



**Alvermar Woods Lot 16, Preliminary Plan Amendment No. 11999034E**

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Rich Weaver, Planner Supervisor, [Richard.Weaver@montgomeryplanning.org](mailto:Richard.Weaver@montgomeryplanning.org), 301-495-4544  
Kip Reynolds, Chief Area 3, [Kipling.Reynolds@montgomeryplanning.org](mailto:Kipling.Reynolds@montgomeryplanning.org), 301-495-4575

**Staff Report Date: 10-30-15**

**Description**

**Alvermar Woods Lot 16: Preliminary Plan Amendment**

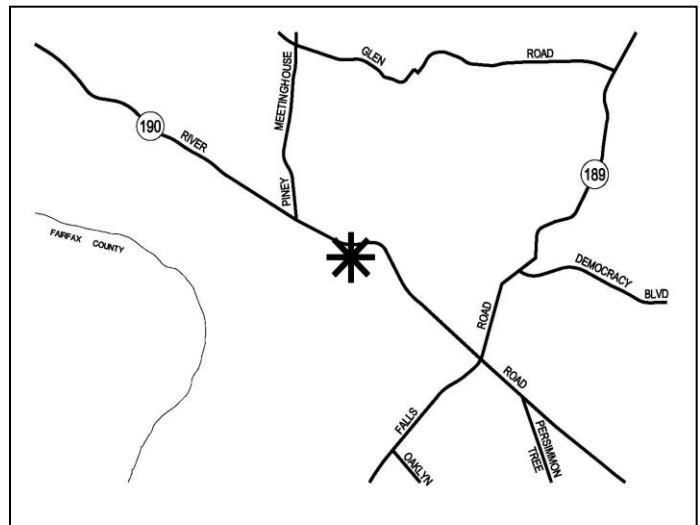
Preliminary Plan Amendment 11999034E – To amend the Forest Conservation Plan to remove 0.30 acres of Category I conservation easement and mitigate offsite. Property is 2.0 acres; RE-2-Zoned; located at 10420 Riverwood Drive, at the intersection of River Road and Riverwood Drive, Potomac, within the 2002 Potomac Master Plan Area.

**Staff Recommendation:** Approval with conditions

**Applicant:** Mehdi Mirzaie

**Subject Property:** Alvermar Woods, Lot 16 (10420 Riverwood Drive)

**Review Basis:** Chapter 22A



**Summary**

- The previous Limited Amendment to the Preliminary Plan 11999034D was approved by the Planning Board on December 12, 2014 removing all the Category I conservation easements on Lot 17 and 1,008 square feet of Category I conservation easements on Lot 16; leaving two small disconnected easements on Lot 16.
- The sole purpose of this amendment is the removal of two isolated Category I conservation easements that have a combined size of 0.30 acres (13,442 square feet). No other changes are proposed to the Preliminary Plan.
- Mitigation for removal of easement: Purchase of 26,884 square feet (0.6 acres) mitigation credit at an offsite Forest Conservation Mitigation Bank.

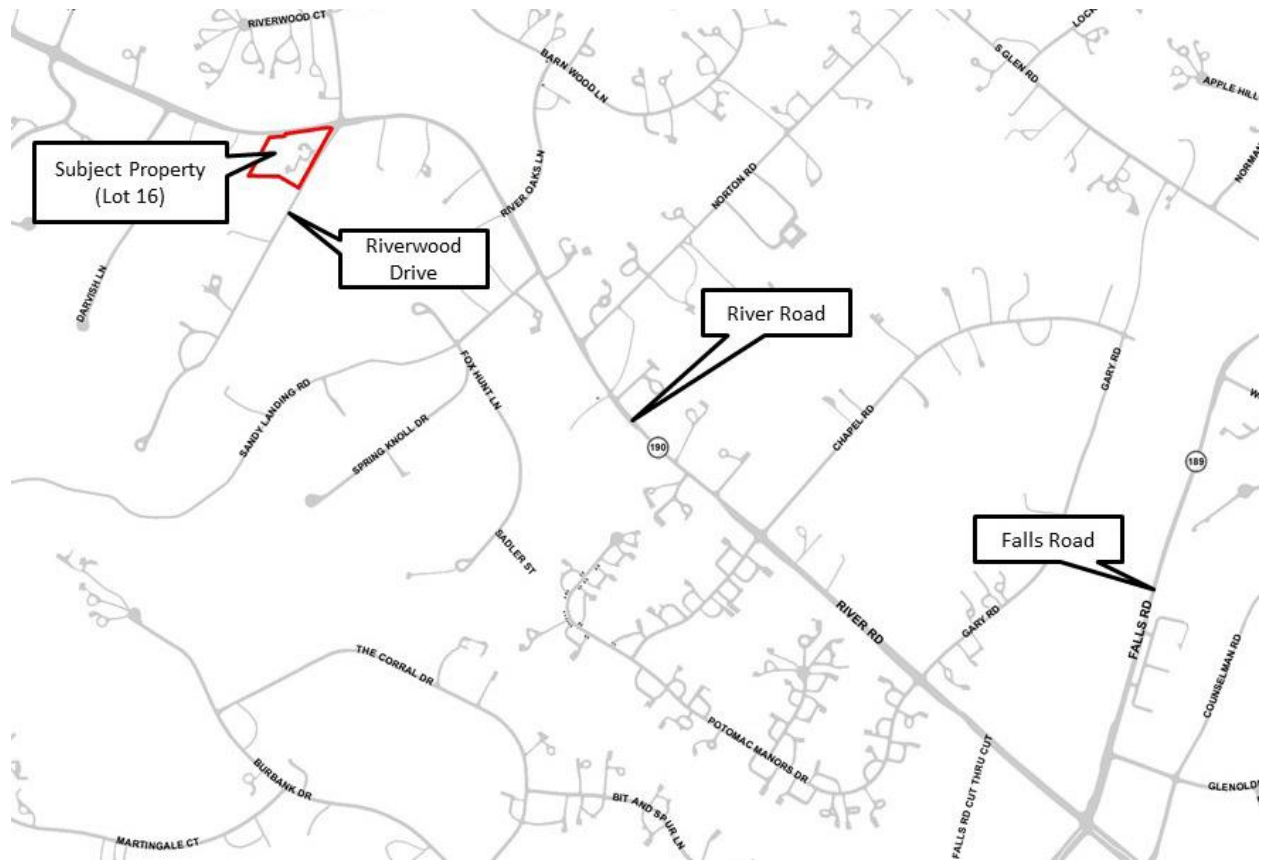
**STAFF RECOMMENDATION:** Approval of the Limited Amendment to the Preliminary Plan and associated Final Forest Conservation Plan, subject to the following conditions:

1. The Applicant must submit a complete record plat application within ninety (90) days of the mailing of the Planning Board Resolution approving the limited amendment to the Preliminary Plan that removes the entire Category I conservation easement. The existing conservation easement remains in full force and effect until the record plat is recorded in the Montgomery County Land Records by the Applicant.
2. The Applicant must submit a Certificate of Compliance to use an M-NCPPC approved offsite forest mitigation bank within ninety (90) days of the mailing of the Planning Board Resolution approving 11999034E. The Certificate of Compliance must provide 0.60 acres (26,884 square feet) of mitigation credit for the removal of 0.30 acres (13,442 square feet) of Category I conservation easement taken offsite.
3. All other conditions of Preliminary Plan No. 119990340 and Forest Conservation Plan No. 119990340 that were not modified herein, as contained in the Planning Board's Opinion dated February 4, 1999, remain in full force and effect.

#### **BACKGROUND**

The Montgomery County Planning Board approved Preliminary Plan 119990340 "Alvermar Woods", on January 28, 1999 for 2 lots (Lots 16 and 17) on 4.17-acres of land in the RE-2 Zone, located in the southwest corner of the intersection of River Road and Riverwood Drive . That application was subject to the Forest Conservation Law (Chapter 22A of the County Code) at the time of approval; therefore, conservation easements were placed on both of the approved lots to meet the requirements of the Law. The original approved Forest Conservation Plan ("FCP") for preliminary plan 119990340 showed 1.61 acres of existing forest on the 4.17 acre property, with 1.43 acres of forest retained, and 0.18 acres of forest cleared. Development of the two lots did not generate a planting requirement due to the amount of forest retained on the properties. The approved FCP showed 0.33 acres on Lot 16 and 1.1 acres on Lot 17 of retained forest in easement.

The Planning Board approved Preliminary Plan amendment 11999034D on December 10, 2014, with Resolution MCPB No. 14-117. This amendment removed all Category I conservation easements from Lot 17 and 1,008 square feet of Category I conservation easement from Lot 16. This left Lot 16 with approximately 0.30 acres of Category I conservation easement onsite.

