



**Preliminary Plan No. 120110210: Barton Property**

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**Completed: 07/11/13**

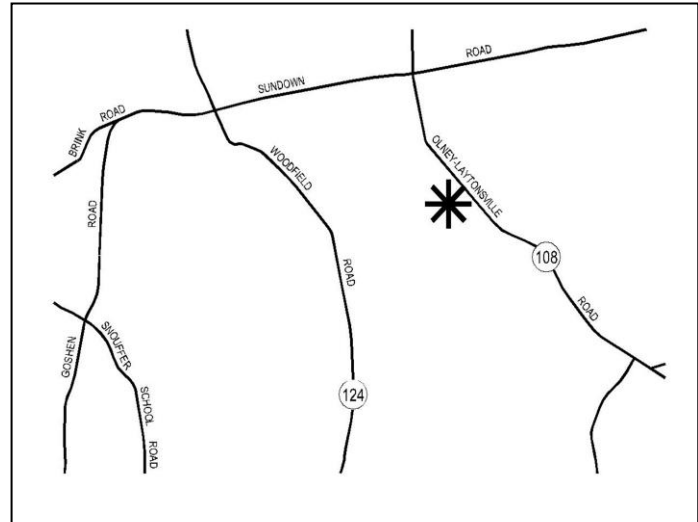
**Description**

**Preliminary Plan No. 120110210: Barton Property  
(with a Preliminary/Final Water Quality Plan and a  
Preliminary Forest Conservation Plan)**

Request to create one (1) lot from an existing parcel and an existing outlot, located at the south side of Brooke Knolls Road, opposite the intersection with Barton Manor Lane, 2.84 acres, R-200 zone, Upper Rock Creek Area Master Plan

**Staff Recommendation: Approval with condition**

Applicant's name: Teresa & Mitra Ramson (Applicant)  
Submittal date: 06/28/2012



**Summary**

Creates one of the larger lots within the resubdivision 'neighborhood', however, the lot is of the same character as other existing lots.

- Converts a parcel and an outlot into a lot
- Resubdivision analysis under Chapter 50-29(b)(2)

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

1. Approval under this Preliminary Plan is limited to one (1) lot for one (1) dwelling unit.
2. The Applicant must comply with the following conditions of approval for the Preliminary Forest Conservation Plan No. 120110210, approved as part of this Preliminary Plan:
  - a. A Final Forest Conservation Plan must be approved prior to recordation of the plat and address the following conditions:
    - i. The Final Forest Conservation Plan must be consistent with the approved Preliminary Forest Conservation Plan.
    - ii. Mitigation for the removal of tree ST-1 (34-inch DBH black walnut) in the form of three (3) native canopy trees with a minimum size of three (3) inches in diameter at breast height. The trees must be planted on the Property, outside of any rights-of-way, or utility easements, including stormwater management easements.
    - iii. Tree protection measures must be shown on the plan for existing trees located along the perimeter of the Property and adjacent properties, which currently serve as hedgerows and visual screens between the Subject Property and the adjoining properties.
  - b. Prior to land disturbing activities, the Applicant must obtain Staff approval of a Certificate of Compliance Agreement for the off-site forest planting requirement. The off-site forest planting requirement must be met within the Upper Rock Creek Special Protection Area or within the Upper Rock Creek watershed.
3. The Planning Board has accepted the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter, dated July 11, 2013, 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.
4. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and other improvements as required by MCDOT.
5. The Planning Board recommends approval of the Special Protection Area Water Quality Plan and has accepted the recommendations of the Montgomery County Department of Permitting Service (“MCDPS”) – Water Resources Section Special Protection Area Water Quality Plan letter dated April 25, 2013, 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.
6. The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”) – Well & Septic Section in its letter dated March 14, 2013, 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 – Well & Septic Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

7. The certified Preliminary Plan must contain the following note:

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

8. Record plat must show necessary easements.
9. 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.
10. The Subject Property is within the Gaithersburg School cluster area. The Applicant must make a School Facilities Payment to MCDPS at the elementary school level at the single-family detached unit rate for each unit for which a building permit is issued and a School Facilities Payment is applicable. The timing and amount of the payment will be in accordance with Chapter 52 of the Montgomery County Code.

## SITE DESCRIPTION

The subject property consists of a triangular shaped unplatted parcel (P 833, Tax Map GV341), and a linear outlot, identified as Outlot C on Plat 17715 (Attachment A), totaling 2.84 acres (“Property” or “Subject Property”) (Image 1). The Property is zoned R-200, and it is in water and sewer category W6 and S6 respectively. The Subject Property is located in the Upper Rock Creek Area Master Plan (“Master Plan”) and is less than one mile south of Laytonsville.



Image 1

Currently, the Subject Property is generally unimproved, and it is kept mowed with two small sheds in the southeastern corner (Image 2). Surrounding the Property on all sides are one-family detached houses in the R-200 Zone, between one and three acres in size. Many of the surrounding properties are recorded lots from prior subdivision approvals, but there are other unrecorded parcels, including the property immediately to the west of the Subject Property. Like the Subject Property, the parcel to the west has a recorded outlot to provide driveway access to a public street. The outlots were created by previous subdivision approvals specifically to provide the unrecorded parcels with sufficient land to build a driveway and have access. Both outlots are 25 feet wide which also is the required frontage width for the R-200 zone.

The Property is located within the Upper Rock Creek Special Protection Area (SPA). Streams in this watershed are designated by the State of Maryland as Use III waters. There are no streams, wetlands, 100-year floodplain or environmental buffers located on or adjacent to the Property, however an existing offsite stormwater management facility outfalls into a swale on the Property. There is no forest on the Property and there is one specimen tree, a 34 inch diameter at breast height (DBH) black walnut, located in the southeastern corner.



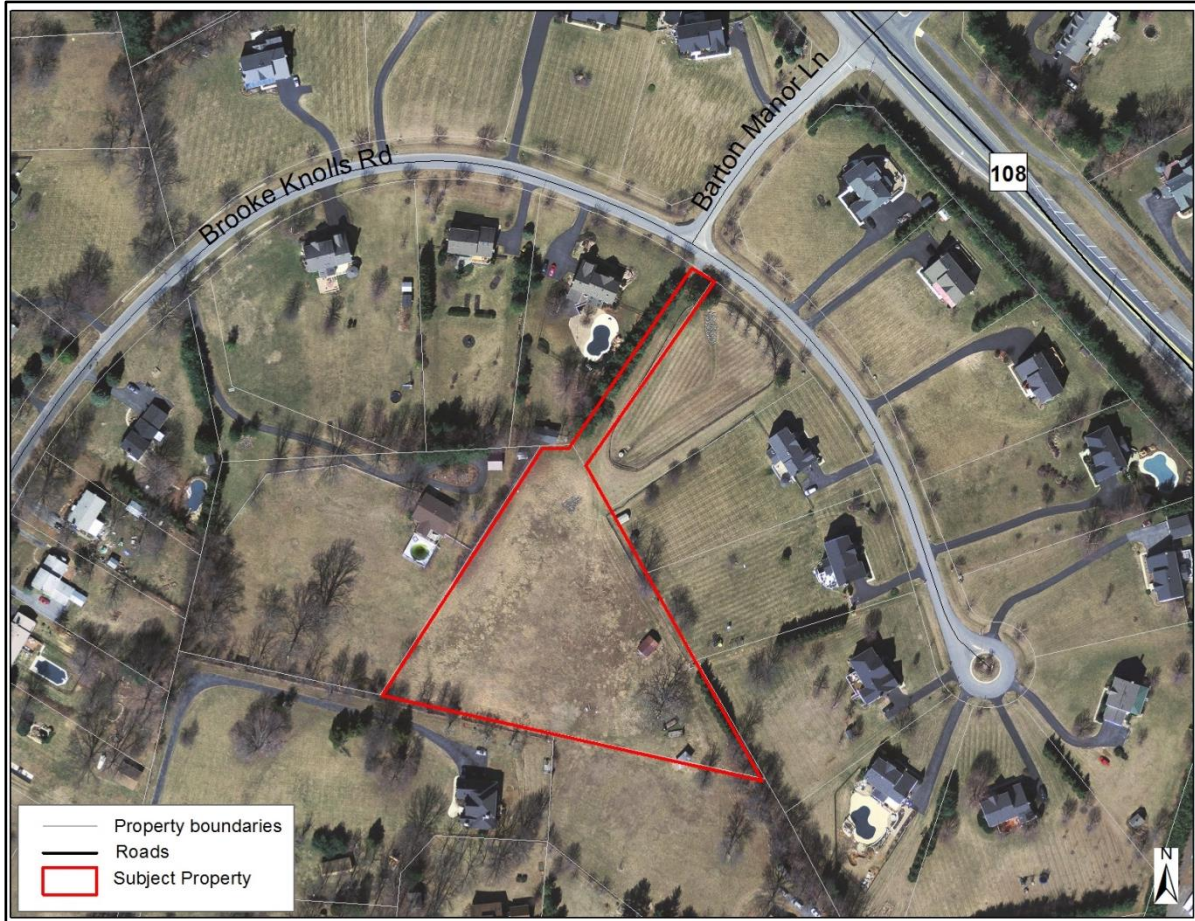


Image 2

**PROJECT DESCRIPTION**

Preliminary Plan No. 120110210: Barton Property (“Application” or “Preliminary Plan”) proposes one (1) 2.84 acre lot for one (1) single family detached dwelling (Attachment B). The new dwelling will be served by a private well and private on-site septic system. The proposed lot will incorporate the existing outlot which will allow the lot to have 25 feet of frontage on Brooke Knolls Road, almost opposite Barton Manor Lane. As part of the development on the proposed lot, the Applicant will be required to extend a storm drain overflow pipe leading from an adjacent stormwater management pond under the new driveway.

**ANALYSIS AND FINDINGS – Chapter 50**

**Conformance to the Master Plan**

Staff finds that the Application substantially conforms to the recommendations of the Upper Rock Creek Area Master Plan. The Master Plan provides a general goal to maintain this portion of the Upper Rock Creek watershed as a low density housing resource in order to minimize impacts to water quality and to allow residential development that is compatible with the existing low density development patterns. In order to maintain low densities, the Master Plan does not recommend that the Subject Property be included in the sewer envelope and that it rely on septic systems, as has the surrounding community.

The Master Plan also recommends that much of the Upper Rock Creek watershed, including the Subject Property, be designated as a Special Protection Area (“SPA”). Properties that are within the SPA and use public sewer are subject to an 8% impervious limit. The Subject Property will use a private septic system and, therefore, it is not subject to the impervious cap. Although the Application is not subject to the SPA impervious cap, the SPA law requires a water quality plan and recommends impervious levels be minimized to the extent possible.

As discussed more completely in the SPA, Water Quality Plan discussion, the Preliminary Plan has minimized imperviousness levels to the extent possible by moving the house location as close as possible to the septic system in order to shorten the length of the new driveway. Due to the slopes and location of approved septic fields, the proposed house cannot be located closer to the road. Further reductions of imperviousness are not practical. The resulting lot at 2.84 acres is consistent with the low density character of the surrounding community and supports the goals of the Master Plan.

## **Public Facilities**

### **Roads and Transportation Facilities**

The proposed vehicle and pedestrian access for the lot will be adequate. All necessary road dedication along the Property frontage has been previously granted as part of the 1989 Record Plat for Brooke Grove. There are no existing sidewalks along Brooke Knolls Road and given that the Property only has 25 feet of frontage in which to build a sidewalk, they are not proposed as part of this Application. The proposed lot does not generate 30 or more vehicle trips during the morning or evening peak-hours. Therefore, the Application is not subject to Local Area Transportation Review. The Property is located in the Rural East Policy area Transportation Policy Area Review, which is exempt from review in the 2012-2016 Subdivision Staging Policy.

### **Other Public Facilities and Services**

Other public facilities and services are available and will be adequate to serve the proposed dwelling unit. Although the Property is located in the R-200 Zone, it is not within the recommended sewer or water envelope, and it is appropriately in the W6 and S6 water and sewer categories. An on-site well and septic system was approved by the MCDPS - Water Resources Section on March 14, 2013 (Attachment D). Other utilities including electric and telecommunications services are adequate to serve the Property. The Application has been reviewed by the Montgomery County Department of Fire and Rescue Service who have determined that the Property has adequate access for fire and rescue vehicles (Attachment E). Other public facilities and service, such police stations, and health services are currently operating within the standards set by the Subdivision Staging Policy Resolution currently in effect. The Application is not within a school moratorium area, but it is subject to payment of School Facilities Payment at the elementary school level (Gaithersburg cluster).

## **Environment**

### **Special Protection Area Preliminary/Final Water Quality Plan**

As part of the requirements of the Special Protection Area Law, a Special Protection Area (“SPA”) Water Quality Plan must be reviewed in conjunction with this Preliminary Plan. Under the provision of the law, MCDPS and the Planning Board have different responsibilities in the review of a water quality plan. MCDPS has reviewed and conditionally approved the elements of the Preliminary/Final Water Quality Plan under its purview (Attachment F). As part of this Application, the Planning Board’s responsibility is

to determine if *site imperviousness limits, environmental buffer protection, and SPA forest conservation and planting requirements*, have been satisfied.

