NW 06

RENDERING  
P927

**ALFRED HOUSE / NEEDWOOD ROAD**

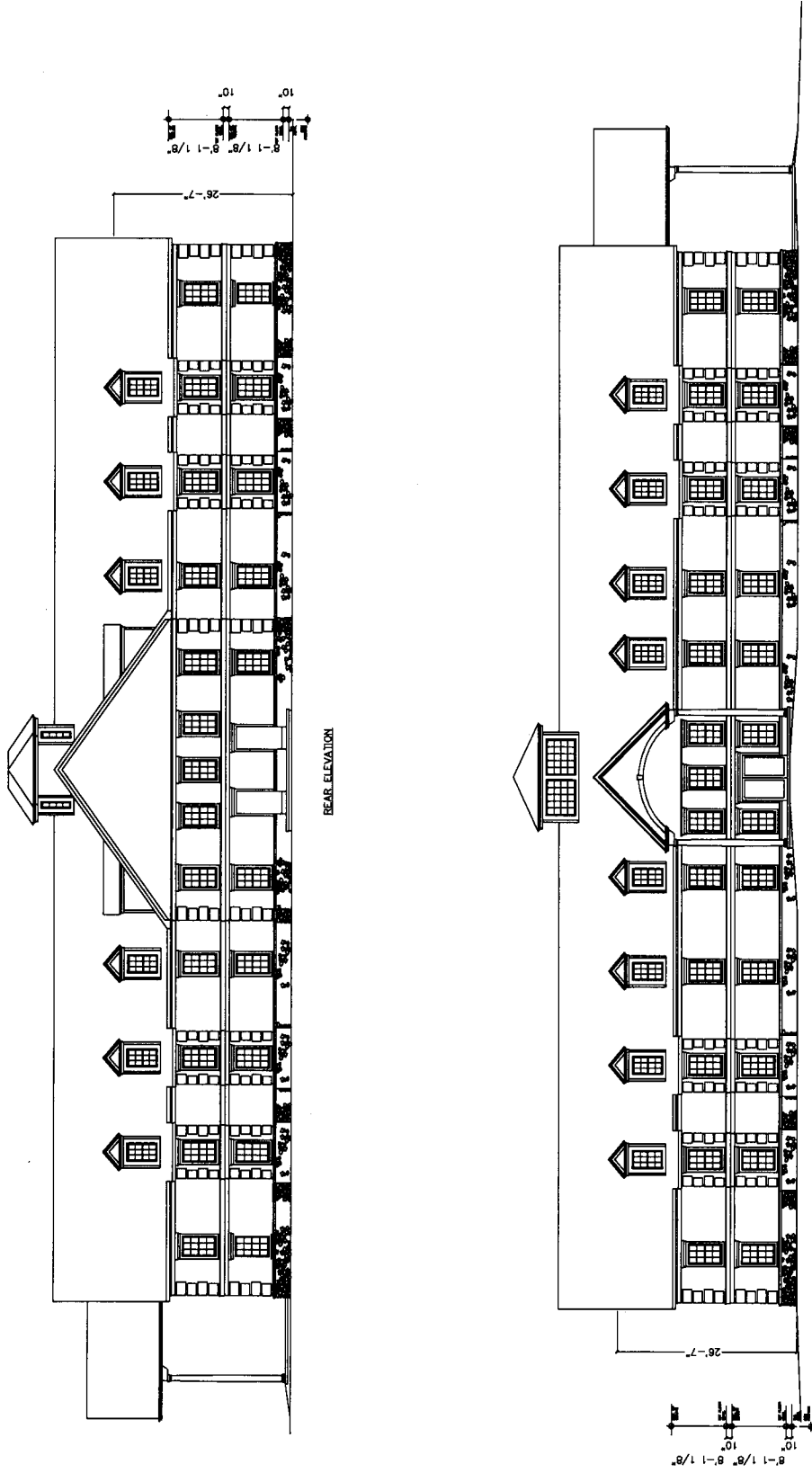
8TH ELECTION DISTRICT - MONTGOMERY COUNTY - MARYLAND

**MHG**  
Merritt, Hendricks & Glascock, P.A.  
Engineers • Planners  
Landscape Architects • Surveyors

Phone: 301.670.0800  
Fax: 301.670.0800  
www.mhga.com

Proj. Mgr. Designer  
Date  
Scale  
1" = 12' 12" 1/2"  
1" = 12' 12" 1/2"  
1" = 12' 12" 1/2"  
08-168

DATE	
REVISION	
LOT / BLOCK	
DATE	5/9/2011
DRAWN BY	CW
CHECKED BY	
SCALE	1/4" = 1'-0"
SHEET NO.	PAGE 1
<b>CWEST</b> DESIGN / MANAGEMENT	
PG BOX 80	GERARDSTOWN WV 25420
Office: 301-938-0413	Cell: 301-938-0413
Fax: 304-229-2414	
18100 CASHELL RD	OLNEY MD
VEENA: 240-401-1753	OFF: 301-480-6997



REAR ELEVATION

FRONT ELEVATION

In accordance with the Montgomery County Ordinance, the height of the building is measured to be the vertical distance from the average elevation of the finished ground surface along the front of the building to the mean height level between eaves, ridge of a gable, hip, mansard or gambrel roof. The measured distance from the average ground surface (425.3') to the mean height level between the eaves and ridge of the proposed building is 26'-7".