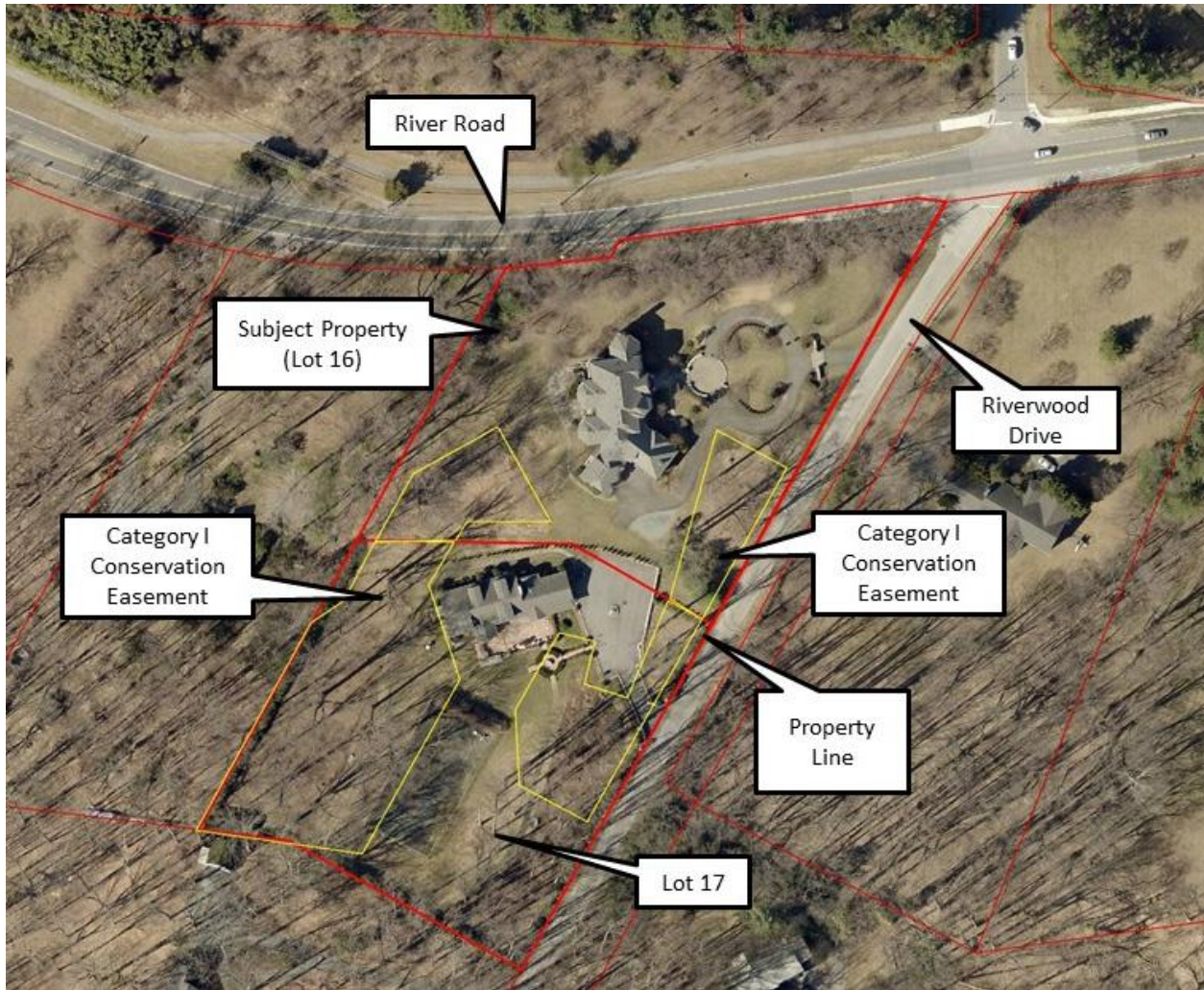


**Figure 1: Vicinity Map**

**SITE DESCRIPTION**

Lot 16 (“Property” or “Subject Property”) is located at 10420 Riverwood Drive, 390 feet south of River Road in the 2002 Potomac Subregion Master Plan area and contains a single family residence. The Property is relatively level and has no streams, wetlands, floodplains or buffers on site.

The Property is located within the Potomac River Direct watershed, which has a Use I-P designation. The Countywide Stream Protection Strategy rates the water quality in this watershed as having fair quality.



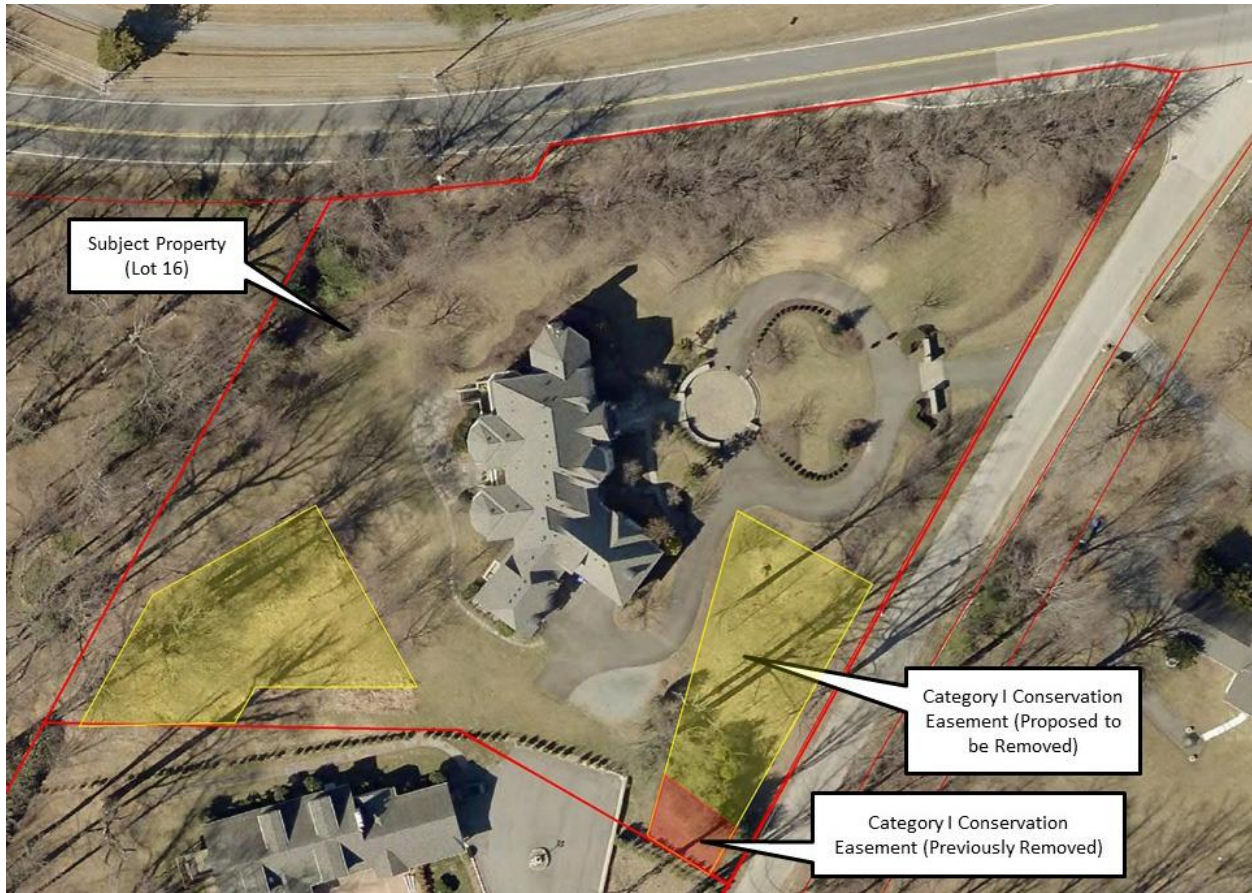
**Figure 2: Two Lot Alvermar Woods Subdivision approved by Preliminary Plan 119990340**





**Figure 3: Easement Removed by Amendment 11999034D**





**Figure 4: Alvermar Woods, Lot 17 (Subject Property)**

**PROPOSAL**

On August 14, 2015, the Applicant submitted the current application to amend Preliminary Plan and Preliminary Forest Conservation Plan #11994091E (“Application” or “Amendment”) to remove the Category I conservation easement on the Subject Property. This Amendment proposes to remove 13,442 square feet (0.30 Ac.) of Category I conservation easement which will be mitigated offsite by purchasing mitigation credit at a 2:1 ratio or 26,884 square feet (.60 acres) in an approved Forest Conservation Bank<sup>1</sup>. Because the Application proposes the removal of easement, it must be reviewed by the Planning Board.

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<sup>1</sup> The Lorax Forest, forest conservation bank, is within the same watershed as the Subject Property, Potomac River Direct Watershed.