#### *Site Imperviousness*

Impervious surface restrictions for development projects in the Upper Rock Creek, SPA are set forth in the Environmental Overlay Zone for the Upper Rock Creek SPA. As per Chapter 59-C-18.242, the Application is not subject to the impervious limits outlined in the Overlay Zone since the Property will not be served by community (public) sewer.

The Applicant proposes to construct a single family residential home served by a new driveway resulting in approximately 11,100 square feet of impervious surface on the Property (Attachment G). This represents a total impervious surface coverage of approximately 8.9 percent for the Property. Even though there is no SPA impervious limit for this Property, Chapter 19, Article V, Section 19-64 of the County Code requires efforts be taken to minimize impervious area for any new development. The proposed house is sited in the southeastern corner of the Property which requires a long driveway. The Applicant has shown the house location as close as allowable to the approved septic system to provide the shortest possible driveway. There are no other options to minimize imperviousness since the Property is constrained by not only the septic system, but also the dam breach flow path area for the existing offsite stormwater management facility. Properties developed under the R-200 zoning in the Upper Rock Creek watershed typically have an impervious surface level of 15.4 percent. The Applicant has demonstrated minimization of impervious surfaces given the existing constraints of the site and that the resulting 8.9 percent impervious area proposed is well below that which is typically found in the zone.

#### *Environmental Buffers Protection*

There are no streams, wetlands, 100-year floodplains or environmental buffers located on or adjacent to the Property.

#### *Forest Conservation and Planting Requirements*

There is no forest on the Subject Property and there is one specimen tree located in the southeastern corner of the Property. As part of the Preliminary Forest Conservation Plan, the Applicant has a forest planting requirement of 0.43 acres. The Applicant proposes to meet this requirement at an offsite location. The Application satisfies all of the applicable requirements of the SPA law that are under the Board's purview.

#### *Montgomery County Department of Permitting Service Special Protection Area Review Elements*

As stated, MCDPS has reviewed and conditionally approved the elements of the SPA Preliminary/Final Water Quality Plan under its purview. These elements include site performance goals, stormwater management, sediment and erosion control and monitoring of Best Management Practices.

- Site Performance Goals - minimize storm flow increases, sediment loading, and land disturbances with an emphasis on immediate stabilization
- Stormwater Management - various practices including dry wells, gravel trench drywells and non-rooftop disconnections
- Sediment and Erosion Control - super silt fence with an emphasis on immediate stabilization
- Monitoring – not required for the proposed property improvements

Staff finds that, with the conditions proposed in this report, the Application satisfies all applicable requirements of the Montgomery County Code, Chapter 19, Article V – Water Quality Review in Special Protection Areas.

Preliminary Forest Conservation Plan and Environmental Guidelines

The Property is subject to the Forest Conservation Law and a Preliminary Forest Conservation Plan, including a variance for the removal of a specimen tree.

*Natural Resource Inventory/Forest Stand Delineation*

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) (#420110150) for the Property was approved on October 7, 2010, and it identified the environmental constraints and forest resources on the Subject Property. There are no streams, wetlands, 100-year floodplains or environmental buffers on or adjacent to the Property. The Property does not contain any forest, steep slopes or highly erodible soils. An onsite 34 inch diameter at breast height (DBH) black walnut was the only tree identified with a DBH of 24 inches or greater located on or within 100 feet of the Property.

*Preliminary Forest Conservation Plan*

As required by the County Forest Conservation Law (Chapter 22A of the County code), a Preliminary Forest Conservation Plan (PFCP) for the project was submitted with the Preliminary Plan Application (Attachment C). The PFCP worksheet identifies a 0.43-acre afforestation requirement for the Property that is proposed to be met off-site.

Section 22A-12(b) (3) of the Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. 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 applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires there be no impact to trees that: measure 30 inches or greater, 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.

Variance Request - The Applicant submitted a variance request dated May 22, 2012 for the removal of one (1) tree that is 30 inches and greater and considered high priority for retention under Section 22A-12(b) (3) of the County Forest Conservation Law (Attachment H). This tree, a 34-inch DBH black walnut ("Protected Tree") is in moderate condition and is noted as ST-1 on the PFCP, and is located in the southeastern corner of the Property (Image 3).



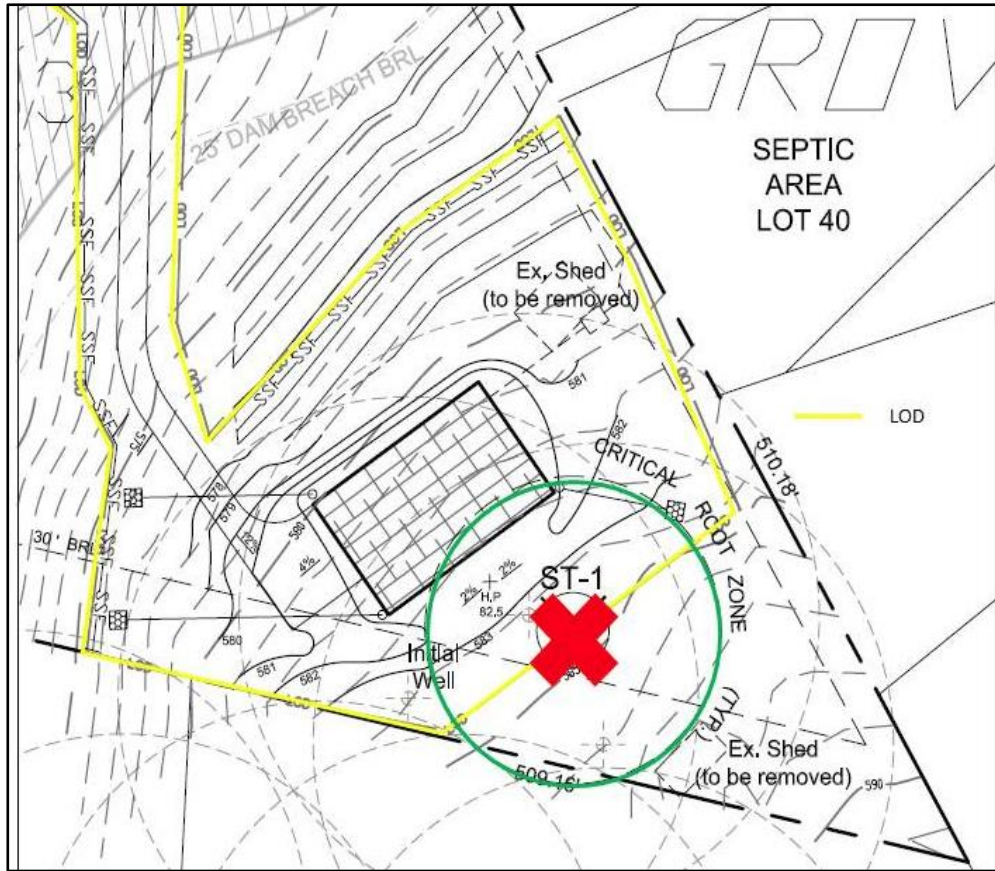


Image 3

Unwarranted Hardship – As per Section 22A-21, a variance may only be considered if the Planning Board finds that not impacting a specimen or champion tree would result in an unwarranted hardship. Staff has reviewed this Application and finds that there would be an unwarranted hardship if a variance were not considered. Development on the Property is dictated by the existing conditions on the site, development standards of the R-200 zone, and County agency requirements. The location of the construction activities for the proposed single family home is dictated by several factors. There is an existing offsite stormwater management pond that outfalls onto the northern portion of the Property into a swale. There is a 100-year dam breach area associated with the pond and outfall area that covers the northern half of the Property, making that portion of the Property undevelopable. The Property will be served by private well and septic system and the location of these features is dictated by the results of soil testing, which on this Property were found to be acceptable only on the central portion of the Property. The septic field requires adequate space for the initial and three reserve fields set back a minimum of 100 feet from any well. Building restriction lines on this triangular shaped lot, further limit the area available for construction of the residence. The one Protected Tree is located within the area that remains available for construction of the residence, and the grading necessary to locate a house in this buildable area will impact the Protected Tree to an extent that warrants the tree removal. This Protected Tree is in moderate condition, containing broken and dead limbs and some insect damage. If the variance were not considered, the development anticipated on this R-200 zoned Property would likely not be possible.

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:

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 of the specified tree is due to the development of the Property. The Property contains numerous constraints, which limit 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. 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 and the development standards of the R-200 Zone.
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.
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. Onsite mitigation for the removal of the tree will replace the functions currently provided by the subject tree, and will ultimately result in greater tree canopy and stormwater absorption as these trees mature. In addition, MCDPS has found the stormwater management concept for the Application to be acceptable.

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 March 26, 2013, the County Arborist issued a letter recommending that the variance be granted, with mitigation (Attachment J).

Mitigation - Staff recommends that mitigation for the loss of the Protected Tree be provided onsite. Mitigation should be at a rate that approximates the form and function of the tree removed. Staff recommends that replacement occur at a ratio of approximately 1-inch caliper for every 4-inch DBH removed. Therefore, mitigation for removal of the 34-inch DBH black walnut must be provided in the form of three (3) native canopy trees with a minimum size of three (3) inches, DBH. While these trees will not be as large as the tree lost, they will provide some immediate canopy.

Variance Recommendation - Staff recommends that the variance be granted and mitigation be required.

Staff finds that, as conditioned in this report, the Application is in compliance with the Montgomery County Environmental Guidelines and the Forest Conservation Law. Staff recommends that the Planning Board approve the Preliminary Forest Conservation Plan and SPA Preliminary/Final Water Quality Plan with the conditions cited in this staff report.

### Stormwater Management

A stormwater management concept was approved for the Subject Property as part of the water quality approval issued by MCDPS on April 25, 2013 (Attachment F). The concept proposes to meet stormwater management goals through a use of dry wells, gravel trench wells and non-rooftop disconnections.

### Compliance with the Subdivision Regulations and Zoning Ordinance

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations. The Application meets all applicable sections, including the requirements for resubdivision as discussed below. The proposed lot size, width, shape and orientation are appropriate for the location of the subdivision in the Upper Rock Creek Master Plan. The dimensional characteristics and location of the lot support the Master Plan goal to maintain low density residential development in this area.

The lot was reviewed for compliance with the dimensional requirements for the R-200 Zone as specified in the Zoning Ordinance. The lot will meet all the dimensional requirements for area, frontage, and width, and the proposed dwelling can meet setbacks. A summary of this review is included in attached Table 1. The Application has been reviewed by other applicable county agencies, and all have recommended approval of the Application.

**Table 1 – Data Table R-200 Zone**

| <b>PLAN DATA</b>           | <b>Zoning Ordinance Development Standard</b> | <b>Proposed for Approval by the Preliminary Plan</b> |
|----------------------------|--|--|
| Minimum Lot Area           | 20,000 sq. ft.                               | 123,748 sq. ft.                                      |
| Lot Width                  | 100 ft.                                      | 100 ft. or more                                      |
| Lot Frontage               | 25 ft.                                       | 25 ft.   |
| Setbacks                   |  |  |
| Front                      | 40 ft. Min.                                  | 40 ft. or more                                       |
| Side                       | 12 ft. Min./ 25 ft. total                    | 12 ft. or more                                       |
| Rear                       | 30 ft. Min.                                  | 30 ft. or more                                       |
| Lot Coverage for buildings | 25% max.                                     | 2.5%   |
| Building Height            | 50 ft. max.                                  | 50 ft. or less                                       |
| MPDUs                      |  | No   |
| TDRs                       |  | No   |
| Site Plan Required         |  | No   |

<sup>1</sup> As determined by MCDPS at the time of building permit.

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

### A. Statutory Review Criteria

The Subject Property includes an outlot and an unplatted parcel. Because the outlot is shown on a previously recorded record plat, the inclusion of the outlot in this Application requires compliance with Section 50-29(b)(2) of the Subdivision Regulations as a resubdivision. In order to approve an application for resubdivision, the Planning Board must find that the proposed lot complies with all seven of the resubdivision criteria set forth in Section 50-29(b)(2), which states:

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

### B. Neighborhood Delineation

In administering Section 50-29(b)(2) of the Subdivision Regulations, the Planning Board must determine the appropriate resubdivision neighborhood for evaluating the application. In this instance, the neighborhood selected by the Applicant, and agreed to by staff, consists of 20 lots (Image 4) which includes all of the lots along Brooke Knolls Road that were approved as part of the Brooke Grove Preliminary Plan (119880300) that also established outlot C, which serves as the access point for the Subject Property, and two immediately adjoining lots to the south that have access to Dorsey Road ("Neighborhood"). The Neighborhood provides an adequate sample of the lot and development pattern of the area. All of the lots are recorded by Plats and are within the R-200 Zone. The outlot containing the stormwater management pond was not included in the analysis, nor was the unplatted parcel immediately adjoining the Property to the west. A tabular summary of the lot analysis based on the resubdivision criteria is included in Attachment K.