DATE	
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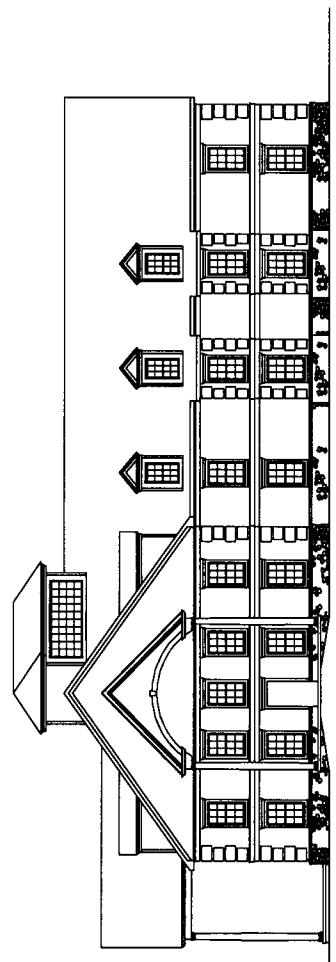
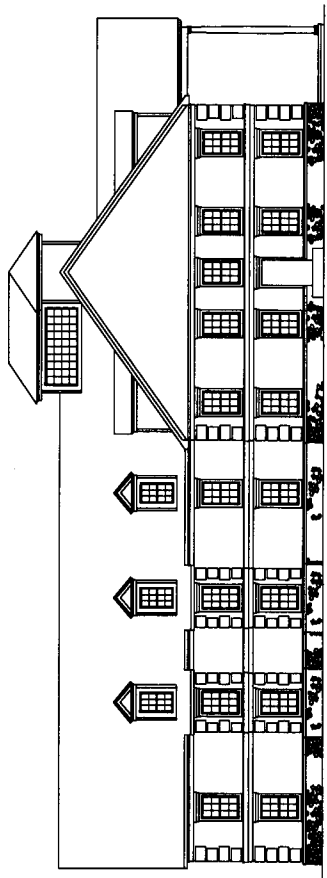
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DESIGN / MANAGEMENT  
**CWEST**

PO BOX 80  
GERARDSTOWN WV 25420  
Office: 301-938-0413  
Cell: 301-938-0413  
Fax: 304-229-2414

ALFRED HOUSE  
18100 CASHELL RD  
CLINEY MD  
VENNA: 240-401-1753  
OFF: 301-460-6997

REV. NO.	DATE	DESCRIPTION



RIGHT SIDE ELEVATION

In accordance with the Montgomery County Ordinance, the height of the building is measured to be the vertical distance from the average elevation of the finished ground surface along the front of the building to the mean height level between eaves, ridge of a gable, hip, mansard or gambrel roof. The measured distance from the mean height ground surface (423.3') to the mean height level between the eaves and ridge of the proposed building is 26'-11".







# AGENCY APPROVALS

**Attachment-D**



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

Diane R. Schwartz Jones  
Director

November 30, 2011

Ken Jones  
Macris, Hendricks & Glascock, P.A.  
9220 Wightman Road, Suite 120  
Montgomery Village, Maryland 20886-1279

Re: Stormwater Management **CONCEPT** Request  
for Alfred House  
Preliminary Plan #: Pending  
SM File #: 239070  
Tract Size/Zone: 2.51 Ac. / RE-1  
Total Concept Area: 2.51 Ac.  
Parcel: P927  
Watershed: Upper Rock Creek

Dear Mr. Jones:

Based on a review by the Department of Permitting Services Review Staff, the stormwater management concept for the above mentioned site is **conditionally acceptable**. The stormwater management concept proposes to meet required stormwater management goals via 2 micro-bioretenention facilities.

The following **conditions** will need to be addressed **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.
5. Landscaping shown on the approved Landscape Plan as part of the approved Site Plan are for illustrative purpose only and may be changed at the time of detailed plan review of the Sediment Control/Storm Water Management plans by the Mont. Co. Department of Permitting Services, Water Resources Section.
6. Safe and non-erosive conveyance of runoff from the site must be provided. Any outfall and conveyance improvements proposed on the neighboring property will require an easement or letter of permission from the property owner prior to submittal of the detailed plans.

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

---

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



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

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 Mike Geier at 240-777-6342.

Sincerely,



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

RRB: tla CN239070 Alfred House.mjg.doc

cc: C. Conlon  
SM File # 239070

ESD Acres: 2  
STRUCTURAL Acres: 0  
WAIVED Acres: 0



Tesfaye

DEPARTMENT OF TRANSPORTATION

Isiah Leggett  
County Executive

November 30, 2012

Arthur Holmes, Jr.  
Director

Ms. Elsabett Tesfaye, Planner/Coordinator  
Area Three Planning Division  
The Maryland-National Capital  
Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

RE: Preliminary Plan #120120300  
Alfred House – Needwood Road

Dear Ms. Tesfaye:

We have completed our review of the amended preliminary plan dated August 31, 2012. An earlier version of this plan was reviewed by the Development Review Committee at its meeting on July 23, 2012. We appreciate Mr. Patrick LaVay's October 8, 2012 letter in response to our DRC comments.

This letter also applies to the October 8, 2012 (supplemental) "Needwood Road – Ultimate R/W" plan for interim and ultimate improvements to accommodate multi-modal movements along the Needwood Road site frontage.