## **PLANNING BOARD REVIEW AUTHORITY**

The Forest Conservation Law requires Planning Board action on certain types of modifications to an approved FCP. COMCOR 22A.00.01.13 A (2), the Forest Conservation Regulations, state:

*Major amendments which entail more than a total of 5,000 square feet of additional forest clearing must be approved by the Planning Board or the Planning Director (depending on who approved the original plan).*

This application proposes the removal of 13,442 square feet of additional forest; it is therefore considered a major amendment to the Forest Conservation Plan and requires Planning Board approval.

## **ANALYSIS AND FINDINGS**

Both lots comprising the Alvermar Woods subdivision originally had 1.61 acres of forest. The original approved FCP showed that 0.18 acres of forest was to be removed and that 1.43 acres of forest would be retained. Pursuant to COMCOR 22a-12(h)(2), a Category I conservation easement was placed on the forest as a long-term protection measure to protect the existing forest and ensure that it remains a naturally regenerating forest. The record plat shows the Category I conservation easement and references the standard Category I conservation easement language recorded in the land records at Liber 13178 folio 412.

The two remaining pieces of Category I conservation easement on Lot 16 no longer meet the size requirements to meet the definition of forest and Staff supports the removal of the easements with mitigation.

The Planning Board practice for the removal of conservation easement, as determined in November of 2008, is a minimum ratio of 2:1 planting requirement if taken offsite. However, if the easement can be rearranged onsite, the Board has found a ratio of 1:1 to be acceptable. Onsite mitigation is generally preferable to offsite mitigation because it provides in-kind and in-place benefits for what is being removed. However, because of the prior Planning Board decision to remove easements from the adjacent Lot 17 onsite, mitigation is not recommended for this Application.

Mitigation should be met offsite at a forest conservation mitigation bank. The Applicant proposes to purchase credits at a 2:1 planting requirement ratio; 26,884 square feet (0.6 acres) of mitigation credit in an approved Forest Conservation Bank, therefore, the proposal meets the Planning Board's practice for mitigation and will meet all of its mitigation requirements offsite.

Staff supports the easement removal, and the proposed mitigation.

## **NOTIFICATION and OUTREACH**

The Subject Property was signed with notification of the upcoming Preliminary Plan Limited Amendment prior to the August 14, 2015 submission. All adjoining and confronting property owners, civic associations, and other registered interested parties will be notified of the public hearing on the

Application. As of the date of this report, Staff has not received any calls or correspondence in regards to this Application.

Any comments received hereafter will be forwarded to the Board.

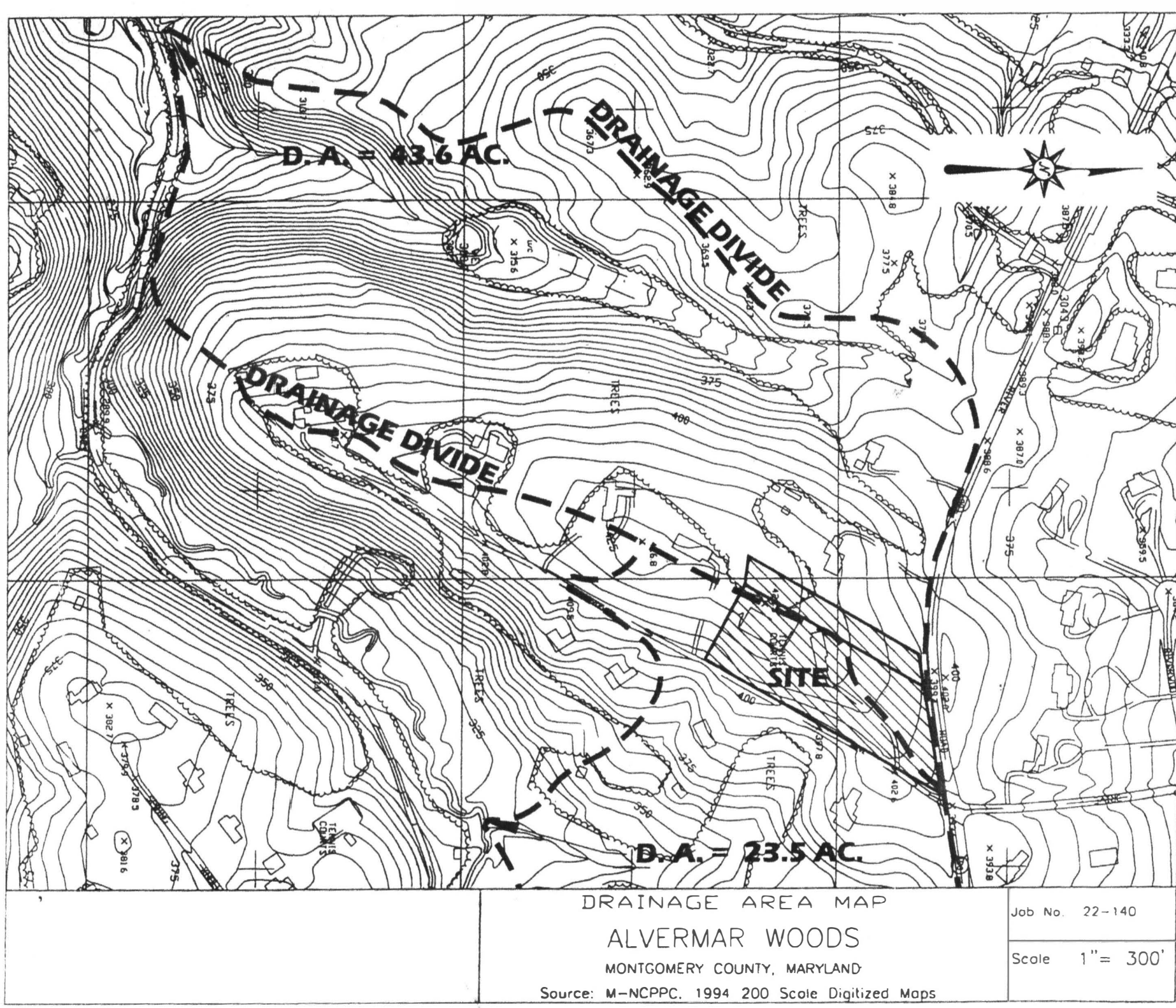
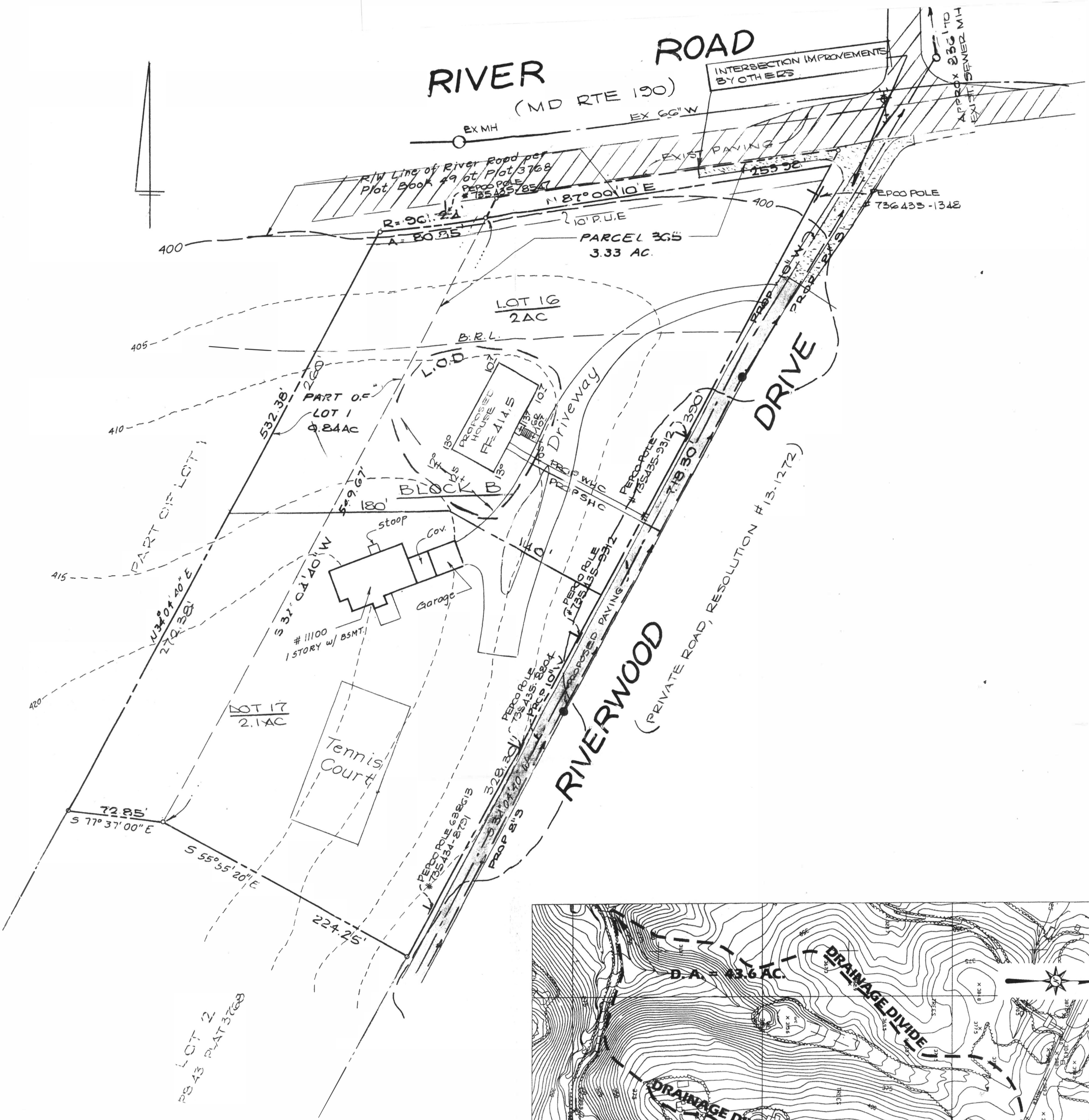
## **CONCLUSION**

Staff recommends that the Planning Board approve this Limited Preliminary Plan Amendment to revise the FCP with the conditions specified above.