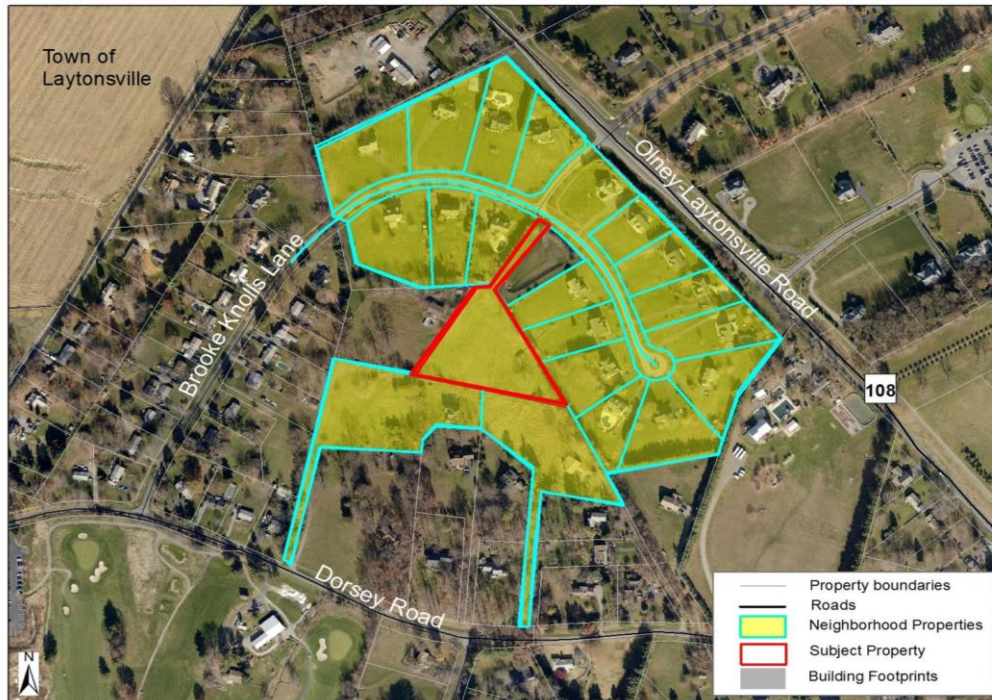


Image 4

In performing the analysis, the above-noted resubdivision criteria were applied to the delineated neighborhood. The proposed lot is of the same character with respect to the resubdivision criteria as other lots within the defined neighborhood. Therefore, the proposed resubdivision complies with the criteria of Section 50-29(b)(2). As set forth below, the attached tabular summary and graphical documentation support this conclusion:

Frontage:

The proposed lot will be of the same character as existing lots in the neighborhood with respect to lot frontage. The proposed frontage is just over 25 feet, which is the same as two other adjacent properties in the identified Neighborhood.

Alignment:

The proposed lot is of the same character as existing lots in the neighborhood with respect to the alignment criterion. The Property fronts on a curved street with a cul-de-sac, and the alignment is angular based on its relation to surrounding lots. Other lots within the Neighborhood also have angular alignments.

Size:

The proposed lot size is in character with the size of existing lots in the Neighborhood. The proposed size of the lot is large but within the range of sizes in the Neighborhood. Further subdivision of the Property is not possible given the limited frontage, size, shape and stormwater constraints.

Shape:

The shape of the proposed lot will be in character with the shape of the existing lots in the Neighborhood. The shape of the propose lot is flag/pipestem shaped, which is the same as two adjacent lots in the Neighborhood.

Width:

The proposed lot will be in character with existing lots in the Neighborhood with respect to width. The width of the proposed lot is within the lower end of the width range, and is dictated by the placement of the on-site septic system and the angular shape of the lot.

Area:

The proposed lot will be of the same character as existing lots in the neighborhood with respect to buildable area. The buildable area is within the high end of the range of lot areas found in the Neighborhood, but it is of the same character.

Suitability for Residential Use: The existing lots and the proposed lot within the identified subdivision are all zoned R-200 for residential uses, and they are all suitable for residential use.

### **Citizen Correspondence and Issues**

This Application was submitted and noticed in accordance with all Planning Board adopted procedures. A sign referencing the proposed modification was posted along the Property frontage with Brooke Knolls Road. A presubmission meeting was held at the Quince Orchard Library on October 26, 2010 at 6:30pm. Five people were in attendance at the meeting according to the minutes of that meeting. Questions raised included the size of the house, the possibility of a breach at the stormwater pond, and the plans

to save the row of white pines along the proposed driveway. The Applicant has answered and addressed all concerns raised by the community and no major issues have since arisen. Staff has been made aware that the residents of 20931 Brooke Knolls Road are concerned about the fate of a row of existing white pine trees on the property boundary between their property and the Subject Property's future driveway. Although no formal protection is proposed in the Preliminary Forest Conservation Plan, the Applicant has expressed willingness to work with the neighboring property owners, and the applicant will perform some tree protection measures during construction.

## **CONCLUSION**

The proposed lot meets all requirements established in the Subdivision Regulations and the Zoning Ordinance, and substantially conforms to 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 and utility companies, and all have recommended approval of the Preliminary Plan.

Section 50-29(b)(2) of the Subdivision Regulations specifies seven criteria with which resubdivided lots must comply: street frontage, alignment, size, shape, width, area and suitability for residential use within the existing block, neighborhood or subdivision. The proposed lot is of the same character as the existing lots in the defined Neighborhood with respect to each of the resubdivision criteria, and therefore, complies with Section 50-29(b)(2) of the Subdivision Regulations. Staff recommends approval of the Application with the conditions specified.

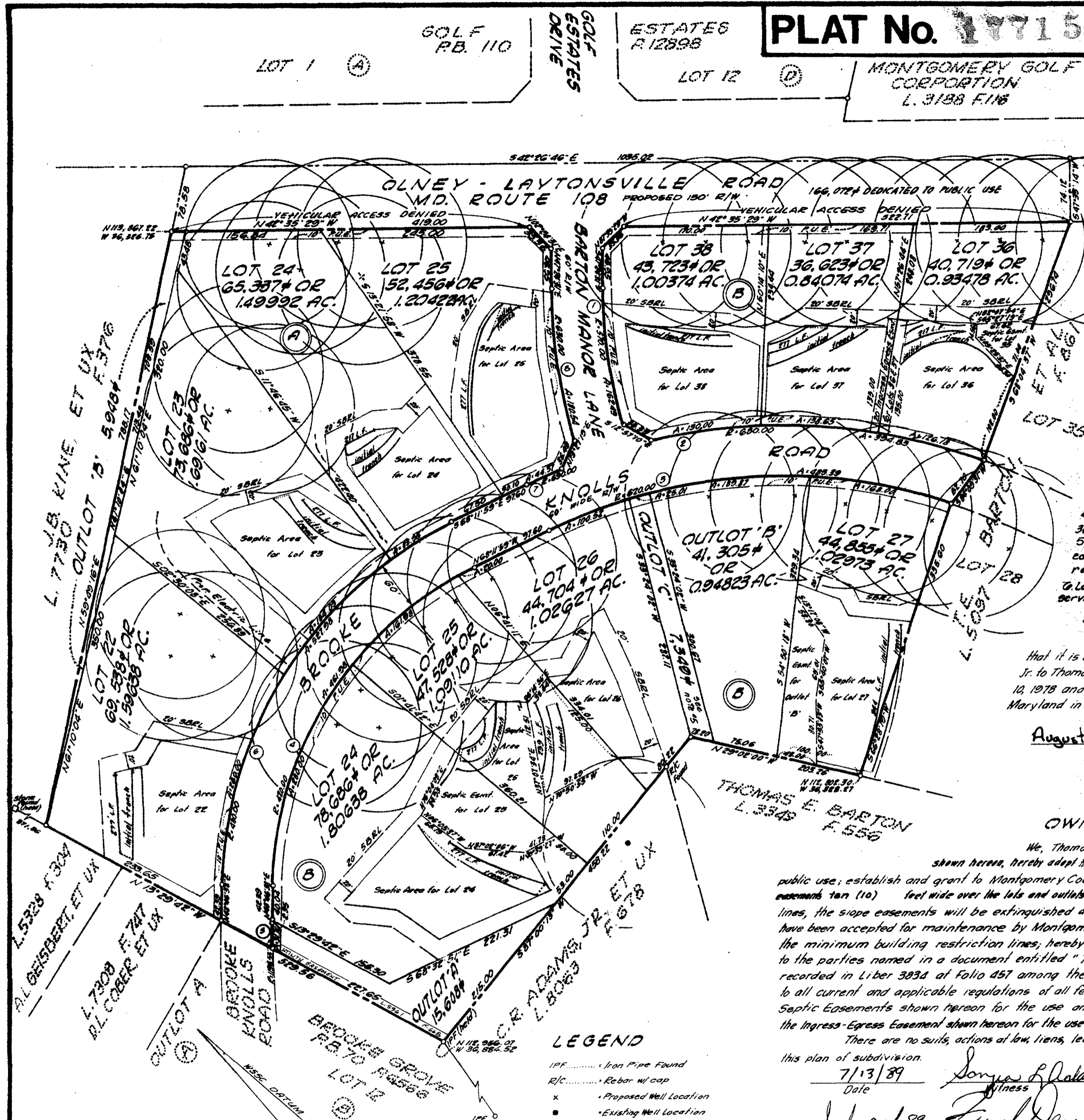
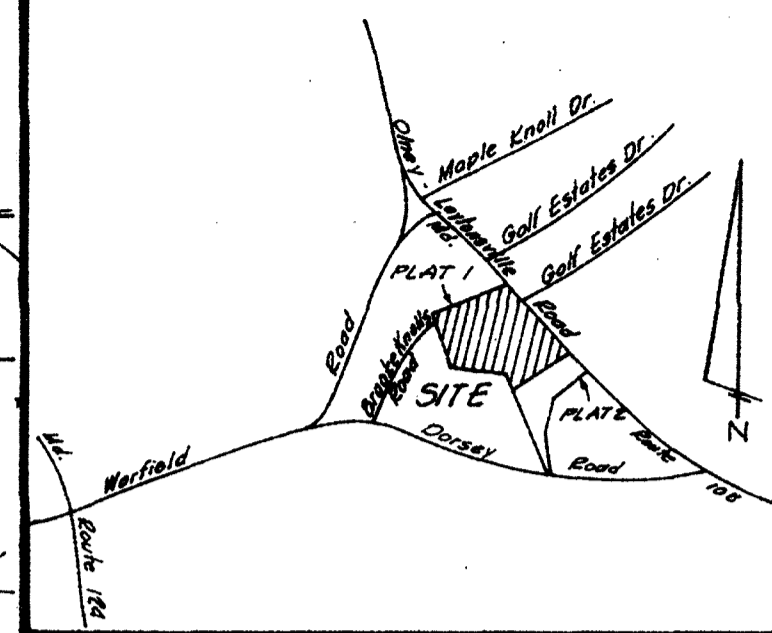
## **Attachments**

Attachment A – Plat 17715  
Attachment B – Preliminary Plan  
Attachment C – Preliminary Forest Conservation Plan  
Attachment D – MCDPS Well & Septic Memo  
Attachment E – Fire Marshals Memo  
Attachment F – MCDPS Water Quality/Stormwater Memo  
Attachment G – Impervious Exhibit  
Attachment H – Tree Variance Request  
Attachment J – Arborist Recommendations  
Attachment K – Resubdivision table  
Attachment L – MCDOT Memo



**PLAT No. 17715**

VICINITY MAP-SCALE: 1"=2000'



**NOTES**

1. Septic Building Restriction Lines subject to change with Health Department reapproval.
2. Septic areas are designed for a 6 bedroom house, except lot 25 Block B which is designed for a 5 bedroom house.
3. Septic Easements on: Lot 24, Block B is for Lot 25, Block B; Lot 25, Block B is for Lot 26, Block B; Lot 27, Block B is for Outlot B; Block B; Lot 36, Block B is for Lot 35, Block B.
4. The Ingress/Egress Easement is for the use and benefit of Lots 36 & 37, Block B.
5. Outlot C is to be an Ingress-Egress and utility easement for the Thomas E. Barton Parcel currently recorded in Liber 3349 at Folio 55G.
6. Lots 24 & 25 Block A and Lots 36-38 Block B to have electric service via 10' R.W.E. along Maryland Rte. 108.

**SURVEYOR'S CERTIFICATE**

I hereby certify that the plat shown hereon is correct, that it is a subdivision of part of the land conveyed by James W. Orme, Jr. to Thomas E. Barton and Cateen Dempsey by deed dated February 10, 1978 and recorded among the Land Records of Montgomery County, Maryland in Liber 5097 at Folio 86L.