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. Necessary dedication for future widening of Needwood Road and Muncaster Mill Road (MD 115) in accordance with the master plan.
2. Grant necessary slope and drainage easements. Slope easements are to be determined by study or set at the building restriction line.
3. This site is located in the Upper Rock Creek (Class IV) watershed. In accordance with Section 49-35(k) of the Montgomery County Code, curb and gutter may not be installed in an environmentally sensitive watershed unless certain waiver criteria have been satisfied.

Prior to approval of the record plat, the applicant will need to request approval from the Department of Permitting Services to allow the construction of the limited sections of curb and gutter at the proposed enclosed storm drain crossing of Needwood Road.

**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



The Department of Transportation supports allowing the installation of curb and gutter at this location for the following reasons:

- to accommodate the interim and ultimate multi-modal movements along the Needwood Road site frontage;
  - to accommodate a future eastbound left turn lane on Needwood Road at Muncaster Mill Road (MD 115); and
  - to minimize future construction impacts to this site.
4. The proposed storm drain system and the proposed eight (8) foot wide shared use path on Needwood Road is to be designed and constructed (horizontally and vertically) to accommodate the ultimate improvements to Needwood Road proposed on the October 8, 2012 (supplemental) "Needwood Road – Ultimate R/W" plan.
  5. The sight distances study has been accepted. A copy of the accepted Sight Distances Evaluation certification form is enclosed for your information and reference.
  6. Access and improvements along Muncaster Mill Road (MD 115) as required by the Maryland State Highway Administration.

Record plat to reflect denial of access along Muncaster Mill Road (MD 115).

7. In accordance with Section 49-35(e) of the Montgomery County Code, sidewalks are required to serve the proposed subdivision. Sidewalks are to be provided on both sides of the proposed public streets unless the applicant is able to obtain a waiver from the appropriate government agency. We believe construction of the eight-foot wide shared use path along the Needwood Road site frontage will satisfy the sidewalk requirement.
8. The parking layout plan will be reviewed by the Department of Permitting Services at the site plan or building permit stage, whichever comes first. To facilitate their review, that plan should delineate and dimension the proposed on-site travel lanes, parking spaces, curb radii, handicap parking spaces and access facilities, and sidewalks. The applicant may wish to contact Mr. Sam Farhadi of that Department at (240) 777-6333 to discuss the parking lot design.
9. For safe simultaneous movement of vehicles, we recommend a driveway pavement width of no less than twenty four (24) feet to allow vehicles to enter and exit the site without encroaching on the opposing lanes. This pavement width will permit an inbound lane width of fourteen (14) feet and an exit lane width of ten (10) feet.
10. Curb radii for intersection type driveways should be sufficient to accommodate the turning movements of the largest vehicle expected to frequent the site.
11. On the site plan, delineate the location and dimensions of the proposed truck loading and/or dumpster spaces.
12. Provide on-site handicap access facilities, parking spaces, ramps, etc. in accordance with the Americans With Disabilities Act.

13. Where perpendicular parking spaces border a sidewalk, a two (2) foot vehicle overhang is assumed. The applicant should either provide a seven (7) foot wide sidewalk or wheelstops within those parking spaces.
14. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.

Based on the proposed use and level of development, we do not recommend requiring this applicant to be responsible for the relocation of the existing utility poles along Needwood Road site frontage – adjustments to the proposed interim improvements plan may be necessary to retain the existing utility poles in their current (temporary) location..

15. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Control and Lighting Engineering Team at (240) 777-6000 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
16. If the proposed development will alter or impact any existing County maintained transportation system management component (i.e., traffic signals, signal poles, handboxes, surveillance cameras, etc.) or communication component (i.e., traffic signal interconnect, fiber optic lines, etc.), please contact Mr. Bruce Mangum of our Traffic Management Team at (240) 777-6000 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
17. Trees in the County rights of way – spacing and species to be in accordance with the applicable MCDOT standards. Tree planning within the public right of way must be coordinated with Brett Linkletter, Chief of the Division of Highway Services, Tree Maintenance Section at (240) 777-7651.
18. The owner will be required to submit a recorded covenant for the operation and maintenance of private streets, storm drain systems, and/or open space areas prior to MCDPS approval of the record plat. The deed reference for this document is to be provided on the record plat.
19. Permit and bond will be required as a prerequisite to DPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
  - A. Construction per the October 8, 2012 (supplemental) “Needwood Road – Ultimate R/W” plan for interim and ultimate improvements to accommodate multi-modal movements along the Needwood Road site frontage including: street grading, limited curb and gutter at the proposed enclosed storm drain crossing, four (4) foot wide grass lawn panel, eight (8) foot wide shared path and handicap ramps, enclosed storm drainage and appurtenances, and street trees along Needwood Road frontage.
  - B. Enclosed storm drainage and/or engineered channel (in accordance with the DOT Storm Drain Design Criteria) within the County rights-of-way and all drainage easements.



Ms. Elsabet Tefaye  
Preliminary Plan No. 120120300  
November 30, 2012  
Page 4

- C. Permanent monuments and property line markers, as required by Section 50-24(e) of the Subdivision Regulations.
- D. Erosion and sediment control measures as required by Section 50-35(j) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.
- E. Developer shall provide street lights in accordance with the specifications, requirements, and standards prescribed by the Traffic Engineering and Operations Section.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Mr. David Adams, our Development Review Area Engineer for this vicinity, at david.adams@montgomerycountymd.gov or (240) 777-6000.

