



MONTGOMERY COUNTY PLANNING DEPARTMENT  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB  
Item No. 7  
Date: 1-25-18

Preliminary Plan No. 120170090, Justement Woods

RS

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Completed: 1/12/18

#### Description

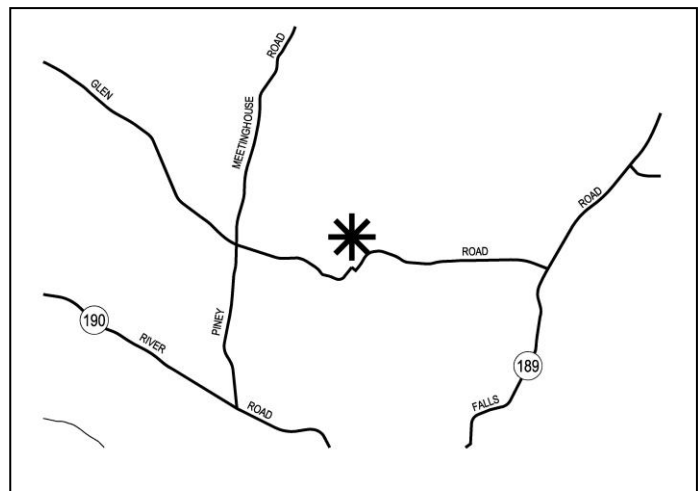
**Preliminary Plan No. 120170090, Justement Woods:**  
Request to create one lot from one unplatted parcel;  
located at 11731 Glen Mill Road; 2.49 acres; RE-1 zone;  
2002 Potomac Subregion Master Plan.

*Recommendation – Approval with conditions*

**Applicant:** SER, L.L.C.

**Submittal Date:** 11/4/2016

**Review Basis:** Chapter 50



#### Summary

- Staff recommends **Approval with conditions**.
- The Application has been reviewed under the Subdivision Regulations effective prior to February 13, 2017.
- The Application proposes to create one lot for one single family detached home located in the RE-1 zone.
- The Application meets requirements of Chapter 22A, Forest Conservation Law.
- The Application substantially conforms to the *2002 Potomac Subregion Master Plan*.
- Staff has not received any correspondence from surrounding property owners.

## SECTION 1 – RECOMMENDATIONS AND CONDITIONS

**PRELIMINARY PLAN NO. 120170090:** Staff recommends approval of the Preliminary Plan subject to the following conditions:

1. This Application is limited to one (1) lot for one (1) one-family detached home.
2. The Applicant must comply with the conditions of approval for the Preliminary Forest Conservation Plan No. 120170090, approved as part of this Preliminary Plan:
  - a. A Final Forest Conservation Plan must be approved by M-NCPPC Staff 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. The Final Forest Conservation Plan must identify the location of the trees planted as mitigation for the tree variance.
    - iii. The Final Forest Conservation Plan must revise the Tree Table to indicate that Tree #6 will be retained.
  - b. Mitigation for the removal of one (1) tree subject to the variance provision must be provided in the form of planting native canopy trees totaling 10 caliper inches, with a minimum size of three (3) caliper inches. The trees must be planted on the Property, in locations to be shown on the Final Forest Conservation Plan, outside of any rights-of-way, or utility easements, including stormwater management easements. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC forest conservation inspector.
  - c. Prior to the start of any clearing, grading, or demolition on the Property, the Applicant must provide financial surety and a Maintenance and Management Agreement to the M-NCPPC Planning Department for the 0.04-acre reforestation planting requirement.
  - d. The Applicant must record a Category I Conservation Easement over all areas of forest retention and planting, as shown on the approved Final Forest Conservation Plan. The Category I Conservation Easement approved by the M-NCPPC Office of the General Counsel must be recorded in the Montgomery County Land Records by deed prior to the start of any clearing, or grading on the Property, and the Liber Folio for the easement must be referenced on the record plat.
  - e. The Applicant must install permanent conservation easement signage along the perimeter of the Category I Conservation Easement. Signs must be installed a maximum of 100 feet apart with additional signs installed where the easement changes direction, or at the discretion of the M-NCPPC forest conservation inspector.
  - f. The Final Sediment Control Plan must depict the limits of disturbance consistent with the limits of disturbance on the approved Final Forest Conservation Plan.
  - g. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the approved Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector.
3. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated November 9, 2017, and hereby incorporates them as conditions of the Preliminary Plan approval. 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 improvements as required by MCDOT.
5. The Certified Preliminary Plan and Record Plat must show a 100-foot front Building Restriction Line.
6. Prior to submittal of a Certified Preliminary Plan, the Applicant must update the data table to reflect all the correct setbacks consistent with the Staff Report.
7. The Applicant must dedicate and show on the record plat(s) the following dedications:
  - a) Forty (40) feet from the existing pavement centerline along the Subject Property frontage for Glen Mill Road.
8. Prior to approval of a record plat, the Applicant must submit an updated drainage area map and study for approval by the Montgomery County Department of Permitting Services for any portion of the Property that drains to a Montgomery County facility as required by the MCDOT letter dated November 9, 2017.
9. Prior to approval of a record plat, the Applicant must submit a completed, executed, and sealed MCDOT Sight Distances Evaluation certification form for the existing driveway for MCDPS review and approval as required by the MCDOT letter dated November 9, 2017.
10. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section in its stormwater management concept letter dated November 18, 2016, and hereby incorporates 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.
11. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Well and Septic Section in its letter dated December 6, 2017, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Well and Septic Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
12. The Planning Board accepts the recommendations of the MCDPS, Fire Department Access and Water Supply Section in its letter dated November 20, 2017, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Preliminary Plan approval.