August 18, 1989  
Date

*Douglas H. Riggs III*  
Douglas H. Riggs III  
Professional Land Surveyor  
Md. Reg. No. 10712

**OWNER'S DEDICATION**

We, Thomas E. Barton and Cateen Dempsey owners of the property shown hereon, hereby adopt this plan of subdivision, dedicate the streets as shown hereon to public use; establish and grant to Montgomery County, Md. or other appropriate agency, temporary slope easements ten (10) feet wide over the lots and outlots shown hereon, adjacent, contiguous and parallel to the street lines, the slope easements will be extinguished after all required public improvements in adjacent roadways have been accepted for maintenance by Montgomery County, Maryland or other appropriate agency; establish the minimum building restriction lines; hereby grant a Public Utilities Easement (P.U.E.) as shown hereon to the parties named in a document entitled "Terms and Provisions of Public Utility Easements" as recorded in Liber 3834 at Folio 457 among the Land Records of Montgomery County, Maryland, subject to all current and applicable regulations of all federal, state, and local governing agencies; establish the Septic Easements shown hereon for the use and benefit of Lots 25, 26, 35 and Outlot B Block B; establish the Ingress-Egress Easement shown hereon for the use and benefit of Lots 37 & 36, Block B.

There are no suits, actions at law, liens, leases, mortgages or trusts affecting the property included in this plan of subdivision.

7/13/89 Date  
*Sonya R. Palmer* Witness  
*Thomas E. Barton* (SEAL)  
7/20/89 Date  
*Frank Dewey* Witness  
*Cateen Dempsey* (SEAL)

**SUBDIVISION RECORD PLAT**

LOTS 22-25, AND OUTLOT 'B', BLOCK 'A';  
LOTS 24 THRU 27 AND 36-38 AND OUTLOT 'A', 'B' AND 'C', BLOCK B

**BROOKE GROVE**

ELECTION DISTRICT NO. 1  
MONTGOMERY COUNTY, MARYLAND  
SCALE: 1"=100' JULY, 1989

RECORDED:  
PLAT BOOK:  
PLAT NO:

289216188030  
0100 4800 200 0706 92

**CURVE TABLE**

| NO. | RADIUS  | DELTA     | ARC    | TANGENT | CHORD  | CHORD BEARING |
|-----|---------|-----------|--------|---------|--------|---------------|
| 1   | 570.00  | 16°20'00" | 162.49 | 81.80   | 161.94 | S 39°14'32" W |
| 2   | 680.00  | 30°16'00" | 304.83 | 203.15  | 389.31 | S 30°33'25" E |
| 3   | 680.00  | 44°40'18" | 483.39 | 254.73  | 471.24 | N 46°51'50" W |
| 4   | 480.00  | 68°01'23" | 481.98 | 287.43  | 439.04 | S 80°17'20" W |
| 5   | 1195.53 | 01°31'20" | 31.76  | 18.88   | 31.76  | S 48°00'58" W |
| 6   | 480.00  | 63°01'23" | 587.98 | 394.28  | 501.76 | N 80°17'20" E |
| 7   | 680.00  | 03°44'21" | 44.37  | 22.20   | 44.37  | S 66°19'49" E |
| 8   | 680.00  | 16°25'09" | 180.84 | 90.89   | 179.98 | N 39°11'57" E |

**PLAT TABULATION**

Number of Lots: 11  
Number of Parcels: 0  
Number of Outlots: 4  
Area of Lots: 597,855±  
Area of Outlots: 70,210±  
Area of Street Dedication: 166,072±  
Total Area: 834,137± or 19.14915 Acres

FOR WELL AND SEPTIC SYSTEMS ONLY

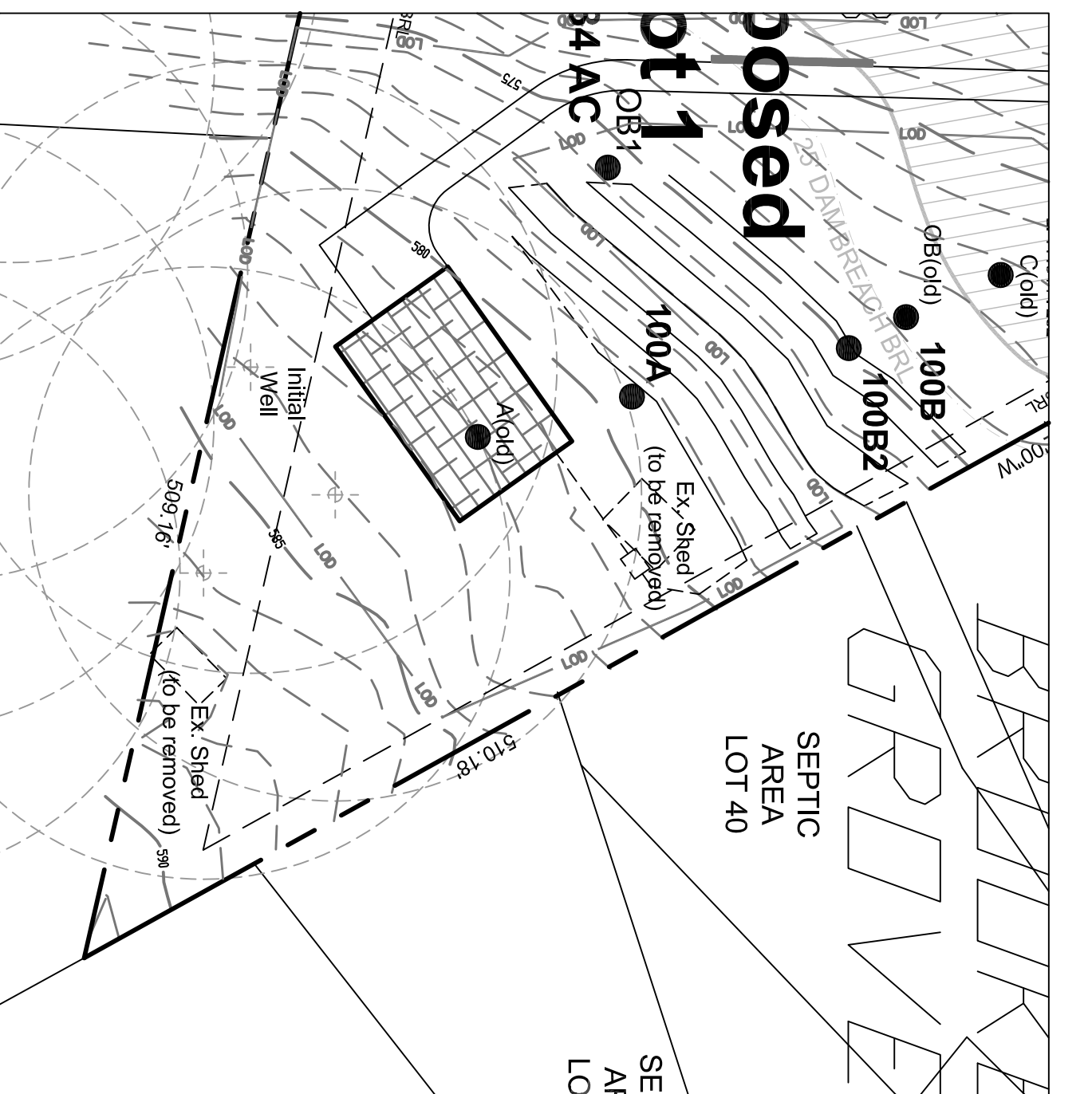
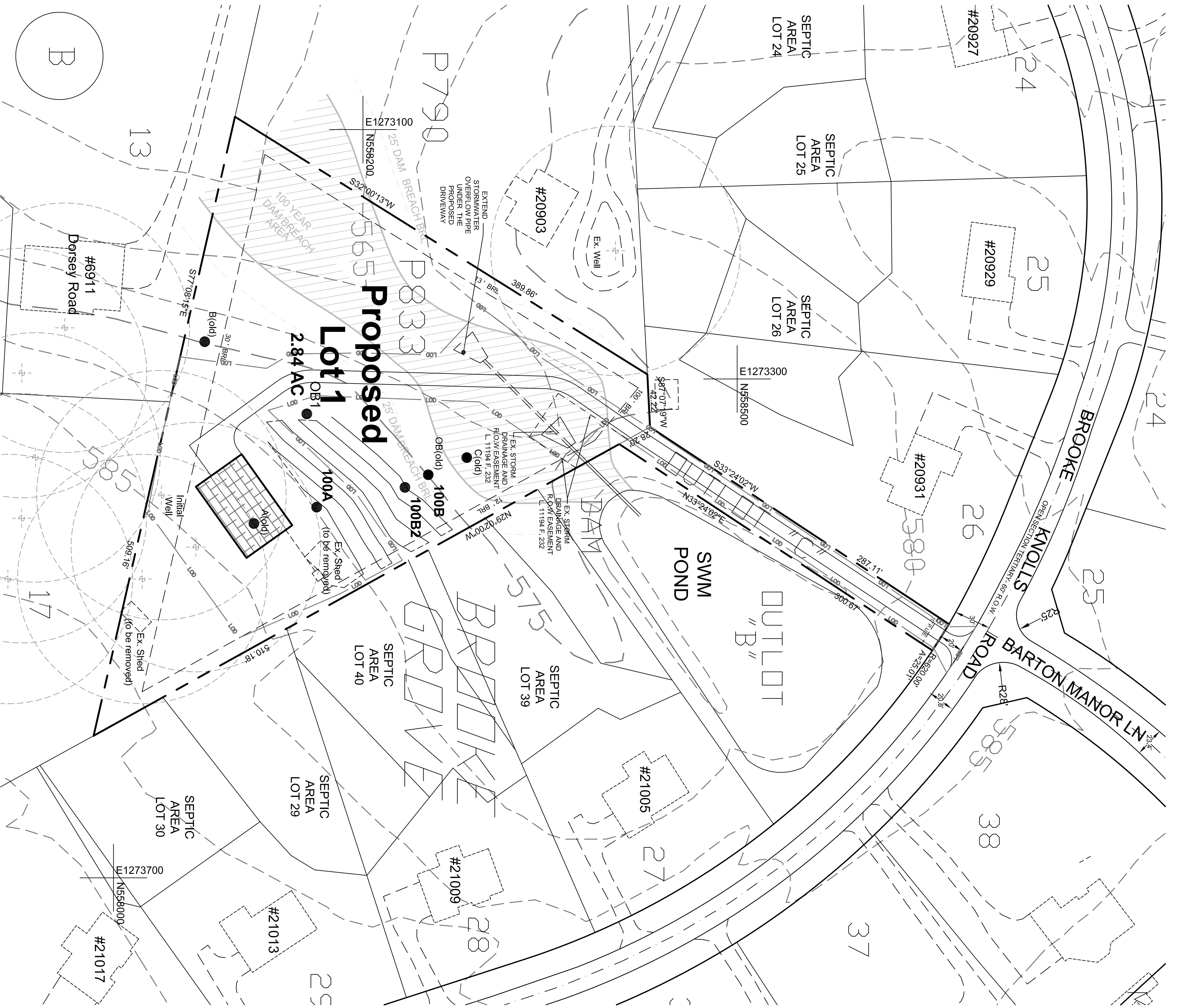
MARYLAND NATIONAL CAPITAL PARK & PLANNING COMMISSION  
MONTGOMERY COUNTY PLANNING BOARD  
APPROVED: JULY 13, 1989  
*James C. Lewis*  
CHAIRMAN ASST. SECRETARY - TREASURER  
M.N.C.P. & P.C. RECORD FILE NO. 578-72

MONTGOMERY COUNTY, MARYLAND  
DEPARTMENT OF TRANSPORTATION  
APPROVED: OCTOBER 25, 1989  
P.I.A. No. 89-134  
*Robert J. Menzies*  
DIRECTOR

MONTGOMERY COUNTY, MARYLAND  
HEALTH DEPARTMENT  
APPROVED: 12/22/89  
*Marion W. ...*  
HEALTH OFFICER

MACRIS, HENDRICKS & WITMER, P.A.  
ENGINEERS • PLANNERS • SURVEYORS  
9220 WIGHTMAN ROAD, SUITE 120  
GAITHERSBURG, MARYLAND 20879  
(301)-670-0840  
PLAT 1  
88-104  
578-72





| ZONING STANDARDS:         |                     |              |
|---------------------------|---------------------|--------------|
| ZONE: R-200               | Req.                | Prov.        |
| Lot Size                  | 20,000 sf           | 123,748 sf   |
| Front Setback             | 40'                 | 40' or more  |
| Sideyards                 | 12' min., 25' total | 12' or more  |
| Rearyard                  | 30'                 | 30' or more  |
| Building Height           | 50' Max.            | 50' or less  |
| Lot Coverage              | 25% Max.            | 2.5%         |
| Lot Width @ Building Line | 100'                | 100' or more |
| Frontage                  | 25'                 | 25'          |

- NOTES:**
1. AREA OF PROPERTY - 2.84 AC
  2. AREA SHOWN TO BE DEDICATED TO PUBLIC USE - 0.0 AC
  3. EXISTING ZONING: R-200
  4. METHOD OF DEVELOPMENT PROPOSED - STANDARD
  5. NUMBER OF LOTS SHOWN - 1
  6. EXISTING SEWER & WATER SERVICE CATEGORIES: S-6, W-6
  7. LOCATED IN UPPER ROCK CREEK WATERSHED
  8. PROPERTY IS LOCATED WITHIN UPPER ROCK CREEK SPA
  9. PROPERTY LOCATED ON TAX MAP GV41: WSSC GRID 229NW07
  10. SITE TO BE SERVED BY: VERIZON, PERCO & WASHINGTON GAS (AS AVAILABLE)

"The building footprints shown on the preliminary plan are illustrative. Final building locations will be determined during the building permit process. Please refer to the zoning data table for development standards such as, setbacks, building restriction lines and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval."