Sincerely,



Gregory M. Leck, Manager  
Development Review Team

m:/FY13/Traffic/Active/120120300, Alfred House, MCDOT plan review comments ltr.doc

Enclosure

cc: Dr. Veena J Alfred, Trustee  
Patrick G. La Vay; Macris, Hendricks & Glascock, P.A.  
David Freishtat; Shulman, Rogers, Gandal, Pordy & Ecker, P.A.  
Scott Newill; MSHA AMD  
Ki Kim; M-NCPPC Area Three

cc-e: Rick Brush; MCDPS DLD  
Atiq Panjshiri; MCDPS RWPR  
Sam Farhadi; MCDPS RWPR  
Henry Emery; MCDPS RWPR  
Bob Simpson; MCDOT DO  
Aruna Miller; MCDOT DTE  
Brett Linkletter; MCDOT DHS  
Dan Sanayi; MCDOT DTEO  
Bruce Mangum; MCDOT DTEO  
David Adams; MCDOT DTEO



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

**SIGHT DISTANCE EVALUATION**

Facility/Subdivision Name: Alfred House - Needwood Rd Preliminary Plan Number: 1- 20120300

Street Name: Needwood Road Master Plan Road Classification: Primary

Posted Speed Limit: 30 mph

Street/Driveway #1 ( Site Driveway ) Street/Driveway #2 ( \_\_\_\_\_ )

Sight Distance (feet)      OK?  
 Right 370                      YES ✓  
 Left 480                        YES ✓

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

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

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

**GUIDELINES**

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

\*Source: AASHTO

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

**ENGINEER/SURVEYOR CERTIFICATE**

I hereby certify that this information is accurate and was collected in accordance with these guidelines and that these documents were prepared or approved by me, and that I am a licensed Professional Engineer under the Laws of the State of Maryland, License No. 16905, Expiration Date: 04/21/2014.

*Steven Edward Gumm*  
 Signature  
 16905  
 PLS/P.E. MD Reg. No.

05-30-12  
 Date

**Montgomery County Review:**

Approved  
 Disapproved:

By: *[Signature]*  
 Date: 11/30/12

Form Reformatted:  
 March, 2000

# TREE VARIANCE REQUEST

**Attachment-E**



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett  
County Executive

Robert G. Hoyt  
Director

January 11, 2013

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

RE: Alfred House - Revised, S-2815, DAIC 120120300, NRI/FSD application accepted on 12/3/2009

Dear Ms. Carrier:

The County Attorney's Office has advised that Montgomery County Code Section 22A-12(b)(3) applies to any application required under Chapter 22A submitted after October 1, 2009. Accordingly, given that the application for the above referenced request was submitted after that date and must comply with Chapter 22A, and the Montgomery County Planning Department ("Planning Department") has completed all review required under applicable law, I am providing the following recommendation pertaining to this request for a variance.

Section 22A-21(d) of the Forest Conservation Law states that a variance must not be granted if granting the request:

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

Applying the above conditions to the plan submitted by the applicant, I make the following findings as the result of my review:

1. The granting of a variance in this case would not confer a special privilege on this applicant that would be denied other applicants as long as the same criteria are applied in each case. Therefore, the variance can be granted under this criterion.
2. Based on a discussion on March 19, 2010 between representatives of the County, the Planning Department, and the Maryland Department of Natural Resources Forest Service, the disturbance of trees, or other vegetation, as a result of development activity is not, in and of itself, is not interpreted as a condition or circumstance that is the result of the actions by the applicant. Therefore, the variance can be granted under this criterion, as long as appropriate mitigation is provided for the resources disturbed.

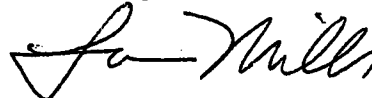
3. The disturbance of trees, or other vegetation, by the applicant does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. Therefore, the variance can be granted under this criterion.
4. The disturbance of trees, or other vegetation, by the applicant will not result in a violation of State water quality standards or cause measurable degradation in water quality. Therefore, the variance can be granted under this criterion.

Therefore, I recommend a finding by the Planning Board that this applicant qualifies for a variance conditioned upon the applicant mitigating for the loss of resources due to removal or disturbance to trees, and other vegetation, subject to the law based on the limits of disturbance (LOD) recommended during the review by the Planning Department. In the case of removal, the entire area of the critical root zone (CRZ) should be included in mitigation calculations regardless of the location of the CRZ (i.e., even that portion of the CRZ located on an adjacent property). When trees are disturbed, any area within the CRZ where the roots are severed, compacted, etc., such that the roots are not functioning as they were before the disturbance must be mitigated. Exceptions should not be allowed for trees in poor or hazardous condition because the loss of CRZ eliminates the future potential of the area to support a tree or provide stormwater management. Tree protection techniques implemented according to industry standards, such as trimming branches or installing temporary mulch mats to limit soil compaction during construction without permanently reducing the critical root zone, are acceptable mitigation to limit disturbance. Techniques such as root pruning should be used to improve survival rates of impacted trees but they should not be considered mitigation for the permanent loss of critical root zone. I recommend requiring mitigation based on the number of square feet of the critical root zone lost or disturbed. The mitigation can be met using any currently acceptable method under Chapter 22A of the Montgomery County Code.