### Attachments:

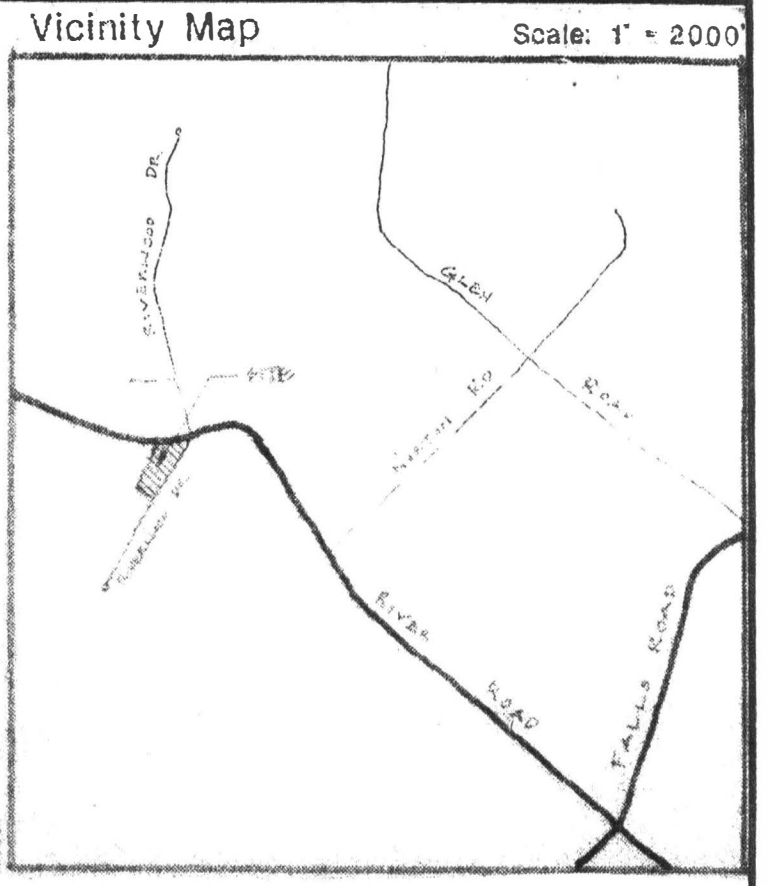
- A. Original Preliminary Plan No. 119990340
- B. Original Opinion for Preliminary Plan No. 119990340
- C. Original Plat Preliminary Plan No. 119990340 (Plat #21237)
- D. Resolution for Preliminary Plan Amendment No. 11999034D
- E. Proposed Plan





RESUBDIVISION COMPATIBILITY ANALYSIS  
PER SECTION 50.-29.(b)(2)

SUBDIVISION	BLOCK NO.	LOT NO.	PLAT BOOK & PLAT NO.	FRONTAGE	ALIGNMENT	SIZE	SHAPE	WIDTH	AREA
ALVERMAR WOODS	-	-	P362	CORNER 220' RIVER ROAD 772' RIVERWOOD DR.	ALIGNED W/ STREET	269 x 575	IRREGULAR	262' REAR 220' RIVER ROAD	143,923 SF
ALVERMAR WOODS	-	2	49/3769	262' RIVERWOOD DR.	PERPENDICULAR W/ STREET	203 x 509	.	401' REAR 262' RIVERWOOD DR.	143,923 SF
.	.	3	49/3769	220' RIVERWOOD DR.	.	210 x 514	.	220' REAR 220' RIVERWOOD DR.	112,864 SF
.	.	4	49/3769	220' RIVERWOOD DR.	.	220 x 514	RECTANGULAR	220' REAR 220' RIVERWOOD DR.	113,126 SF
.	.	5	49/3769	220' RIVERWOOD DR.	.	220 x 515	.	220' REAR 220' RIVERWOOD DR.	113,343 SF
.	.	6	49/3769	204' RIVERWOOD DR.	.	219 x 518	IRREGULAR	235' REAR 204' RIVERWOOD DR.	113,343 SF
.	B	1	49/3769	328' RIVER ROAD	.	204 x 532	.	224' REAR 309' RIVER ROAD	108,682 SF
.	B	2	49/3769	324' RIVERWOOD DR.	.	294 x 500	.	215' REAR 324' RIVERWOOD DR.	147,059 SF
.	B	3	49/3769	304' RIVERWOOD DR.	.	305 x 500	RECTANGULAR	305'	192,460 SF
.	B	4	49/3769	365' RIVERWOOD DR.	.	305 x 480	IRREGULAR	305'	146,536 SF



GENERAL NOTES

- PROPERTY LEGAL DESCRIPTION: PARCEL 365 AND P/O LOT 1, BLOCK B, ALVERMAR WOODS
- DEED REFERENCE: L. 9155 F. 0364
- TAX MAP NUMBER: FP123
- WSSC 200' SHEET NUMBER: 213 NW 11
- ZONING: RE-2
- EXISTING USE: 1 SFD  
PROPOSED USED: 2 SFD
- ADC MAP REFERENCE (28<sup>th</sup> ED.): PAGE 34, GRID A4
- AREA OF EXISTING TRACT: 4.17 AC.
- AREA OF PROPOSED DEDICATION: 0.07 AC.
- AREA OF PROPOSED LOTS: 4.10 AC.
- WATER CATEGORY: W-1; SEWER CATEGORY: S-1
- SITE TO BE SERVED BY PUBLIC WATER & SANITARY SEWERAGE SYSTEMS
- BOUNDARY AND TOPOGRAPHY BY O'CONNELL & LAWRENCE, INC.
- SOILS TYPE: 2B - GLENELG SILT LOAM
- WATERSHED: POTOMAC RIVER DIRECT
- NR/IFSD #4-98058, APPROVED 11/8/97
- IT PRE-APPLICATION # 7-98017

SURVEYOR'S CERTIFICATION

I hereby certify that to the best of my knowledge and belief that the information shown hereon is correct.

*Jefferson D. Lawrence*  
Jefferson D. Lawrence  
Professional Land Surveyor No. 5216

1/11/98  
Date

Maryland-National Capital  
Park and Planning Commission

Approved Preliminary Subdivision Plan No. 1-99034

At its meeting of 01-28-99

Approval subject to the following conditions:

- Compliance with the conditions of approval of the preliminary forest conservation plan. The applicant must meet all conditions prior to recording of plats or MCDCPS issuance of sediment and erosion control permit, as appropriate.
- Prior to MCPB release of building permit, applicant to coordinate with the technical staff in providing noise mitigation measures for the proposed dwelling on Lot 16.
- Prior to recording of plat(s), applicant to coordinate with the owner/developer of Preliminary Plan 1-98080 for the purpose of establishing an access easement to Riverwood Drive (private right of way) and the possible establishment of grading/construction easements along River Road (MD190).
- Record plat to reference all common ingress/egress easements.
- Dedication of River Road (MD190) as shown on plan.
- (Other necessary easements)
- This preliminary plan will remain valid until March 4, 2001 (37 months from date of mailing, which is February 4, 1999). Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded or a request for an extension must be filed.

Technical Staff Recommendation made to MCPB by

*Jefferson D. Lawrence* 3/19/99  
Development Review Division Date

**PRELIMINARY PLAN**  
**LOTS 16 & 17 BLOCK B**  
**ALVERMAR WOODS**  
POTOMAC (10<sup>TH</sup>) ELECTION DISTRICT  
MONTGOMERY COUNTY, MARYLAND

**O'Connell & Lawrence, Inc.**  
17904 Georgia Avenue  
Suite 302  
Olney, Maryland 20832  
301-924-4570  
Fax 301-924-5872

DESIGNER D.L.	SHEET 1
DRAWN P.M.T.	OF 1
DATE OCT., 98	JOB No. 22-140
SCALE 1"=50'	



**FILE COPY**

Date Mailed: February 4, 1999  
ATTACHMENT B



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

Action: Approved Staff Recommendation  
Motion of Comm. Bryant, seconded by  
Comm. Holmes with a vote of 4-0;  
Comms. Bryant, Holmes, Hussmann and  
Perdue voting in favor. Comm. Richards  
temporarily absent.