**SEWAGE DISPOSAL SYSTEM DESIGN DATA:**

| LOT # | Bedrms. | Test Site | Time (min.) | Depth    | Test Site | Time (min.) | Depth      | Test Site | Time (min.) | Depth | Area | In. Low | In. Full | In. Out | In. Bag | Length | Depth of Stone | Total Length | Usable Area |
|-------|---------|-----------|-------------|----------|-----------|-------------|------------|-----------|-------------|-------|------|---------|----------|---------|---------|--------|----------------|--------------|-------------|
| P833  | 4       | 100A      | 18          | 8' & 12' | 100B2     | 15          | 2.5' & 15' | -         | -           | -     | 17   | 591.1   | 578.3    | 578.0   | 288'    | 37.4"  | 938'           | 10,000 sq ft |             |

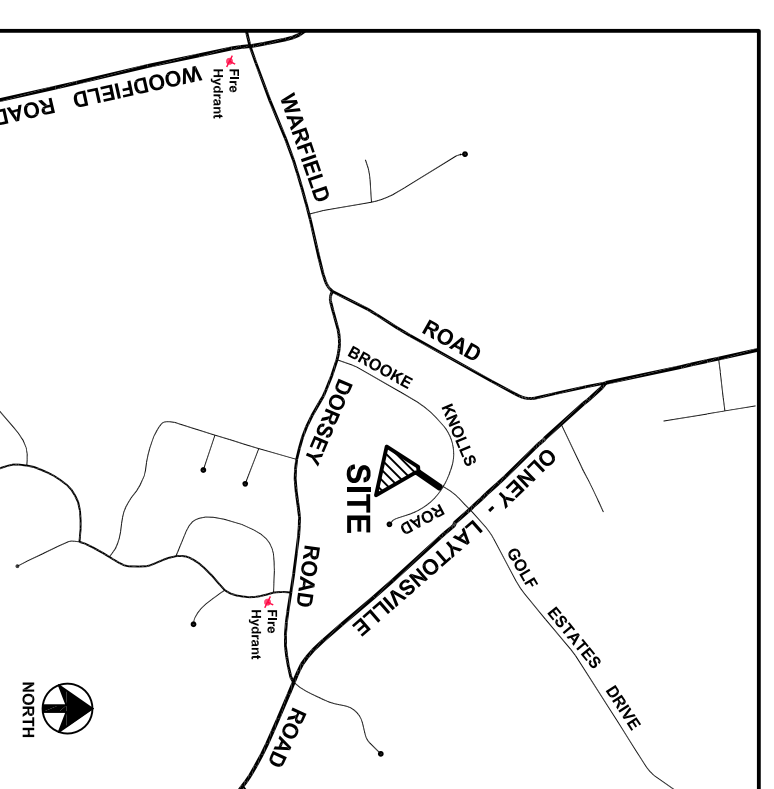
\*INITIAL AND FIRST RESERVE SYSTEM TO BE BUILT WITH 3' OF STONE. 2ND AND 3RD RESERVE SYSTEMS TO BE BUILT WITH 4' OF STONE.

- NOTES:**
1. Test locations for "old" sites shown taken from County records for Barton Property (HD-85-3. Tests completed between March and September 1985. New test sites (100A, 100A2, 100B, OB-1) completed between April 2007 and April 2008.
  2. Property is in the Upper Rock Creek Watershed.
  3. Soil type on property - 2B (Glennid Silk Loam).
  4. Source of one-foot contour Interval topography: Thomas A. Maddox, Professional Land Surveyor 8933 Shady Grove Ct. Gaithersburg, MD 20877
  5. All known wells or septic systems within 100' are shown per approved plans or available records.

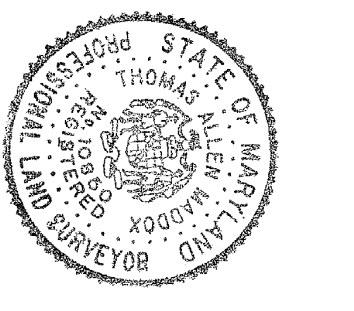
**LEGEND:**

- House Location
- Existing Contour
- BRL
- Limits of Disturbance
- Proposed Septic Area
- Proposed Well

VICINITY MAP  
SCALE: 1" = 2,000'



**BOUNDARY & TEST SITE CERTIFICATION:**  
I, the undersigned, being a duly Licensed Professional Land Surveyor, do hereby certify that the boundary and test site locations shown hereon are correct to my best knowledge based upon available records and visual observations. Test site locations shown were field surveyed.



Scale: 1" = 50'  
0' 50' 100' 200'

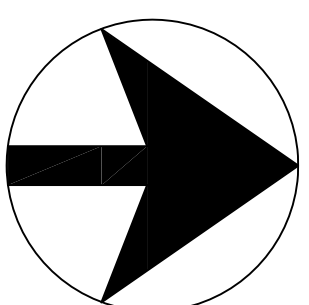
PREPARED FOR:  
Teresa & Mitra Ramson  
14636 Cambridge Circle  
Laurel, MD 20707  
301-538-8346

PRELIMINARY PLAN  
**BARTON PROPERTY**  
(Parcel 833 & Outlot C; Tax Map GV41)  
Montgomery County, Maryland



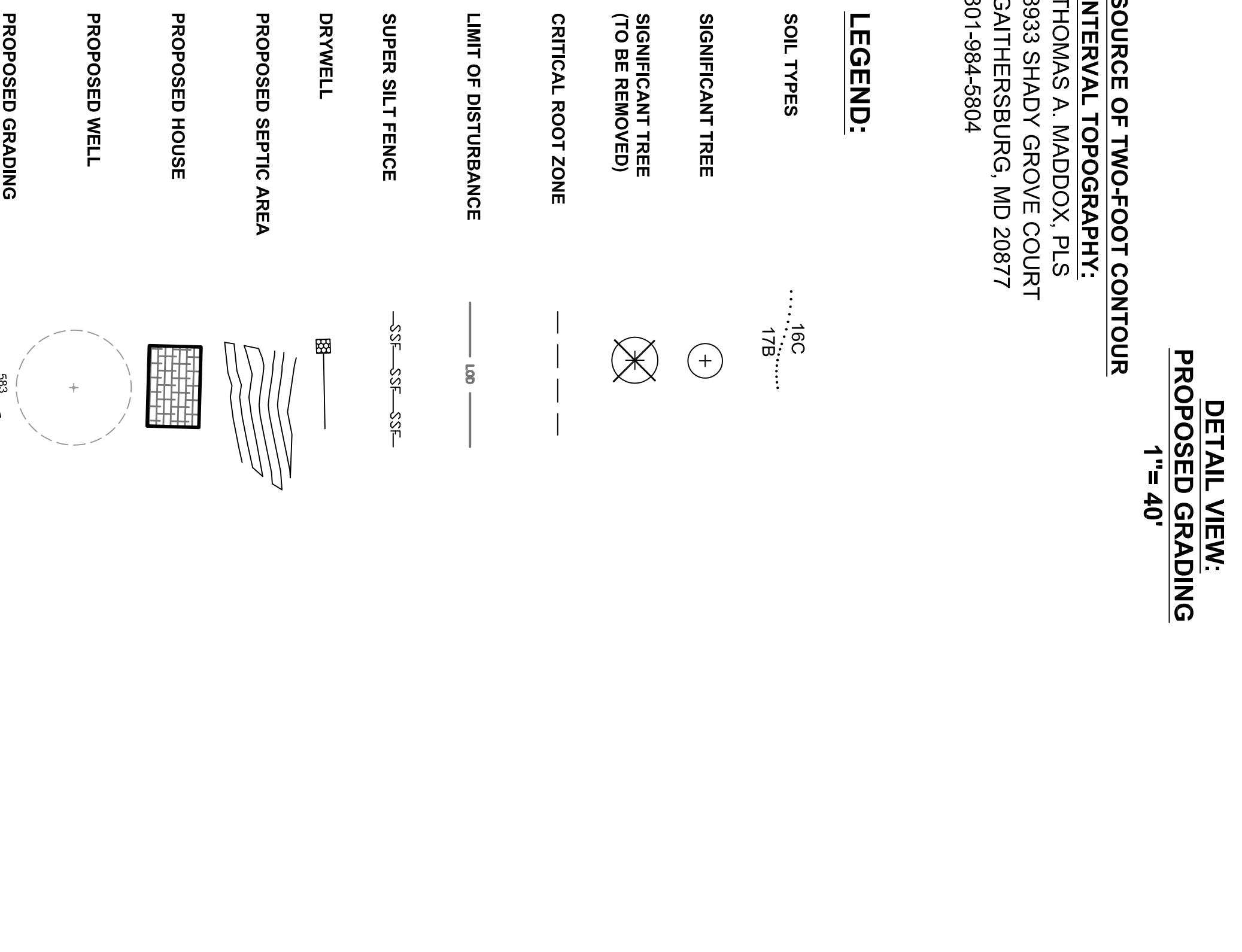
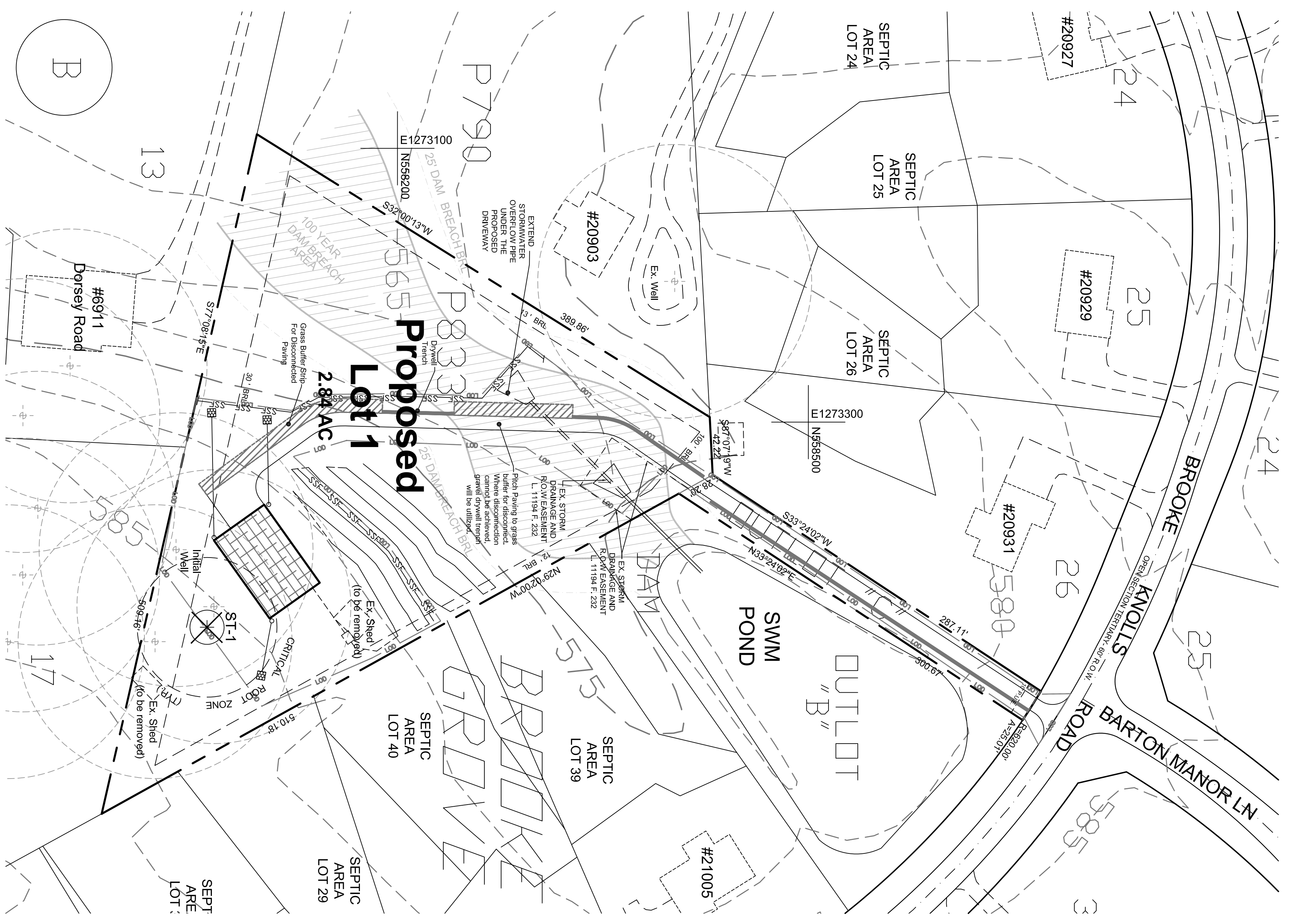
Benning & Associates, Inc.  
Land Planning Consultants  
8933 Shady Grove Court  
Gaithersburg, MD 20877  
(301)948-0240

date: 6/25/12  
scale: 1" = 50'