In the event that revisions to the LOD are approved by the Planning Department, the mitigation requirements outlined above should apply to the removal or disturbance to the CRZ of all trees subject to the law as a result of the revised LOD.

If you have any questions, please do not hesitate to contact me directly.

Sincerely,



Laura Miller  
County Arborist

cc: Robert Hoyt, Director  
Walter Wilson, Associate County Attorney  
Mark Pfefferle, Chief



December 19, 2012

Maryland National Capital Park & Planning Commission  
Attn: Mark Pfefferle  
8787 Georgia Avenue  
Silver Spring, MD 20910

Re: Alfred House – Needwood Rd FCP  
MHG Project No. 08.168  
S-2815

To Whom It May Concern:

On behalf of Veena Alfred, the applicant of the above referenced Forest Conservation Plan, we hereby request a variance to remove eleven specimen trees and to impact, but not remove, four specimen trees, all of which are over 30 inches in diameter, as required by the Maryland Natural Resources Article, Title 5, Subtitle 16, Forest Conservation, Section 5-1611, and in accordance with Chapter 22A-21(b) of the Montgomery County Code.

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

The subject property consists of the 2.48 acre Parcel 927, located at 6020 Needwood Road. The parcel currently houses a small assisted living facility. According to the Natural Resources Inventory there were 0.97 acres of onsite forest, all of which were removed, prior to the submittal of the plans to the county. Of the eleven trees that are to be removed, five are located within the frontage dedication for Needwood Road. All five of these trees are impacted by the shared use path that is required by the county. Four of the trees have sustained damage from pruning for overhead wires and are in fair or poor condition. These four trees are impacted by the grading for the swale along Needwood and the bio-retention facility which are required for proper stormwater conveyance. The elevations and existing storm drain in this location dictate that stormwater be met in this location precluding our ability to save these trees. A sixth tree exists off-site at the outfall to the storm drain across Needwood Rd. Montgomery County DPS is requiring the upgrade to this structure and the proximity of the tree to this structure requires its removal.

The remaining five specimen trees that are proposed for removal and the additional four specimen trees that are impacted by the development are scattered throughout the property. The expansion of the assisted living facility through the creation of a new building requires a limit of disturbance (LOD) that impacts a significant portion of the property. The location of the building was chosen in order to cluster the development to the back of the property and protect trees along Muncaster Mill Rd including the significant trees as shown on the plan as well as vegetated tree cover that exists in that area. Shifting the location of the proposed building would not minimize the impact to specimen trees. Grading in the rear portion of the property was tightened in order to minimize the impact to the specimen trees that line the property and provide a buffer for the adjacent properties. All four trees that are impacted but are being saved will receive appropriate stress reduction measures under the supervision of a certified arborist.

One of the eleven trees that a variance to remove is being requested – tree #30, a 31” caliper Red Maple—will be receiving protection measures in an attempt to be saved. The current health of the tree and the consequences of construction activities may cause it to become a hazard. (See the Arborist Tree Preservation Report by Norton Land Design #2012-111, dated December 3, 2012). Every attempt will be made to save it, but it is being counted as ‘to be removed’ on the Final Forest Conservation Plan. The total quantity of replacement mitigation trees proposed in the Plan includes the numbers necessary to accommodate the removal of this tree.

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

The subject property has a large number of specimen trees scattered throughout the site, making it impossible to develop the property to its full potential without impacting specimen trees. Impact to the specimen trees has been reduced to the best of our ability; however, the removal of specimen trees is unavoidable. The inability to remove or affect the subject trees would severely limit the development of the property. This creates a significant disadvantage for the applicant and deprives the applicant of the rights enjoyed by the neighboring and/or similar properties not subject to this approval process.

3. *Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance;*

A Stormwater Management Concept was submitted to the Department of Permitting Services and was approved. The site has been analyzed and is shown to meet the state water quality standards. This approval confirms that the goals and objectives of the current state water quality standards have been met for the proposed improvements to the site. A copy of the Stormwater submittal is included.

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

A copy of the Final Forest Conservation Plan has been provided as part of this variance request. The proposed removal of eleven specimen trees and the impact to four additional trees are indicated on the plan. A tree variance detail table summarizing the trees to be impacted is included as well as tables on the plan detailing mitigation requirements. Please let us know if any other information is necessary to support this request.

Please contact me via email, at [fjohnson@mhgpa.com](mailto:fjohnson@mhgpa.com), or by phone, at (301) 670-0840 should you have any additional comments or concerns.