MONTGOMERY COUNTY PLANNING BOARD

OPINION

Preliminary Plan 1-99034

NAME OF PLAN: ALVERMAR WOODS, LOTS 16 & 17B

On 10-19-98, KAMBIZ KAZEMI submitted an application for the approval of a preliminary plan of subdivision of property in the RE-2 zone. The application proposed to create 2 lots on 4.17 acres of land. The application was designated Preliminary Plan 1-99034. On 01-28-99, Preliminary Plan 1-99034 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based upon the testimony and evidence presented by staff and on the information on the Preliminary Subdivision Plan Application Form, attached hereto and made a part hereof, the Montgomery County Planning Board finds Preliminary Plan 1-99034 to be in accordance with the purposes and requirements of the Subdivision Regulations (Chapter 50, Montgomery County Code, as amended) and approves Preliminary Plan 1-99034, subject to the following conditions:

- (1) Compliance with the conditions of approval of the preliminary forest conservation plan. The applicant must meet all conditions prior to recording of plats or MCDPS issuance of sediment and erosion control permit, as appropriate
- (2) Prior to MCPB release of building permit, applicant to coordinate with the technical staff in providing noise mitigation measures for the proposed dwelling on Lot 16
- (3) Prior to recording of plat(s), applicant to coordinate with the owner/developer of Preliminary Plan 1-98080 for the purpose of establishing an access easement to Riverwood Drive (private right of way) and the possible establishment of grading/construction easements along River Road (MD190)
- (4) Record plat to reference all common ingress/egress easements
- (5) Dedication of River Road (MD190) as shown on plan
- (6) Other necessary easements
- (7) This preliminary plan will remain valid until March 4, 2001 (37 months from date of mailing, which is February 4, 1999). Prior to the expiration of this validity period, a final record plat for all property delineated on the approved preliminary plan must be recorded or a request for an extension must be filed.

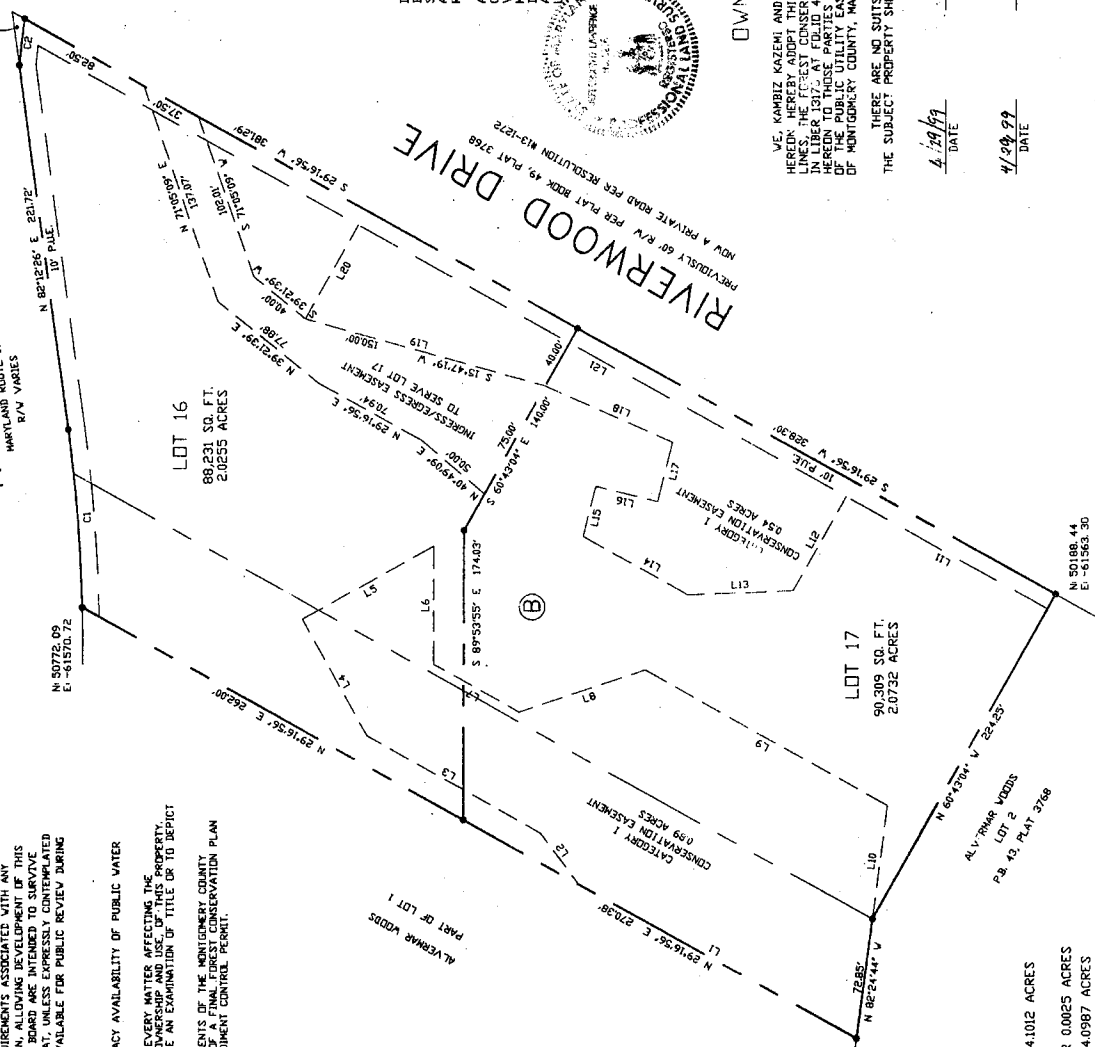
# PLAT NO 21237

# RIVER RD

AREA DEDICATED TO PUBLIC USE 110.50 ACRES 0.0025 ACRES

NOTES:  
 ALL TERMS, CONDITIONS, AGREEMENTS, LIMITATIONS, AND REQUIREMENTS ASSOCIATED WITH ANY PRELIMINARY PLAN, SITE PLAN, PROJECT PLAN OR OTHER PLAN, ALLOWING DEVELOPMENT OF THIS PROPERTY, APPROVED BY THE MONTGOMERY COUNTY PLANNING BOARD ARE INTENDED TO SURVIVE AND SHALL BE CONSIDERED PART OF THIS SUBDIVISION RECORD PLAT. THE PLAN AS APPROVED BY THE PLANNING BOARD AND AVAILABLE FOR PUBLIC REVIEW DURING NORMAL BUSINESS HOURS.  
 THE EXISTING DWELLING ON LOT 17 TO REMAIN  
 THE APPROVAL OF THIS PLAT IS PREDICATED ON THE ADEQUACY AVAILABILITY OF PUBLIC WATER AND SEWER  
 THIS SUBDIVISION RECORD PLAT IS NOT INTENDED TO SHOW EVERY MATTER AFFECTING THE PROPERTY, INCLUDING BUT NOT LIMITED TO, EASEMENTS, ENCUMBRANCES, AND INTERESTS IN THE PROPERTY. THE SUBDIVISION RECORD PLAT IS NOT INTENDED TO REPLACE AN EXAMINATION OF TITLE OR TO DEPICT OR NOTE ALL MATTERS AFFECTING TITLE.  
 THE PROPERTY SHOWN HEREON IS SUBJECT TO THE REQUIREMENTS OF THE MONTGOMERY COUNTY FOREST CONSERVATION LAW OF 1992, INCLUDING APPROVAL OF A FINAL FOREST CONSERVATION PLAN AND APPROPRIATE AGREEMENTS PRIOR TO ISSUANCE OF A SEDIMENT CONTROL PERMIT.  
 THE PROPERTY IS ZONED RE-2  
 PRELIMINARY PLAN NO. 1-99084

LINE	BEARING	DISTANCE
L1	N 29°16'56" E	150.38'
L2	N 82°21'44" V	72.88'
L3	N 29°16'56" E	150.38'
L4	N 60°39'46" E	80.11'
L5	S 89°00'14" E	80.38'
L6	N 89°53'55" E	174.02'
L7	S 89°00'14" E	80.38'
L8	S 89°00'14" E	80.38'
L9	S 29°16'56" E	150.38'
L10	N 82°21'44" V	72.88'
L11	N 29°16'56" E	150.38'
L12	N 82°21'44" V	72.88'
L13	N 08°14'28" E	63.12'
L14	N 08°14'28" E	63.12'
L15	S 29°16'56" E	150.38'
L16	S 29°16'56" E	150.38'
L17	S 29°16'56" E	150.38'
L18	N 29°16'56" E	150.38'
L19	S 29°16'56" E	150.38'
L20	S 60°43'04" E	65.00'
L21	S 60°43'04" E	65.00'
L22	S 29°16'56" E	150.38'