SHEET 1 OF 1  
3.28.2013





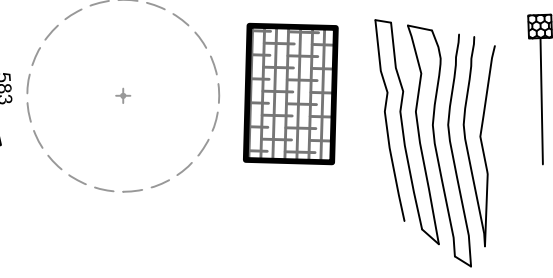
| AGE OF FOREST | AGE OF ROAD AND UTILITY E.O.W. REMAINING IN WOODS | AGE OF ROAD AND UTILITY E.O.W. EXISTING FOREST | AGE OF FOREST RETENTION | LAND USE CATEGORY | CONGESTION THRESHOLD | AGGREGATION THRESHOLD | FOREST WITHIN WETLANDS TO BE RETAINED | FOREST WITHIN WETLANDS TO BE CLEARED | FOREST WITHIN WETLANDS TO BE PLANTED | FOREST WITHIN FLOODPLAIN TO BE RETAINED | FOREST WITHIN FLOODPLAIN TO BE CLEARED | FOREST WITHIN FLOODPLAIN TO BE PLANTED | FOREST WITHIN STREAM BUFFER TO BE RETAINED | FOREST WITHIN STREAM BUFFER TO BE CLEARED | FOREST WITHIN PRIORITY AREAS TO BE RETAINED | FOREST WITHIN PRIORITY AREAS TO BE CLEARED | STREAM BUFFER LINEAR FEET | STREAM AVENUE WIDTH |
|---------------|---|--|-------------------------|-------------------|----------------------|-----------------------|---------------------------------------|--------------------------------------|--------------------------------------|---|--|--|--|---|---|--|---------------------------|---------------------|
| 2.84 AC       | 0.0 AC  | 0.0 AC   | 0.0 AC                  | RESIDENTIAL       | 20% = 0.57 AC        | 15% = 0.43 AC         | 0.0 AC                                | 0.0 AC                               | 0.0 AC                               | 0.0 AC                                  | 0.0 AC                                 | 0.0 AC                                 | 0.0 AC                                     | 0.0 AC                                    | 0.0 AC                                      | 0.0 AC                                     | 0'                        | 0'                  |

PRELIMINARY FOREST CONSERVATION PLAN

| TREE NUMBER | BOTANICAL NAME | COMMON NAME | SIZE(D.H.) | TREE CONDITION | COMMENTS  | STATUS |
|-------------|----------------|-------------|------------|----------------|---|--------|
| ST-1        | Juniper sp.    | Red Juniper | 34"        | Minor          | Remove tree, clear area for driveway, driveway to be paved, utility lines to be relocated, stream buffer to be planted. | Remove |

**SOURCE OF TWO-FOOT CONTOUR INTERPOL TOPOGRAPHY:**  
 THOMAS A. MADDOX, PLS  
 8933 SHADY GROVE COURT  
 GAITHERSBURG, MD 20877  
 301-984-5804

- LEGEND:**
- SOIL TYPES
  - SIGNIFICANT TREE
  - SIGNIFICANT TREE (TO BE REMOVED)
  - CRITICAL ROOT ZONE
  - LIMIT OF DISTURBANCE
  - SUPER SILT FENCE
  - DRYWELL
  - PROPOSED SEPTIC AREA
  - PROPOSED HOUSE
  - PROPOSED WELL
  - PROPOSED GRADING



**FOREST CONSERVATION WORKSHEET**  
 Barton Property

**NETTRACT AREA:**

|      |      |      |      |      |      |
|------|------|------|------|------|------|
| ARA  | MDR  | IDA  | HDR  | MPD  | GA   |
| 0.00 | 0.00 | 0.00 | 1.00 | 0.00 | 0.00 |

**EXISTING FOREST COVER:**

|   |      |
|---|------|
| L. Existing forest cover                        | 0.00 |
| J. Area of forest above afforestation threshold | 0.00 |
| K. Area of forest above conservation threshold  | 0.00 |

**BREAK EVEN POINT:**

|  |      |
|--|------|
| L. Forest retention above threshold with no mitigation | 0.00 |
| M. Clearing permitted without mitigation               | 0.00 |

**PROPOSED FOREST CLEARING:**

|  |      |
|--|------|
| N. Total area of forest to be retained | 0.00 |
| O. Total area of forest to be cleared  | 0.00 |

**PLANTING REQUIREMENTS:**

|   |      |
|---|------|
| P. Restoration for clearing above conservation threshold    | 0.00 |
| Q. Restoration for clearing below conservation threshold    | 0.00 |
| R. Credit for retention above conservation threshold        | 0.00 |
| S. Total afforestation required                             | 0.00 |
| T. Total afforestation required (may not exceed 20% of 'S') | 0.00 |
| U. Credit for landscaping (may not exceed 20% of 'S')       | 0.00 |
| V. Total restoration and afforestation required             | 0.43 |

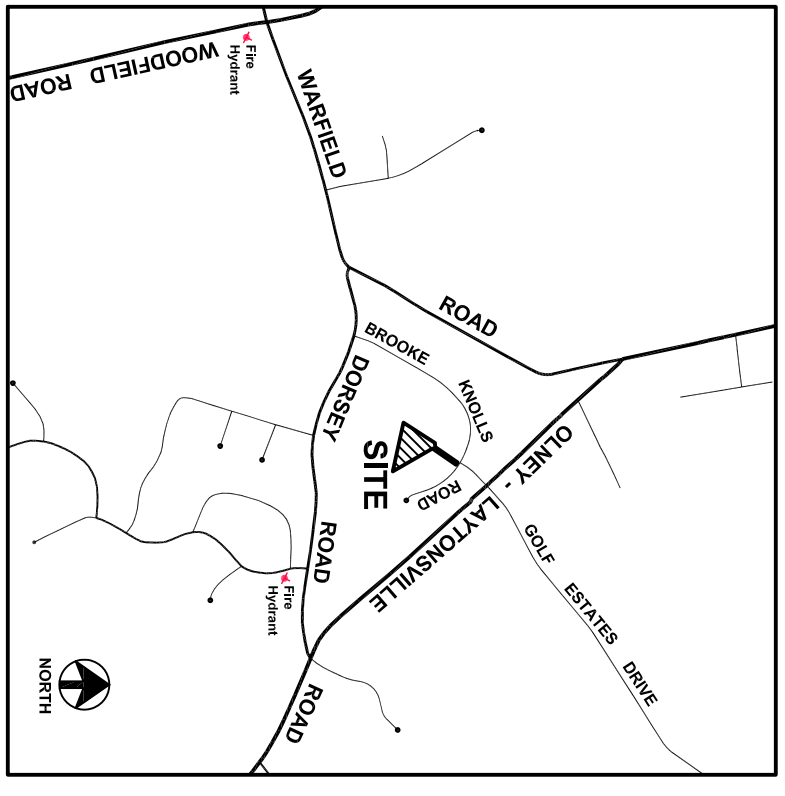
\* 0.43 acre afforestation to be met by off-site afforestation or by fee-in-lieu.

**LAND USE CATEGORY:** (from "Tree Technical Manual")

|      |      |      |      |      |      |
|------|------|------|------|------|------|
| ARA  | MDR  | IDA  | HDR  | MPD  | GA   |
| 0.00 | 0.00 | 0.00 | 1.00 | 0.00 | 0.00 |

1.5 x F = 0.43  
 0.20 x F = 0.57

PREPARED FOR:  
**Teresa & Mitra Ramson**  
 14636 Cambridge Circle  
 Laurel, MD 20707  
 301-538-8346



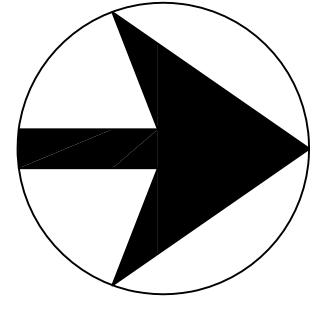
VICINITY MAP  
 SCALE: 1" = 2,000'

PRELIMINARY FOREST CONSERVATION PLAN  
**BARTON PROPERTY**  
 (Parcel 833 & Outlot C; Tax Map GV41)  
 Montgomery County, Maryland



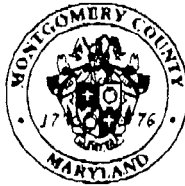
Benning & Associates, Inc.  
 Land Planning Consultants  
 8933 Shady Grove Court  
 Gaithersburg, MD 20877  
 (301)948-0240

date: 06/25/12  
 scale: 1" = 50'



Sheet 1 of 1  
 Revisions  
 1/15/2013





ATTACHMENT D

## DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

Diane R. Schwartz Jones  
Director

## MEMORANDUM

March 14, 2013

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

FROM: Diane R. Schwartz Jones, Director  
Department of Permitting Services

SUBJECT: Status of Preliminary Plan: # 120110210

Barton Property, Lot 1

This is to notify you that the Well & Septic Section of MCDPS approved the plan received in this office on March 8, 2013.

Approved with the following reservations:

1. The record plat must be at the same scale as the preliminary plan, or submit an enlargement of the plat to match the preliminary plan.
2. The proposed house must utilize an approved septic treatment system with Best Available Technology as approved by the State of MD.

If you have any questions, contact Gene von Gunten at (240) 777-6319.

cc: Surveyor  
File





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## FIRE MARSHAL COMMENTS

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ATTACHMENT E

**DATE:** 12-Feb-13  
**TO:** Joshua Maisel - benninglandplan@aol.com  
Benning and Associates  
**FROM:** Marie LaBaw  
**RE:** Barton Property  
120110210

---

### PLAN APPROVED

1. Review based only upon information contained on the plan submitted **12-Feb-13** .Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.



## DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

April 25, 2013

Diane R. Schwartz Jones  
Director

Mr. Patrick Perry  
Benning and Associates, Inc.  
8933 Shady Grove Court  
Gaithersburg, Maryland 20877

Re: **Preliminary/Final** Water Quality Plan  
for Barton Property  
SM File #: 243550  
Tract Size/Zone: 2.84 acres/ R-200  
Watershed: Upper Rock Creek

**SPECIAL PROTECTION AREA**

Dear Mr. Perry:

Based on a review by the Department of Permitting Services, the Preliminary/Final Water Quality Plan (P/FWQP) for the above mentioned site is conditionally approved. This approval is for the elements of the Preliminary/Final Water Quality Plan of which DPS has lead agency responsibility, and does not include limits on imperviousness or stream buffer encroachments.

**Site Description:** This plan is for a single family residence on 2.84 acres of land located off of Brooke Knolls Road. This is located within Upper Rock Creek Special Protection Area.

**Stormwater Management and Sediment Control:** The stormwater management concept proposes to meet the required stormwater management goals via the use of dry wells, gravel trench drywells and non-rooftop disconnections. Sediment control will be provided by the use of super silt fence with immediate stabilization emphasized.

**Performance Goals:** The performance goals that were established at the pre-application meeting still apply. The performance goals are as follows:

1. Minimize storm flow run off increases.
2. Minimize sediment loading.
3. Minimize land disturbances with an emphasis on immediate stabilization.

**Monitoring:** Monitoring is not required for the proposed property improvements.

**Conditions of Approval:** The following items will need to be addressed during the detailed sediment control/stormwater management plan stage. This list may not be all inclusive and may change based on available information at the time of the subsequent plan reviews:



Patrick Perry  
April 25, 2013  
Page 2

1. It appears that additional gravel trench dry wells will be needed to treat the southern most driveway area where non-rooftop disconnection is proposed due to the steepness of the adjacent slope.
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. Prior to permanent vegetative stabilization, all disturbed areas must be topsoiled per the latest Montgomery County Standards and Specifications for Topsoiling.

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 Leo Galanko at (240) 777-6242.