Thank you,



Frank Johnson

Tree Variance Detail Table

Tree ID #	Species	DBH	Impact/Count as Removed	% Impacted	Condition	Reason for Impact	Why cannot be avoided
2	Loblolly Pine	28	Count as Removed	100%	Fair	Entrance & grading & shared use path	shared use path standards required by county
3	Silver Maple	30	Count as Removed	100%	Fair	Right of way drainage	Swale along Needwood Road required to convey water off-site. Storm Drain upgrade is being required
4	Silver Maple	58	Count as Removed	100%	Poor	Right of way drainage	Swale along Needwood Road required to convey water off-site. Storm Drain upgrade is being required
5	Red Maple	34	Count as Removed	100%	Fair/Poor	Right of way drainage	Swale along Needwood Road required to convey water off-site. Storm Drain upgrade is being required
6	Red Maple	33	Count as Removed	100%	Poor	Right of way drainage	Swale along Needwood Road required to convey water off-site. Storm Drain upgrade is being required
7	Red Maple	30	Count as Removed	100%	Fair	Storm Drain construction	Storm Drain required to be improved by DPS
9	Silver Maple	33	Count as Removed	100%	Good	building & stormwater facilities	**
11	Silver Maple	40	Impact Only	25%	Good	Grading for drainage around driveway	Grading required to move water around building to swale in front of property & water and sewer connections
15	Black Cherry	31	Impact Only	13%	Good	water and sewer	WHC & SHC needed to connect at this location to best utilize gravity.
19	Silver Maple	46	Impact Only	18%	Fair	Storm Drain construction	** SD required for adequate drainage
24	Eastern Red Cedar	30	Count as Removed	100%	Good	Grading, building and storm drain	**
28	Red Maple	30	Count as Removed	100%	Good	parking lot & Storm Drain	**
29	Tulip Poplar	41	Count as Removed	100%	Good	grading for parking lot and drainage	**
30	Red Maple	31	Count as Removed*	32%	Fair	grading for parking lot and drainage	**
31	Tulip Poplar	34	Impact Only	14%	Good	grading for parking lot and drainage	**

\* Attempts will be made to save Tree #30, but it is to be counted as 'removed' in the event that these attempts are not successful.

\*\* Building was moved away from Muncester Mill to protect tree cover in that area; tree is centrally located and building attributes consolidated/minimized but tree unavoidable



**ARBORIST  
TREE PRESERVATION REPORT**

---

*PREPARED FOR*

Alfred House Elder Care, Inc.  
c/o Veena J. Alfred  
Rockville, MD 20853  
p.301.460.6997

PROJECT NAME **ALFRED HOUSE – NEEDWOOD ROAD**

SITE LOCATION **6020 NEEDWOOD ROAD  
DERWOOD, MD 20855**

DATE **DECEMBER 3, 2012 (FIELD REVIEW 12.3.2012)**

NORTON # **2012.111**

---

*PREPARED BY*  
**MICHAEL NORTON**

## SUMMARY

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The subject property is the site for the proposed domiciliary care home and its associated site improvements. The new construction will require impacts to the critical root zone (CRZ) that will have a negative effect on trees around the proposed building and parking that are either co-owned or offsite. All trees near the LOD have been identified, recorded and plotted on a Final Forest Conservation Plan by Macris, Hendricks & Glascock, PA (MHG).

The purpose of this report is to (from a ground level and without invasive techniques) visually inspect and evaluate the anticipated tree impacts based on the proposed site development plan and to outline a detailed and specific Tree Protection Plan to mitigate root damage and provide the best chance for survival as is practicable for tree numbers 30 & 31.

## DETAILS OF THE INSPECTION

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This report references those tree numbers identified above that are located in close proximity to the LOD and details specific recommendations for retention based on the size, condition, species and level of root impact by distance to the center of tree as well as percent CRZ impact. Additional consideration must be given to proximity of trees to structures, utilities and vehicles as well as pedestrian traffic, exposure to prevailing weather patterns and susceptibility of a given species relative to fractures or root failure during weather events.

### **Tree Protection Recommendations**

This report focuses on two (2) trees that will be impacted by the LOD during the project. Tree protection fencing and mechanical root pruning will be required at the LOD for these and all trees adjacent to the LOD as a standard measure, unless specified otherwise.

Arborist inspections should take place at the time the LOD is marked and at intervals appropriate for monitoring implementation of the Forest Conservation Plan. Once all tree protection measures have been completed, monthly arborist site inspections should be made until the completion of the project to ensure compliance of all tree protection measures and to note any unusual changes in tree condition or tree safety. A brief report should be submitted accordingly.

#### #30 – 31” Red Maple – Fair

This tree has small girdled roots at the base along with a slight lean toward the south and high branch angles. There appears to be no evidence of past or present maintenance with deadwood and broken branches throughout. This tree appears to be sheltered from the larger 42” Poplar to the north that is proposed to be removed. This will open the tree up to windthrow hazard. The limits of disturbance is within 15.5’ of the tree, at the edge of the minimal clearance zone and impacting 32% of the critical root zone. At a minimum, install tree protection fencing (TPF), root prune with air-spade along LOD to the north followed

by hand-pruning severed roots and immediately backfilling trench along LOD along the remaining impacted area. ONLY ROOT PRUNE TO A DEPTH AS NECESSARY FOR IMPACTS. DO NOT PRUNE TO FULL DEPTH. The root system of the 42" Poplar should remain as it is likely to be intertwined with the roots of the subject tree and may cause more damage. Apply Cambistat plant growth regulator as soil injection or basal drench. Rainbow Tree Care general information states this will reduce woody growth and increase root density, improve drought and heat resistance and higher tolerance to insects and disease during construction. Perform hazard pruning (deadwooding) of the canopy. Monitor for 3 years following construction. **This tree is a candidate for removal with close proximity to cutting for the parking lot and utilities.**

**DUE TO THE CLOSE PROXIMITY OF THE LOD TO THIS TREE, THE NEIGHBORS SHOULD BE NOTIFIED OF IMPACTS AND A VARIANCE SHOULD BE FILED FOR POTENTIAL REMOVAL IN THE EVENT OF DECLINE OR UNSTABLE CONDITIONS OCCUR DURING CONSTRUCTION OR FOLLOWING CONSTRUCTION.**