VICINITY MAP  
 SCALE 1"=2000'

**SURVEYOR'S STATEMENT**  
 I HEREBY STATE TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF THAT THE PLAT SHOWN HEREON IS CORRECT, THAT IT IS A TRUE AND ACCURATE REPRESENTATION OF THE ENTIRETY, AND THAT THE INFORMATION CONTAINED HEREON WAS OBTAINED FROM ROBERT M. BECKMAN AND ANGELA C. BECKMAN, IN A DEED DATED OCTOBER 1, 1995 AND RECORDED IN LIBER 13621 AT FOLIO 273 AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND. THE PROPERTY SHOWN HEREON WILL BE SET IN ACCORDANCE WITH SECTION 50-24(a) OF THE MONTGOMERY COUNTY CODE AND THAT THE TOTAL AREA INCLUDED IN THIS PLAN OF SUBDIVISION IS 178,650 SQUARE FEET OR 4.1012 ACRES OF LAND, OF WHICH THE TOTAL AREA DEDICATED TO PUBLIC USE IS 110 SQUARE FEET OR 0.0025 ACRES OF LAND.

*John D. Lawrence*  
 JOHN D. LAWRENCE, INC.  
 PROFESSIONAL LAND SURVEYOR  
 MD. REG. NO. 2626



## OWNER'S CERTIFICATE

WE, KAMBIZ KAZEMI AND AZAR KAZEMI, OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON, HEREBY ADOPT THIS PLAN OF SUBDIVISION, ESTABLISH THE MINIMUM BUILDING RESTRICTION LINES, THE FOREST CONSERVATION EASEMENTS SHOWN HEREON PER THE REQUIREMENTS SET FORTH IN THE MONTGOMERY COUNTY CODE AND PUBLIC UTILITIES EASEMENTS SHOWN HEREON, AND HEREBY TO THOSE PARTIES WAIVED IN SAID EASEMENTS, THE PUBLIC UTILITIES EASEMENTS OF THE PUBLIC UTILITY EASEMENT RECORDED IN LIBER 3824 AT FOLIO 457 AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND.

THERE ARE NO SUITS, ACTIONS OF LAW, LEASES, LIENS OR TRUSTS AFFECTING THE SUBJECT PROPERTY SHOWN HEREON.

*Kambiz Kazemi* KAMBIZ KAZEMI  
 DATE: 4/29/99  
*Azar Kazemi* AZAR KAZEMI  
 DATE: 4/29/99

SUBDIVISION RECORD PLAT  
**ALVERMAR WOODS**  
 LOTS 16 AND 17, BLOCK "B"  
 POTOMAC (10TH) ELECTION DISTRICT  
 MONTGOMERY, COUNTY MARYLAND  
 SCALE: 1" = 50' FEBRUARY, 1995

FILED  
 NOV 16 1999

**O'CONNELL & LAWRENCE, INC.**  
 SURVEYORS, ENGINEERS & LAND PLANNERS  
 17004 Georgia Avenue, Suite 302, Olney, Maryland 20832  
 Tel: (301) 924-4970 • Fax: (301) 924-5872  
 OCL# 22-140

CURVE	RADIUS	ARC LENGTH	CHORD LEN	CHORD BEARING	BE-TA ANGLE	TANGENT
C1	650.00'	27.69'	27.69'	N 83°21'30" V	01°52'48"	13.935'
C2	650.00'	27.69'	27.69'	N 83°21'30" V	01°52'48"	13.935'

DEPARTMENT OF PERMITTING SERVICES  
 MONTGOMERY COUNTY, MARYLAND

APPROVED: *[Signature]*  
 DIRECTOR

299348 0924 08 210301

MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
 MONTGOMERY COUNTY PLANNING BOARD

APPROVED: *[Signature]*  
 COMMISSIONER

M.N.C.P. & P.C. RECORD FILE NO. 010-61

RECORDED  
 PLAT BOOK  
 PLAT NO.

MSA SSIWA49-27114  
 600-62





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

**MCPB No. 14 - 117**  
**Preliminary Plan No. 11999034D**  
**Alvermar Woods**  
**Date of Hearing: December 4, 2014**

**DEC 10 2014**

**RESOLUTION**

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, by Opinion dated February 4, 1999, the Planning Board, approved Preliminary Plan No. 119990340, creating two lots on 4.17 acres of land in the RE-2 Zone, located at the southwest corner of the intersection of River Road and Riverwood Drive, in the Potomac Subregion Master Plan ("Master Plan") area; and

WHEREAS, on December 16, 2008, Kambiz Kazemi ("Applicant"), filed an application for approval of an amendment to the previously approved preliminary plan to remove onsite Category I conservation easement from Lot 17, Alvermar Woods known as 10410 Riverwood Drive ("Subject Property"), one of the lots created by Preliminary Plan No. 119990340 and mitigate offsite outside the watershed, which was designated Preliminary Plan No. 11999034A; and


WHEREAS, on July 28, 2011, Planning Board denied Preliminary Plan No. 11999034A (MCPB No. 10-1480); and

WHEREAS, on July 31, 2011, the Applicant filed an another application for approval of an amendment to the previously approved preliminary plan to remove onsite Category I conservation easement from the Subject Property, and mitigation some onsite and some offsite within the same watershed, which was designated Preliminary Plan No. 11999034B, Alvermar Woods, Lot 17 ("Preliminary Plan", "Amendment", or "Application"); and

WHEREAS, on October 16, 2013 the Planning Board approved Preliminary Plan No. 11999034B (MCPB No. 13-148); and

WHEREAS, on April 2, 2014, the Applicant filed another application for approval to amend the previously approved preliminary plan to remove all onsite Category I

Approved as to  
Legal Sufficiency:

  
8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320  
www.montgomeryplanningboard.org E-Mail: mcp-chair@mncppc-mc.org



MCPB No. 14 - 117  
Preliminary Plan No. 11999034D  
Alvermar Woods  
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conservation easement from the Subject Property and mitigate offsite outside the watershed, which was designated Preliminary Plan No. 11999034C; and

WHEREAS, on July 17, 2014 the Planning Board held a public hearing to consider Preliminary Plan No. 11999034C and voted to deny it; and

WHEREAS, on November 6, 2014 the Planning Board issued a resolution denying Preliminary Plan No. 11999034C (MCPB No. 14-63); and

WHEREAS, on October 31, 2014, the Applicant filed another application for approval to amend the previously approved preliminary plan to remove all onsite Category I conservation easement from Lot 16 and 1,008 square feet of Category I conservation easement from Lot 17 and mitigate offsite outside the watershed, which was designated Preliminary Plan No. 11999034D; and

WHEREAS, following review and analysis of the Application by the Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated November 20, 2014, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on December 4, 2014, the Planning Board held a public hearing on the Application, and at the hearing the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing, the Planning Board voted to approve the Application subject to certain conditions, by the vote as certified below.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board approves Preliminary Plan No. 11999034D to remove a total of 51,466, square feet of Category I Conservation Easement from the Subject Property subject to the following conditions:<sup>1</sup>

1. The Applicant must submit a complete record plat application within thirty (30) days of the mailing of the Planning Board Resolution approving the limited amendment to the Preliminary Plan that removes the entire Category I Conservation Easement from lot 17 and from a portion of lot 16. The existing Conservation Easement remains in full force and effect until the record plat is recorded in the Montgomery County Land Records.

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<sup>1</sup> For the purposes of these conditions, the term "Applicant" shall also mean the developer, the owner or any successors in interest to the terms of this approval.



MCPB No. 14 - 117  
Preliminary Plan No. 11999034D  
Alvermar Woods  
Page 3

2. The Applicant must submit a minor subdivision plan to change the property lines for existing lots 17 and 16. The minor subdivision must be coordinated with the submission of a new record plat that removes the conservation easement.
3. A Category I Conservation easement must be recorded in the Montgomery County Land Records by deed and the Liber Folio for the easement area remaining on existing lot 16 must be referenced on the new record plat. The Category I Conservation Easement must be approved by the M-NCPPC Office of the General Counsel before recordation of the easement.
4. The Applicant must submit a Certificate of Compliance to use an M-NCPPC approved offsite forest mitigation bank within thirty (30) days of the mailing of the Planning Board Resolution approving 11999034D. The Certificate of Compliance must provide 102,932 square feet of mitigation credit for the removal of 51,466 square feet of Category I Conservation Easement.
5. All other conditions of Preliminary Plan No. 119990340 and Forest Conservation Plan No. 119990340 that were not modified herein, as contained in the Planning Board's Opinion dated February 4, 1999, remain in full force and effect.
6. The Applicant must comply with the Settlement Agreement between the Applicant and the Planning Department dated October 5, 2014.