Sincerely,

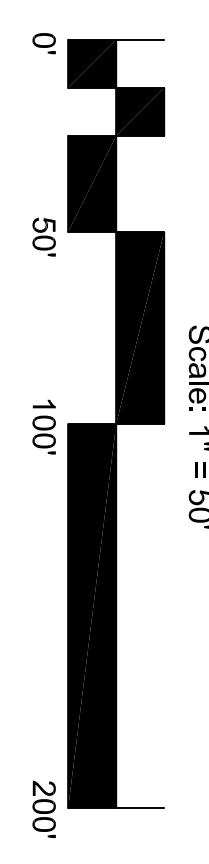
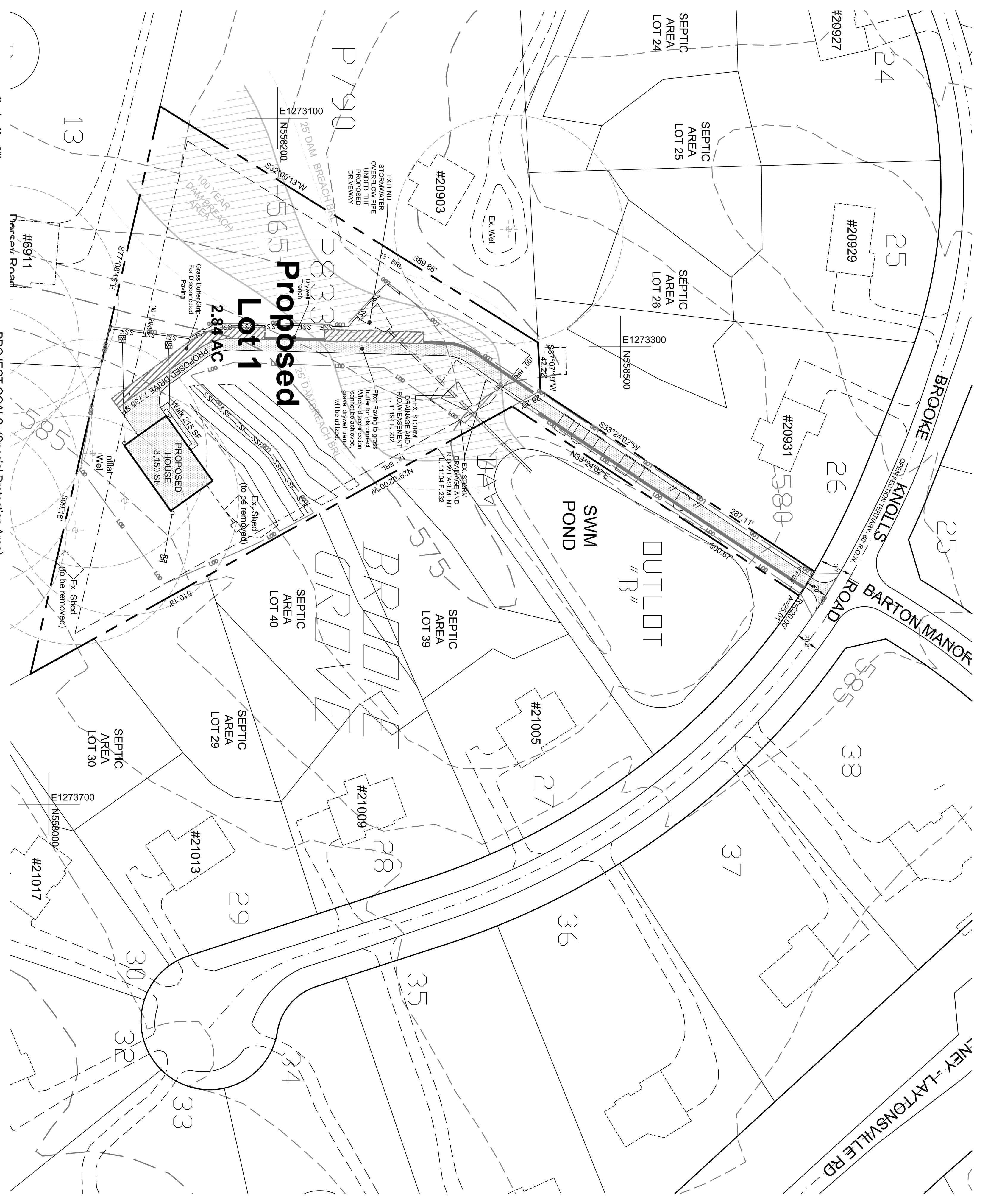


Mark C. Etheridge, Manager  
Water Resources Section  
Division of Land Development Services

RRB:img:CN243550

cc: M. Kishter (MNCPPC-ED)  
K. Van Ness (MCDEP)  
L. Galanko  
SM File # 243550

ESD: 2.84 ac.



**PROJECT GOALS: (Special Protection Area)**

- 1) Minimize Storm Flow Runoff Increases
- 2) Minimize Sediment Loading:

Match have super fill areas of minimum double rows of super fill fence may be needed for roadcutters. \*Trench all areas that are to be stabilized by vegetation. It is very important to minimize disturbed areas and immediately stabilize the site.

**Additional Comments:**

There is not an impervious cap requirement because of the proposed on-site septic system but the impervious area should be minimized.

A MCDPS downstream notice is not required to be sent to any adjacent property owners.

A 100-year floodplain analysis will not be required because the drainage area to the site is less than 30 acres.

DEP is not monitoring anywhere the property and stream monitoring is not required for the property.

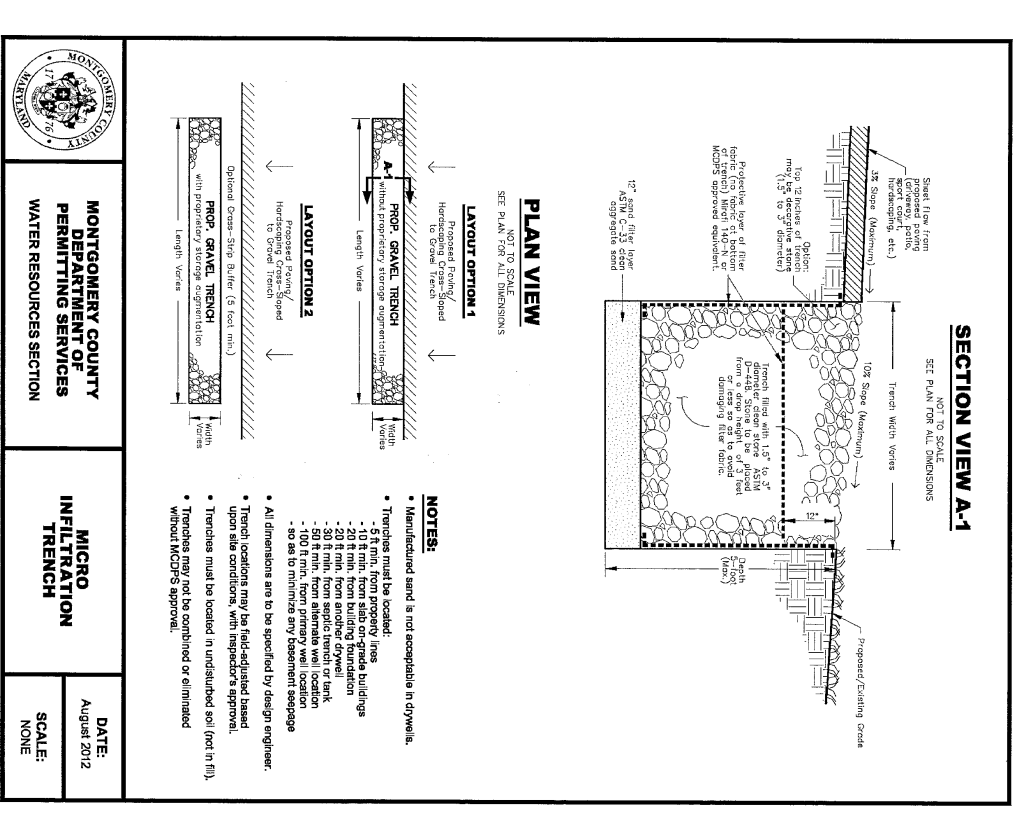
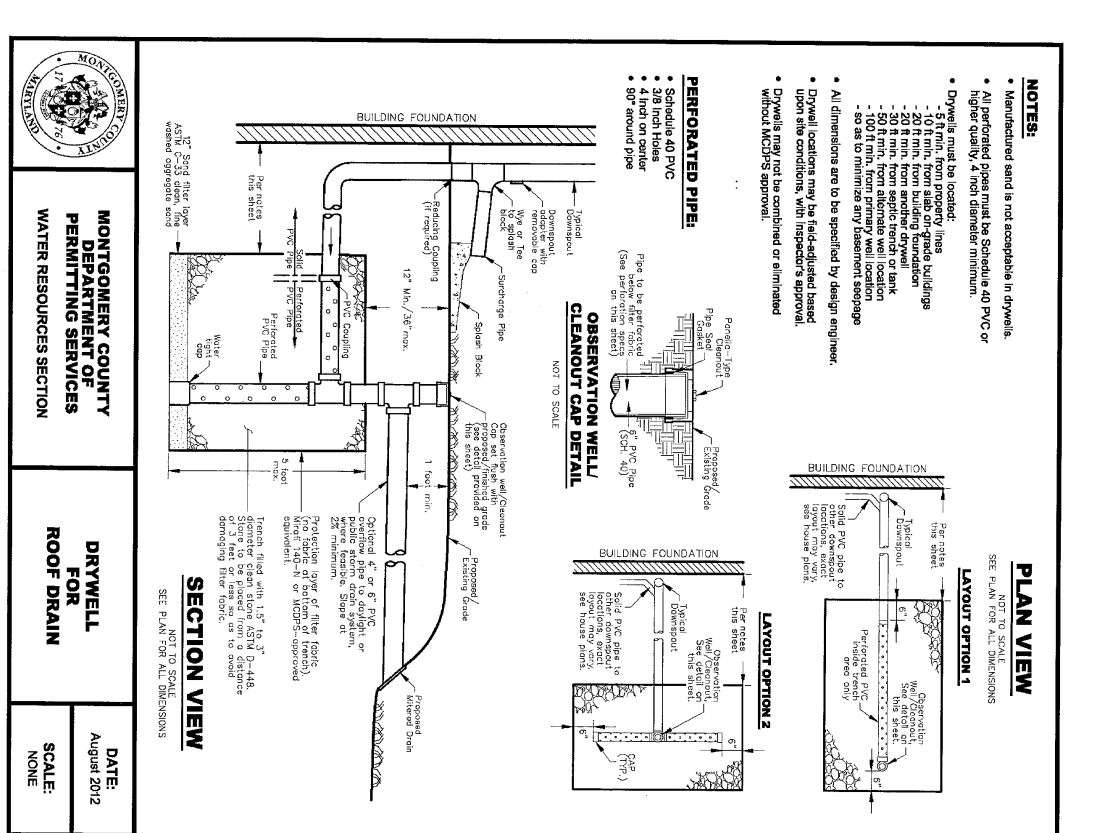
**LEGEND:**

- Proposed House
- Existing Contour
- BRL
- Limits of Disturbance
- Super Silt Fence
- Drywell
- Proposed Septic Area
- Drywell Trench
- Grass Buffer
- Proposed Well
- Impervious Surfaces

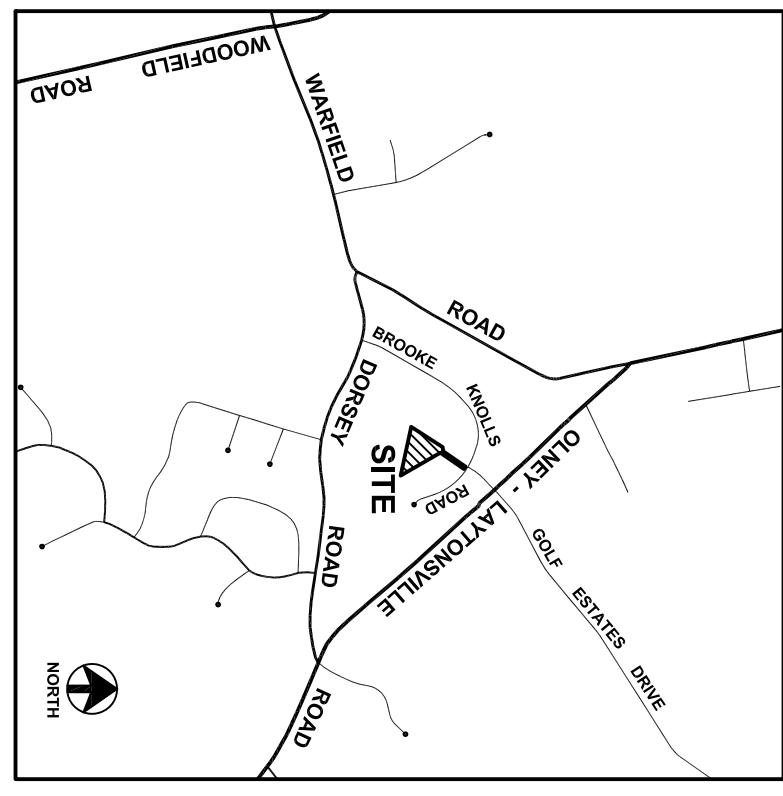
**Impervious Area Chart**

|                                       |                         |
|---------------------------------------|-------------------------|
| Proposed Impervious Area              | Impervious Area (sf)    |
| Proposed House                        | 3,150 sf                |
| Proposed Lead Walk                    | 215 sf                  |
| Proposed Driveway                     | 7,735 sf                |
| <b>Total Proposed Impervious Area</b> | <b>11,100 sf</b>        |
| <b>Gross Tract Area</b>               | <b>Area (sf)</b>        |
| Property                              | (2.84 Acres) 123,710 sf |
| L.O.W.                                | 500 sf                  |
| <b>Total Area</b>                     | <b>124,210 sf</b>       |

**Site Impervious for Proposed Subdivision**  
 11,100 sf / 124,210 sf = 8.9%  
 \*\* Impervious coverage subject to change at time of building permit / construction stage.