#### #31 – 36" Tulip Poplar Good

The tree appears in good to fair condition with some broken and dead branches throughout. There is mechanical damage to the exposed roots in the open lawn. The limits of disturbance is within 22' of the tree, outside of the minimal clearance zone but with 15% impacts to the critical root zone. The grading impacts are not as severe at the LOD but excavation gets deeper at approximately 30' away. At a minimum install tree protection fencing (TPF), root prune with air-spade along LOD to be followed by hand-pruning severed roots and immediately backfilling trench along LOD along the remaining impacted area. ONLY ROOT PRUNE TO A DEPTH AS NECESSARY FOR IMPACTS. DO NOT PRUNE TO FULL DEPTH. With adjacent owner's permission, apply Cambistat plant growth regulator as soil injection or basal drench. Rainbow Tree Care general information states this will reduce woody growth and increase root density, improve drought and heat resistance and higher tolerance to insects and disease during construction. Perform hazard pruning (deadwooding) of the canopy. Monitor for 3 years following construction.

#### Tree Pruning and Removal

Trees should be pruned for safety along the Limits of Disturbance and where appropriate. The lower branches should be cut back or removed to allow for construction and minimizing damage to the limbs. Only a tree care expert shall appropriately perform any necessary clearance pruning of limbs.

The condition of the trees along the Limits of Disturbance must be assessed to determine survivability and the extent of impact construction will have on the existing trees. Damage to the critical root zone and tree species apparent health is considered before recommending removal.

### Fertilization

Prior to start of construction, four (4) representative soil samples should be taken from the site. A prescription based fertilizer should be applied to the critical root zones of the trees along the limits of disturbance based upon soil analysis. The soil should be re-sampled and treated as necessary for eighteen (18) months after the first treatment.

### Site Inspections/Monitoring

The Licensed Tree Expert/ISA Certified Arborist that will be performing the work is required to attend the Sediment Control pre-construction meeting along with representative Inspectors from MCDPS and MNCPPC. Prior to the meeting, the Arborist should review the tree conditions and Forest Conservation Plan. If the Arborist has concerns, they should be raised along with appropriate solutions at the pre-construction meeting.

The Contractor of this project should contract with a Licensed Tree Expert/ISA Certified Arborist to inspect the trees quarterly and ensure that the tree protection measures are intact and functioning correctly and that damage has not taken place and soil moisture levels are adequate. A report should be provided to the Contractor and the MCPS Project Manager. If the Arborist has concerns during the construction project, the Contractor and M-NCPPC Inspector should be notified immediately.

### Long Term Survivability

All trees present a risk. No tree is ever "safe." The Forest Conservation Plan tries to minimize impacts to trees by removing trees with obvious visual defects or where the impacts will be too great, but it should be understood every tree has the potential to cause personal injury and/or property damage. When a tree is removed from a site, a new edge within the grouping is established and exposes new trees to hazards, such as wind, that they were previously not subject to. Ultimately, it is up to the property owner to decide their risk tolerance. These plans will not guarantee that the trees will not die, fall over or cause damage.

### Conclusion

The recommendations in this report are based on tree conditions noted at the time the report was written. Tree condition can be influenced by many environmental factors, such as wind, ice and heavy snow, drought conditions, heavy rainfall, rapid or prolonged freezing temperatures, and insect/disease infestation. Therefore, tree conditions are subject to change without notice.

The site plans and plotting of tree locations were furnished for the purpose of creating a detailed Tree Protection Plan. All information is true and accurate to the best of my knowledge and experience. All conclusions are based on professional opinion and were not influenced by any other party.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Norton', with a stylized, cursive script.

Michael Norton

Certified Arborist # MA-4724A

Licensed Tree Expert #1756

Certified Tree Risk Assessor CTRA#1243



MAY 1 1 2012

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

REVISED RESOLUTION  
(Date of Hearing Corrected)

**MCPB No. 12-06**  
**Preliminary Forest Conservation Plan No. S-2815**  
**Alfred House Domiciliary Care Housing**  
**Date of Hearing: January 19, 2012**

**MONTGOMERY COUNTY PLANNING BOARD**

**RESOLUTION**

WHEREAS, pursuant to Montgomery County Code Chapter 22A, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review forest conservation plan applications; and

WHEREAS, on November 10, 2011 Veena J. Alfred & Alfred House Eldercare, Inc. ("Applicant"), filed an application for approval of a Forest Conservation Plan on 2.48 acres of RE-1 zoned property located on Parcel P927, at 6020 Needwood Road, in the southwestern corner of the intersection of Muncaster Mill Road and Needwood Road ("Property" or "Subject Property"), in the Upper Rock Creek master plan ("Master Plan") area; and

WHEREAS, Applicant's forest conservation plan application was designated Forest Conservation Plan No.S-2815, Alfred House Domiciliary Care Housing ("Forest Conservation Plan" or "Application"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staff of other governmental agencies, Staff issued a memorandum to the Planning Board dated January 5, 2012, setting forth its analysis, and recommendation for approval of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, on January 19, 2012, the Planning Board held a public hearing on the Application (the "Hearing"); and

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

WHEREAS, on January 19, 2012, the Planning Board approved the Forest Conservation Plan subject to certain conditions, on motion of Commissioner Anderson;