BE IT FURTHER RESOLVED that all other preliminary plan conditions of approval for this project remain valid, unchanged and in full force and effect.

BE IT FURTHER RESOLVED that having considered 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 Planning Board FINDS, with the conditions of approval, that:

1. Except as specifically set forth herein, this Amendment does not alter the intent, objectives, or requirements in the originally approved preliminary plan, and all findings not specifically addressed remain in effect.
2. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County, Chapter 22A.

MCPB No. 14 - 117  
Preliminary Plan No. 11999034D  
Alvermar Woods  
Page 4

Mitigation offsite equal to twice the area of conservation easement removal and abandonment of existing Category I Conservation Easement, and for Lot 17 will more than compensate for loss of the original forest conservation requirements.

BE IT FURTHER RESOLVED that, subject to the conditions of approval set forth herein, the proposed amendment resolves the Applicant's alleged violations of the easement on his lot both by removing it and requiring offsite planting, and by incorporating a settlement agreement between the Applicant and the Planning Department, which the Applicant must fully comply with as a condition of this approval. The settlement agreement in this case is a very important element of this approval because this amendment is intended to resolve all of the violations that the Applicant has been alleged to have committed, and that the Applicant's compliance with the conditions of approval will eliminate the need for any further enforcement action in response to the alleged violations.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is DEC 10 2014 (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 Vice Chair Wells-Harley, seconded by Commissioner Dreyfuss, with Chair Anderson, Vice Chair Wells-Harley, and Commissioners Dreyfuss, Presley, and Fani-Gonzalez voting in favor at its regular meeting held on Thursday, December 4, 2014, in Silver Spring, Maryland.

  
\_\_\_\_\_  
Casey Anderson, Chair  
Montgomery County Planning Board



## ATTACHMENT D

MR. RICHARD BRUSH, MANAGER  
MCDPS-WATER RES. PLAN REVIEW  
255 ROCKVILLE PIKE  
2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850

MS. LISA SCHWARTZ  
DHCA  
100 MARYLAND AVENUE  
4<sup>TH</sup> FLOOR  
ROCKVILLE, MD 20850

MS. SUSAN SCALA-DEMBY  
MCDPS-ZONING  
255 ROCKVILLE PIKE  
2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850

MR. CHRISTOPHER ANDERSON  
MPDU MANAGER, DHCA  
100 MARYLAND AVENUE  
4TH FLOOR  
ROCKVILLE, MD 20850

DOUG TILLEY  
O'CONNELL & LAWRENCE, INC.  
17904 GEORGIA AVENUE  
OLNEY, MD 20832

MR. GREG LECK  
MCDOT  
100 EDISON PARK DRIVE  
4<sup>TH</sup> FLOOR  
GIATHERSBURG, MD 20878

MR. ATIQ PANJSHIRI  
MCDPS-RIGHT-OF-WAY  
PERMITTING  
255 ROCKVILLE PIKE  
2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850

MS. CHRISTINA CONTRERAS  
MCDPS-LAND DEVELOPMENT  
255 ROCKVILLE PIKE  
2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850

MR. ALAN SOUKUP  
MCDDEP-WATER RESOURCE  
PLANNING  
255 ROCKVILLE PIKE  
2ND FLOOR  
ROCKVILLE, MD 20850

MICHELE ROSENFELD  
THE LAW OFFICE OF MICHELE ROSENFELD  
11913 AMBLESIDE DRIVE  
POTOMAC, MD 20854

MR. RICHARD BRUSH, MANAGER  
MCDPS-SEDIMENT/STORMWATER  
INSPECTION & ENFORCEMENT  
255 ROCKVILLE PIKE  
2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850

MR. ESHAN MOTAZEDI  
MCDPS-SITE PLAN ENFORCEMENT  
255 ROCKVILLE PIKE  
2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850

MR. GENE VON GUNTEN  
MCDPS-WELL & SEPTIC  
255 ROCKVILLE PIKE  
2<sup>ND</sup> FLOOR  
ROCKVILLE, MD 20850

KAMBIZ KAZEMI  
ADVANCED WOMEN'S CARE, INC.  
10410 RIVERWOOD DRIVE  
POTOMAC, MD 20854



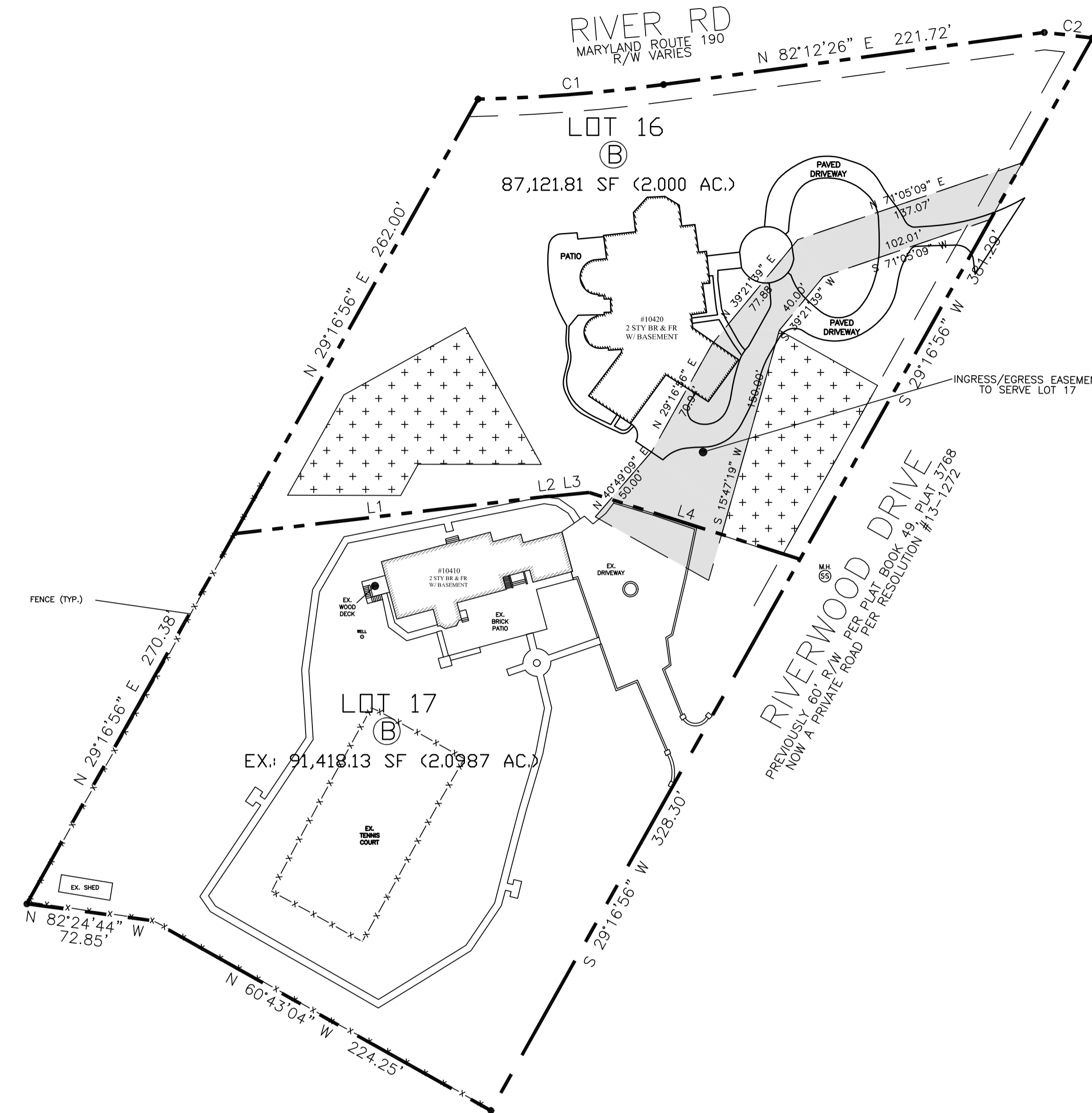
**GENERAL NOTES**

1. PROPERTY DATA  
 LEGAL REFERENCE: LOT 16, BLOCK B, ALVERMAR WOODS  
 TAX ACCOUNT: 03277290  
 PROPERTY AREA: 87,121.81 SQUARE FEET OR 2.00 ACRES  
 TAX MAP: FP GRID 23  
 WATERSHED: POTOMAC RIVER - MONTGOMERY COUNTY  
 ADC MAP PAGE 5283 GRID D-6 (2007 EDITION)  
 WSSC 200' SHEET: 213N111  
 EXISTING WATER AND SEWER CATEGORIES: PUBLIC WATER - PUBLIC SEWER  
 ZONING: RE-2