**VICINITY MAP**  
 1" = 200'



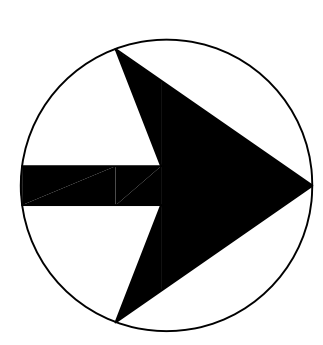
PREPARED FOR:  
 Teresa & Mitra Ramson  
 14636 Cambridge Circle  
 Laurel, MD 20707  
 301-538-8346

PRELIMINARY WATER QUALITY PLAN/  
 FINAL WATER QUALITY PLAN  
**BARTON PROPERTY**  
 (Parcel 833 & Outlot C; Tax Map GV41)  
 Montgomery County, Maryland



Benning & Associates, Inc.  
 Land Planning Consultants  
 8933 Shady Grove Court  
 Gaithersburg, MD 20877  
 (301)948-0240

date: 06/11/12  
 scale: 1" = 50'



Sheet 1 of 1

|           |           |
|-----------|-----------|
| Revisions | 1/15/2013 |
|           | 3/15/2013 |

# Benning & Associates, Inc.

LAND PLANNING CONSULTANTS  
 8933 Shady Grove Court  
 Gaithersburg, MD 20877  
 Phone: 301-948-0240  
 Fax: 301-948-0241

**To:** M-NCPPC / Area 3 Plan Reviewer  
**From:** Joshua O. Maisel  
**Date:** May 22, 2012  
**Re:** Barton Property (M-NCPPC #1120110210)  
 Request for Specimen Tree Variance

---

Dear Area 3 Plan Reviewer,

In accordance with Chapter 22A-21 of the Montgomery County Code, I am writing to request a variance to allow for the removal of 1 specimen tree. Below is a table identifying the tree associated with this request:

**SPECIMEN TREE CHART**

| TREE NUMBER | BOTANICAL NAME | COMMON NAME  | SIZE (D.B.H.) | TREE CONDITION | % CRZ IMPACTED | STATUS        | REASON FOR IMPACTS  |
|-------------|----------------|--------------|---------------|----------------|----------------|---------------|---|
| ST-1        | Juglans nigra  | Black Walnut | 34.0"         | Moderate       | 100%           | To be removed | Impacts result from house construction, site grading, well installation and construction of stormwater control measures |

## **Project Description**

The subject property consists of approximately 2.84 acres and is located at the intersection of Barton Manor Lane and Brooke Knolls Road in Laytonsville, Maryland. The property is currently unimproved and consists of an open grass field. The owners of the property, Teresa & Mitra Ramson, have applied for a Preliminary Plan of Subdivision to convert the property into a buildable lot.

Adjacent to the property is a stormwater management pond. An associated outfall from the pond is located within a storm drain easement on the subject property. This outfall releases stormwater from the pond to a natural swale that runs the entire length of the subject site. Because of these conditions, development at the site must occur on the eastern portion of the property. The Black Walnut exists in the eastern part of the site and will be impacted by the planned development. Due to the location of the tree and likely construction impacts, it does not appear practical to save the tree. For these reasons, a variance from the Forest Conservation Law is requested to allow for removal of the Black Walnut.

**Requirements for Justification of Variance:**

Section 22A-21(b) *Application requirements* states the applicant must:

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

There are special conditions unique to the property which would cause unwarranted hardship should the variance not be approved. As previously noted, any development on the property must be confined to the eastern portion of the property. Public sewer and water is not available to this property so a significant portion of the usable area must be set aside for a well and sewage disposal system. Only a small portion of the site (approximately 13,000 sf) is available for the planned residence. Since the specimen tree is located in the middle of this area, significant impacts from construction are unavoidable. If this variance is not approved, use of this site would be severely limited.

Should this variance not be approved, the property owner would be deprived of rights commonly enjoyed by others in similar circumstances. This project has been designed to meet or exceed all development standards of the R-200 zone. Other requirements such as on-site sewage disposal, stormwater management and forest conservation will be met. Denial of the variance will severely limit the use of the site which is zoned for single-family residential development.

The granting of a variance will not result in a violation of State water quality standards or any measurable degradation in water quality. The removal of one specimen trees will not result in any measurable degradation of water quality as there are no environmentally sensitive features on or near the property. Furthermore, the property is located within the Upper Rock Creek Special Protection Area which requires additional stormwater management measures and approval of a Water Quality Plan.

Other information in support of the variance request is provided in the project description part of this letter.

**In addition, Section 22A-21(d) indicates 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.

This request for a variance will not confer a special privilege that would be denied to other applicants. The R-200 zone permits subdivision of land to create residential lots. No waivers of any zoning, development, or forest conservation standard are requested.

This variance request is not based on conditions and circumstances which are the result of actions by the applicant. The applicant has prepared and submitted plans which meet all applicable

development standards and requirements. The variance request is based upon plans which meet all requirements but result in impacts to a specimen tree. The variance request is not based upon any actions by the applicant.

The request for a variance does not arise from a condition relating to land or building use, either permitted or nonconforming on a neighboring property. The adjacent properties that are zoned for residential use are not a contributing factor for the variance request.

As previously mentioned, granting this variance request will not violate State water quality standards or cause measurable degradation in water quality.

For the above reasons, we respectfully request approval of this request for a variance from provisions of Section 22A-21 of the Montgomery County Code. If you have any questions or concerns regarding this request, please do not hesitate to contact me.

Sincerely,



Joshua O. Maisel, RLA  
ISA Certified Arborist # MA-4514A  
PNW/ISA Certified Tree Risk Assessor # CTRA 918



## DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett  
County Executive

Robert G. Hoyt  
Director

March 26, 2013

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

RE: Barton Property, DAIC 120110210, NRI/FSD application accepted on 8/16/2012

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

# Resubdivision Criteria: Brooke Grove

## Parcel 833 & Outlot C

ATTACHMENT K

| Lot #    | Frontage     | Alignment   | Size (sf)        | Shape       | Width (ft)      | Area (sf)        | Suitability  |
|----------|--------------|-------------|------------------|-------------|-----------------|------------------|--------------|
| <b>1</b> | <b>25.01</b> | <b>Flag</b> | <b>123,748</b>   | <b>Flag</b> | <b>100</b>      | <b>77,868</b>    | <b>R-200</b> |
|          |              |             |                  |             |                 |                  |              |
| 13(B)    | 25.68        | Flag        | 139,216          | Flag        | 100             | 106,377          | R-200        |
| 17(B)    | 25.1         | Flag        | 108,406          | Flag        | 265.6           | 74,066           | R-200        |
| 22(A)    | 304.7        | Radial      | 69,538           | Regular     | 313.4           | 43,187           | R-200        |
| 23(A)    | 176.6        | Radial      | 73,686           | Regular     | 186             | 48,922           | R-200        |
| 24(A)    | 160.5        | Rectangular | 65,337           | Regular     | 161.5           | 46,413           | R-200        |
| 24(B)    | 322.4        | Radial      | 78,686           | Regular     | 300.1           | 56,400           | R-200        |
| 25(A)    | 369.8        | Radial      | 52,546           | Regular     | 294.2           | 26,448           | R-200        |
| 25(B)    | 161.9        | Radial      | 47,528           | Regular     | 156.3           | 30,862           | R-200        |
| 26(B)    | 218.8        | Radial      | 44,704           | Wedge       | 200.2           | 27,926           | R-200        |
| 27(B)    | 168.3        | Radial      | 44,855           | Regular     | 159.6           | 28,538           | R-200        |
| 28(B)    | 160          | Rectangular | 46,818           | Regular     | 156.1           | 30,115           | R-200        |
| 29(B)    | 137.1        | Rectangular | 53,093           | Regular     | 149.3           | 34,934           | R-200        |
| 30(B)    | 37.9         | Radial      | 44,894           | Irregular   | 63.4            | 29,366           | R-200        |
| 32(B)    | 66.4         | Radial      | 63,160           | Wedge       | 106.1           | 47,404           | R-200        |
| 33(B)    | 60.1         | Radial      | 61,001           | Wedge       | 104.4           | 37,562           | R-200        |
| 34(B)    | 153          | Radial      | 57,393           | Regular     | 138.2           | 36,908           | R-200        |
| 35(B)    | 139.9        | Rectangular | 49,683           | Regular     | 143.6           | 31,967           | R-200        |
| 36(B)    | 120.5        | Radial      | 40,719           | Regular     | 128             | 24,237           | R-200        |
| 37(B)    | 140.2        | Radial      | 36,623           | Regular     | 146.9           | 21,765           | R-200        |
| 38(B)    | 415.2        | Radial      | 45,723           | Regular     | 242.9           | 23,343           | R-200        |
|          |              |             |                  |             |                 |                  |              |
| Range    | 25.1 - 415.2 |             | 36,623 - 139,216 |             | 100.0' - 313.4' | 21,765 - 106,377 |              |
| Average  | 168.20       |             | 61,180           |             | 175.79          | 40,337           |              |



DEPARTMENT OF TRANSPORTATION

Isiah Leggett  
County Executive

Arthur Holmes, Jr.  
Director

July 11, 2013

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

RE: Preliminary Plan #120110210  
Barton Property

*Ben:*  
Dear Mr. Berbert:

We have completed our review of the preliminary plan dated June 25, 2012. This plan was reviewed by the Development Review Committee at its meeting on August 13, 2012. 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. Wells and septic systems cannot be located within the right of way nor slope or drainage easements.
2. An amended storm drain capacity study was submitted to our office on June 9, 2013. The amended study indicates the downstream crossing of Dorsey Road (with a 24 inch corrugated metal pipe) is currently clogged and undersized. We have sent a request to flush the existing pipe to clear the blockage. Due to the limited size of this plan with respect to the overall drainage area to that culvert, we will not require this applicant to upgrade that crossing.
3. The Sight Distances Evaluation Certification Form includes a note indicating the need to trim tree on either side of the existing driveway. It is not clear (from that note) whether the existing visibility is 300 feet – or – whether tree trimming is needed to achieve that indicated distance. Since Brooke Knoll Road is classified as a secondary roadway (per the right-of-way dedication on record plat no. 17715), only 200' feet of visibility is needed at that driveway. Prior to approval of the record plat, the consultant should submit an updated Sight Distances Evaluation Certification Form that certifies satisfaction of the 200 foot visibility requirement.
4. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.

**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

Mr. Benjamin Berbert  
Preliminary Plan No. 120110210, Barton Property  
July 11, 2013  
Page 2

5. If the proposed development will alter any existing street lights, signing, and/or pavement markings, please contact Mr. Dan Sanayi of our Traffic Engineering Design and Operations Section at (240) 777-2190 for proper executing procedures. All costs associated with such relocations shall be the responsibility of the applicant.
6. 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. Relocate the existing driveway apron to be centered on the panhandle leading to Brooke Knoll Road. The wings of the relocated apron should not extend beyond the common property line extended into the right-of-way; if they do, the applicant will need to obtain consent from the adjacent property owner(s).

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 Engineer for this project, at [david.adams@montgomerycountymd.gov](mailto:david.adams@montgomerycountymd.gov) or (240) 777-2197.

Sincerely,



Gregory M. Leck, Manager  
Development Review Team

m:/correspondence/FY14/Traffic/Active/120110210, Barton Property, MCDOT plan review comments ltr.doc

Enclosure

cc: Teresa & Mitra Ramson; Applicant  
Joshua O. Maisel; Benning & Associates, Inc.  
Patrick Perry; Benning & Associates, Inc.  
Ki Kim; M-NCPPC Area 3  
Cathy Conlon; M-NCPPC DARC

cc-e: Sam Farhadi; MCDPS RWPR  
Henry Emery; MCDPS RWPR  
Keith Compton; MCDOT DHS  
David Adams; MCDOT DTEO