Approved as to  
Legal Sufficiency:  
8787 Georgia Avenue

*Christina Sount* 4/11/12  
MNCPPC Legal Department

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seconded by Commissioner Presley; with a vote of 5-0, Commissioners Anderson, Carrier, Dreyfuss, Presley, and Wells-Harley all voting in favor.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 22A, the Planning Board approved the Forest Conservation Plan on the Property, subject to the following conditions:

1. Compliance with the conditions of approval of the Preliminary Forest Conservation Plan dated November 10, 2011. The Applicant must satisfy all conditions prior to Montgomery County Department of Permitting Services' (MCDPS) issuance of sediment and erosion control permit(s), as appropriate, including:
  - a. Approval of a Final Forest Conservation Plan consistent with the approved Preliminary Forest Conservation Plan prior to any clearing, grading or demolition on the site.
  - b. The Final Forest Conservation Plan must include twenty-seven (27) native canopy trees with a minimum size of 3 inches in diameter at breast height (DBH) (or native canopy trees with a 81-inch cumulative DBH, individual trees with a minimum size of 3 inches DBH) as mitigation for the loss of specimen trees.
  - c. The Sediment Control Plan must be consistent with final limit of disturbance as approved by the M-NCPPC Staff.
  - d. M-NCPPC Planning Department Staff and M-NCPPC legal counsel approval of a Certificate of Compliance Agreement for use of an approved offsite forest mitigation bank to satisfy the forest mitigation planting requirements.

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff as presented at the Hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein) and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

1. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and the protection of environmentally sensitive features:*

A. Forest Conservation

The Forest Conservation Plan accounts for 0.97 acres of previously unauthorized forest clearing on the Property, resulting in a planting requirement of 1.06 acres. The entire planting requirement will be satisfied at an approved, off-site forest mitigation bank. The Applicant will retain 0.0 acres of forest onsite.

**B. Forest Conservation Variance**

Section 5-1607(c) of the Natural Resources Article, MD Ann. Code identifies certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) of the County Code. Otherwise such resources must be left in an undisturbed condition.

As more specifically identified in the Staff Report, this project will require the removal of nine (9) Protected Trees, 30 inches and greater DBH. Further, the project will impact seven (7) Protected Trees. Therefore, a variance is required. Although the Applicant proposed tree preservation measures to help ensure the Protected Trees survive anticipated construction impacts, the variance is required for these trees simply due to the impacts. Staff concluded that the Applicant met the specific submittal requirements of the variance request.

The Board made the following findings necessary to grant the Tree Variance:

- i. Granting the Tree Variance 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 the removal of the nine trees and the impacts to the seven trees is due to the development of the Property. The 2.48-acre Property contains numerous large trees located throughout the Property. These trees are located within the developable area of the site. Granting a variance to allow land disturbance within the developable portion of the Property is not unique to this Applicant. The development of the Property is dictated by the existing entrance driveway, building and storm drain outfall, and the need to provide utility connections out to Muncaster Mill Road. The Planning Board has determined that the impacts and removal of the trees subject to the variance requirement cannot be avoided. Granting a variance request to allow land disturbance within the developable portion of a site is not unique to this Applicant.

- ii. The need for the Tree Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The need for the variance is not based on conditions or circumstances which are the result of actions of the Applicant. The variance is based upon existing



site conditions, including the existing driveway and building, and the number and locations of the large trees.

- iii. *The need for the Tree Variance is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The need for the variance is a result of the existing conditions and the proposed site design and layout on the Subject Property, and not a result of land or building use on a neighboring property.

- iv. *Granting the Tree Variance will not violate State water quality standards or cause measurable degradation in water quality.*

The variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen trees being removed or disturbed are not within a stream buffer, wetland, or a special protection area. A Sediment Control Plan and Stormwater Management Plan will be approved by the Montgomery County Department of Permitting Services prior to any land disturbing activity on the Property.

#### C. Forest Conservation Variance mitigation

There are nine trees proposed for removal. As recommended by Staff, replacement is to occur at a ratio of approximately one inch Diameter at Breast Height (DBH) for every four inches DBH removed, using trees that are a minimum of three inches DBH. The mitigation requirement requires the Applicant to plant twenty-seven native, canopy trees with a minimum size of three inches DBH on the Subject Property. No mitigation is required for trees impacted but retained.

The Board finds that with the conditions imposed by this Resolution the Preliminary Forest Conservation Plan complies with the requirements of Chapter 22A, the Montgomery County Forest Conservation Law.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is MAY 1 1 2012 (which is the date that this Resolution is mailed to all parties of record); and

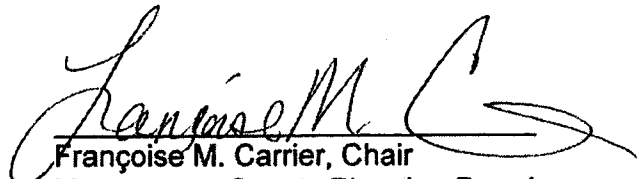
BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of

this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

\* \* \* \* \*

**CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of a resolution adopted by The Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Presley, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Anderson, Dreyfuss, and Presley voting in favor of the motion, at its regular meeting held on Thursday, April 19, 2012, in Silver Spring, Maryland.

  
Françoise M. Carrier, Chair  
Montgomery County Planning Board