2. EXISTING SITE DATA  
 PROPERTY LINES SHOWN HEREON WERE TAKEN FROM FIELD OBSERVATIONS AND AVAILABLE RECORDS.  
 THIS PLAN HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE EXAMINATION.  
 EXISTING FEATURES SHOWN HEREON PER FIELD SURVEY CONDUCTED BY O'CONNELL & LAWRENCE, INC., COMPLETED FALL 2009.  
 HORIZONTAL DATUM SHOWN HEREON IS WSSC  
 VERTICAL DATUM IS N/A  
 SOIL TYPES: 2B (GLENELO SILT LOAM, 3-8% SLOPES) & 2C (GLENELO SILT LOAM, 8-15% SLOPES)  
 HYDRAULIC SOIL GROUP: 'B'  
 THERE ARE NO STREAMS WITHIN 200' OF THE DISTURBED AREA  
 THIS SITE IS LOCATED IN ZONE X OF THE NATIONAL FLOOD INSURANCE PROGRAM, PER THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP #24031C0340D. THERE ARE NO FLOODPLAINS, TIDAL WETLANDS, OR NON-TIDAL WETLANDS NEAR THE AREA OF DISTURBANCE.  
 EXISTING SITE USE: RESIDENTIAL  
 EXISTING SITE COVERAGE: HOUSE, PATIO, DRIVEWAY, LANDSCAPING, FOREST

3. PLAN IS FOR THE REMOVAL OF THE EXISTING ON-SITE FOREST CONSERVATION EASEMENT AND THE AMENDMENT OF THE EXISTING PRELIMINARY PLAN OF SUBDIVISION/FOREST CONSERVATION PLAN, AS PREVIOUSLY APPROVED UNDER PRELIMINARY PLAN #19990340, #1999034B, AND #1999034D. NO CONSTRUCTION IS PROPOSED AS PART OF THIS PLAN.

4. THE ENTIRETY OF THE EXISTING FOREST CONSERVATION EASEMENT ON LOT 16 SHALL BE REMOVED AS PART OF THIS PPS/FCP AMENDMENT. OFFSITE MITIGATION FOR FOREST CONSERVATION TO BE PURCHASED FROM A FOREST BANK AT A RATIO OF 2:1.



**PRELIMINARY PLAN/FOREST CONSERVATION PLAN AMENDMENT**  
 SCALE: 1" = 50'



LINE TABLE			CURVE TABLE						
LINE	BEARING	DISTANCE	CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE	TANGENT
L1	N 83° 10' 37" E	179.40'	C1	961.24'	107.50'	107.44'	N 85° 30' 12" E	06° 24' 27"	53.80'
L2	N 85° 28' 50" E	8.42'	C2	850.00'	27.89'	27.89'	N 83° 21' 30" W	01° 52' 48"	13.95'
L3	N 84° 10' 16" E	18.32'							
L4	N 72° 27' 09" E	127.68'							

**ENVIRONMENTAL SUMMARY TABLE**

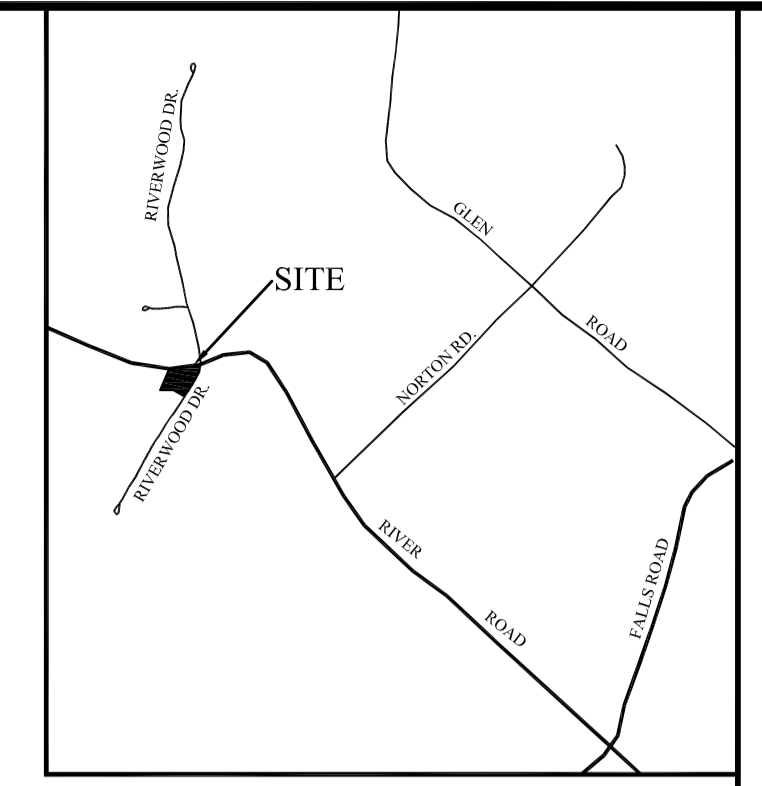
TOTAL ACREAGE OF SITE (LOTS 16 & 17 ONLY)	4.17 Ac.
TOTAL ACREAGE OF FOREST	0.00 Ac.
TOTAL ACREAGE OF FLOODPLAIN	0.00 Ac.
TOTAL ACREAGE OF FLOODPLAIN IN FOREST	0.00 Ac.
TOTAL ACREAGE OF WETLANDS	0.00 Ac.
TOTAL ACREAGE OF WETLANDS IN FOREST	0.00 Ac.
TOTAL ACREAGE OF FORESTED STREAM BUFFERS	0.00 Ac.
LINEAR EXTENT OF STREAMS	0 L.F.

**FOREST CONSERVATION SUMMARY TABLE - LOT 16**

PLAN NUMBER	TOTAL SQUARE FOOTAGE OF FOREST CONSERVATION EASEMENT ON LOT 16
11999034B	14,450 SF
11999034D	13,442 SF
11999034E	0.00 SF

**LEGEND:**

CATEGORY I EASEMENT TO BE REMOVED (13,442 S.F. or 0.30 AC.)



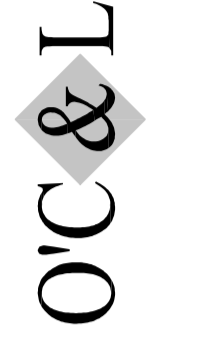
VICINITY MAP  
 SCALE: 1" = 2000'

**ENGINEER:**  
 O'CONNELL & LAWRENCE, INC.  
 17904 GEORGIA AVENUE, SUITE 302  
 OLNEY, MARYLAND 20832  
 CONTACT: DOUG TILLEY, P.E.  
 PHONE: (301) 924-4570

**OWNERS:**  
 MR. MEHDI MIRZAEI  
 10420 RIVERWOOD DRIVE  
 POTOMAC, MARYLAND 20854  
 PHONE: (301) 520-2178

**ATTORNEY:**  
 McMILLAN METRO, P.C.  
 1901 RESEARCH BLVD., SUITE 500  
 ROCKVILLE, MARYLAND 20850  
 CONTACT: DONNA McMILLAN, ESQ.  
 PHONE: (301) 251-1180

**O'Connell & Lawrence, Inc.**  
 Construction Consultants, Engineers, Surveyors  
 17904 Georgia Avenue, Suite 302  
 Olney, Maryland 20832  
 Tel: (301) 924-4570 • Fax: (301) 924-5872



LOT 16, BLOCK B  
**ALVERMAR WOODS**  
 PLAT #21237  
 TAX MAP FP 23  
 (10TH) ELECTION DISTRICT  
 MONTGOMERY COUNTY, MARYLAND

**PRELIMINARY PLAN OF SUBDIVISION/FOREST CONSERVATION PLAN AMENDMENT - PLAN #11999034E**

NO.	DATE	REVISION
1	8/12/2015	EAS

**DEVELOPER'S CERTIFICATE**

The Undersigned agrees to execute all the features of the Approved Final Forest Conservation Plan No. 11999034E including, financial bonding, forest planting, maintenance, and all other applicable agreements.

Developer's Name: **MR. MEHDI MIRZAEI**  
 Printed Company Name: \_\_\_\_\_  
 Contact Person or Owner: **MR. MEHDI MIRZAEI**  
 Printed Name: \_\_\_\_\_  
 Address: 10420 RIVERWOOD DR. POTOMAC, MD 20854  
 Phone and Email: (301) 520-2178 mehdim@verizon.net  
 Signature: \_\_\_\_\_

DESIGN CERTIFICATION  
 I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland, License No. 42417, Expiration Date: June 6, 2016.  
 Design Engineer Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 DOUGLAS G. TILLEY 42417  
 Printed Name Registration Number

DESIGN BY: DGT  
 DRAWN BY: EAS  
 CHECKED BY: DGT  
 DATE: 7/16/2015  
 SCALE: 1" = 50'  
 PROJECT/FILE NO: 015-012  
 SHEET NO: 1 of 1