13. 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 permits. 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.”*

14. Record plat must show all necessary easements.

15. The Adequate Public Facility (APF) review for the preliminary plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board resolution.



## SECTION 2 – SITE LOCATION & DESCRIPTION

### Site Location

The subject property is located on the east side of Glen Mill Road at 11731 Glen Mill Road which is approximately 0.25 miles north of the intersection of Glen Road and Glen Mill Road. The subject property consists of Parcel 480 on Tax Map FQ32 a total of 2.49 acres ("Property" or "Subject Property") (Figure 2). The Subject Property is zoned RE-1, and is located in the Travilah area of the *2002 Potomac Subregion Master Plan* ("Master Plan").



Figure 1 - Vicinity

### Site Vicinity

The Subject Property is surrounded on all sides by single-family detached housing in the RE-1 zone. To the east of the Subject Property is the Watts Branch stream valley.



Figure 2 – Aerial View

### Site Analysis

As a single, unplatted parcel, the Subject Property is improved with a detached single-family home including 0.66 acres of existing forest cover. The Property is located in the Watts Branch watershed, a Use I-P watershed. There are no documented streams, wetlands, 100-year floodplain, stream buffers, highly erodible soils or slopes greater than 25 percent located on or immediately adjacent to the Subject Property.



## SECTION 3 – APPLICATIONS AND PROPOSAL

### Previous Applications

Preliminary Plan, No. 120070090, submitted in 2006 proposed to create two lots on the Subject Property. This application was denied by the Planning Board on March 16, 2007. The Planning Board denied this application because the lot sizes were not appropriate for the location of the subdivision under Section 50-29(a)(1) of the Subdivision Regulations.

### Current Application

#### Preliminary Plan 120170090

Preliminary Plan No. 120170090 proposes to subdivide the existing unplatted parcel into one lot for one new one-family detached house ("Preliminary Plan" or "Application") (Attachment 2). The existing house will be razed.

Glen Mill Road, an Exceptional Rustic Road, is not proposed for any improvements including the driveway apron within the proposed right-of-way.

The Application proposes to save and protect 0.56 acres of existing forest protected in a Category I Conservation Easement and clear 0.10 acres of forest. This results in a 0.04-acre planting requirement. The new Category I Conservation Easement will connect to the existing forest on the adjacent M-NCPPC park land. The lot will utilize wells and septic systems for water and sewer service.



Figure 3 - Preliminary Plan

## SECTION 4 – ANALYSIS AND FINDINGS - Preliminary Plan No. 120170090

### 1. *The Preliminary Plan substantially conforms to the Master Plan*

#### 2002 Potomac Subregion Master Plan

The Preliminary Plan substantially conforms with the recommendations of the 2002 Master Plan.

The purpose of the Master Plan is to protect the Subregion's natural environment and unique ecosystems, strengthen communities, maintain the transportation network, expand community facilities, and utilize historic preservation to contribute to the Subregion's unique sense of community. The Subject Property is located in the Travilah planning area of the Master Plan. The Master Plan provides no specific recommendations for the Subject Property other than to recommend the RE-1 zoning which would continue the large lot residential appearance of the planning area.

#### Planning, Land Use and Buildings

The Master Plan reconfirms the zoning applied to the Subject Property. The Travilah planning area is a low-density area which acts as a transition from the higher densities of the Potomac and North Potomac planning areas to lower densities in Darnestown and the natural environment of the Potomac River.

Travilah is a more rural portion of the Subregion. The lack of community sewer systems has ensured low-density residential neighborhoods. The Application conforms to the general guidance of the Master Plan by providing a low-density residential development served by septic systems.

The Master Plan designated Glen Mill Road as an Exceptional Rustic Road. It identifies this road as having made significant contributions to natural, agricultural, or historic characteristics as well as unusual features which would be negatively affected by modifications. No improvements, including the existing driveway apron in the right-of-way, are proposed on this road. In addition, as recommended by the Rustic Road Advisory Board the building area has been setback from the road so the new construction does not affect the character of the road (Attachment 10). Staff has included a condition to implement a 100-foot Building Restriction Line on the Certified Preliminary Plan and Record Plat in order to implement the recommendation of the Rustic Road Advisory Board. With this condition of approval, the Application will not negatively effect this Exceptional Rustic Road as recommended by the Master Plan.

The environmental recommendations in the Master Plan focus on water quality protection for the watersheds in the Subregion and protecting forests as well as wetlands. The Subject Property is located in the Watts Branch watershed. The Preliminary Plan provides the required stormwater and water quality features to protect the watershed and preserve existing forest under Montgomery County Code. Low density residential uses in the RE-1 Zone can help maintain good water quality standards.

2. *Public facilities will be adequate to support and service the area of the approved subdivision.*

#### Roads and Transportation Facilities

The transportation Adequate Public Facilities (APF) test is satisfied under the 2012-2016 Subdivision Staging Policy. The Property is located in the Rural West Policy Area which is exempt from the APF's Transportation Policy Area Review (TPAR) test.

A traffic study is not required to satisfy the APF's Local Area Transportation Review (LATR) test because the replacement of the existing single-family detached house with a new single-family detached house will not generate any additional trips during weekday morning (6:30 to 9:30 a.m.) and evening (4:00 to 7:00 p.m.) peak periods.

Glen Mill Road is classified as an Exceptional Rustic Road with 80 feet of right-of-way. The Application proposes granting 40 feet of right-of-way from the centerline which satisfies the requirements of the Master Plan.

#### Other Public Facilities and Services

Other public facilities and services are available and adequate to serve the proposed lot. The Subject Property has W-6 and S-6 water and sewer service categories, respectively, and will utilize on-site septic systems and water wells.

The Application was reviewed by the Montgomery County Department of Permitting Services, Fire Department Access and Water Supply office. A Fire Access Plan was approved on November 20, 2017 (Attachment 6). Other utilities, public facilities and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the Subdivision Staging Policy Resolution currently in effect. The Subject Property is located in the Winston Churchill School cluster. However, because the Application proposes no additional dwelling units resulting in no additional student generation, the School Cluster Adequacy Test and Individual School Adequacy Test has been satisfied under the Subdivision Staging Policy currently in effect.

3. *The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.*

The Preliminary Plan meets all applicable sections of the Subdivision Regulations. The proposed lot size, width, shape and orientation is appropriate for the location of the subdivision, taking into account the recommendations included in the Master Plan, the Rustic Roads Master Plan in relation to the 100-foot Building Restriction Line, and for the building type (single family home) contemplated for the Property.

The lot was reviewed for compliance with the dimensional requirements for the RE-1 zone as specified in the Zoning Ordinance. The lots as proposed will meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is included in Table 1. The Preliminary Plan has been reviewed by other applicable county agencies, all of whom have recommended approval.

**Table 1 – Development Review Table**

<i>RE-1</i>	Required by the Zone	Proposed for Approval
Minimum Lot Area	40,000 sq. feet	98,881 sq. feet
Minimum Lot Frontage	25 feet	238 feet
Minimum Lot Width at B.R.L.	125 feet	259 feet
Maximum Lot Coverage	15%	Less than 15%
Setbacks (for all lots)		
Front	50 feet	100 feet or greater
Side, abutting Residential	17 feet min./ 35 feet total	17 feet min./ 140 feet total
Rear, abutting Residential	35 feet	35 feet or greater
Building Height	50 feet max.	50 feet or lower
Site Plan Required	No	No

4. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A.*

### **Forest Conservation**

#### Natural Resource Inventory/Forest Stand Delineation

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420160990 for the Property was approved on February 22, 2016. The NRI/FSD identifies the environmental features and forest resources on the Property. The 2.49-acre Property is located within the Watts Branch watershed, which is classified by the State of Maryland as Use Class I-P waters. The Property contains approximately 0.66 acres of forest and there are no streams, wetlands, 100-year floodplain, stream buffers, highly erodible soils, or slopes greater than 25 percent located on or immediately adjacent to the Property. There are 35 trees greater than or equal to 24" Diameter at Breast Height (DBH) that were identified on or adjacent to the Property, 11 of which are 30" DBH and greater.

#### Preliminary Forest Conservation Plan

The Application meets the requirements of Chapter 22A of the Montgomery County Forest Conservation Law. As required by the County Forest Conservation Law (Chapter 22A of the County Code), a Preliminary Forest Conservation Plan (FCP) for the project was submitted with the Preliminary Plan (Attachment 3 & 4). The net tract area for forest conservation is 2.28 acres, which consists of the 2.49-acre Property, excluding the 0.21-acre portion to be dedicated along Glen Mill Road and will not be disturbed as part of this Application. The Application proposes to remove approximately 0.10 acres of existing forest, and protect the remaining 0.56 acres of forest in a Category I conservation easement. The Application results in a 0.04-acre forest planting requirement, which will be met on-site by planting forest adjacent to the existing forest. The Application results in a 0.60-acre Category I conservation easement that is contiguous with forest on the adjacent M-NCPPC park land located to the east.

#### *Forest Conservation Variance*

Section 22A-12(b)(3) of the Montgomery County Forest Conservation Law provides criteria that identify certain individual trees and other vegetation as high priority for retention and protection. The law requires that 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. Any impact to high priority vegetation, including disturbance to the 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. Development of the Property requires impact to trees identified as high priority for retention and protection (Protected Trees), therefore, the Applicant has submitted a variance request for these impacts. Staff recommends that a variance be granted and mitigation be required.

Variance Request – The Applicant submitted a variance request in a letter dated November 2017 for the impacts and removal of trees (Attachment 11). The Applicant proposes to remove one (1) Protected Tree that is 30 inches or greater, DBH, and considered a high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law. This tree is noted as SP-5 on the FCP, listed in Table 2, and shown graphically in Figure 4. The Applicant also proposes to impact, but not remove, five (5) Protected Trees that are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law. These trees are noted as SP-1, SP-3, SP-6, SP-7, and SP-12 on the FCP, listed in Table 3 and shown graphically in Figure 4.

**Table 2 - Protected Tree to be removed**

Tree No.	Common Name	Botanical Name	Size (DBH)	Tree Condition	Location/Impact
SP-5	White Oak	<i>Quercus alba</i>	38"	Fair	Initial septic field trench

**Table 3 - Protected Trees to be affected but retained**

Tree No.	Common Name	Botanical Name	Size (DBH)	CRZ Impact	Tree Condition	Location/Impact
SP-1	Red Oak	<i>Quercus rubra</i>	31"	13%	Fair	Electric and cable connections
SP-3	Red Oak	<i>Quercus rubra</i>	30"	20%	Poor	Pavement removal and resurfacing of driveway
SP-6	White Oak	<i>Quercus alba</i>	37"	32%	Fair	Grading, septic field, installation of SWM feature
SP-7	White Oak	<i>Quercus alba</i>	34"	9%	Poor	Grading, septic field, house construction, SWM feature
SP-12	White Oak	<i>Quercus alba</i>	31"	10.7%	Fair	Grading, driveway, SWM feature





Figure 4 – Tree Variance Exhibit: 1 tree removal; 5 trees affected, but retained

**Unwarranted Hardship Basis** – Per Section 22A-21, a variance may only be considered if the Planning Board finds that leaving the Protected Trees in an undisturbed state would result in an unwarranted hardship, denying an applicant reasonable and significant use of the Property. The Applicant contends that an unwarranted hardship would be created due to existing conditions on the Property and the zoning and development requirements for the Property.

The Application proposes to retain the existing driveway access from Glen Mill Road, reconfigure the driveway and parking area close to the house, and demolish and reconstruct a new house in the same general area as the existing house is located. This design has minimized the number of impacts to forest and individual trees on the Property; however, the new development requires improvements to the septic system and stormwater management measures. The Property includes eight on-site and three off-site trees subject to the variance provision, one of which will be removed by this Application. The tree to be removed, SP-5, is rated in fair condition. Tree SP-5 is located behind the existing house to be removed and outside of the forest. A new house will be constructed in generally the same location as the existing house. The newly constructed house requires a new septic field and stormwater management measures, which necessitate the removal of this tree.

The five trees that will be impacted, but remain, are located on the Property, outside of the existing forest. The proposed impacts are due to necessary grading, and installation of stormwater management features and a septic system to serve the proposed house.



The number and location of the Protected Trees in the area outside of the existing forest, where development currently exists and is currently proposed, along with septic system and stormwater management requirements create an unwarranted hardship. It is reasonable to request a redevelopment of this Property. If the variance were not considered, the redevelopment on this RE-1 zoned Property would not occur. Staff has reviewed this Application and finds that there would be an unwarranted hardship if a variance were not considered.

Variance Findings – 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, for a variance to be granted. Staff has made the following determination based on the required findings in the review of the variance request and the forest conservation plan:

Granting of the requested variance:

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

Granting the variance will not confer a special privilege on the Applicant as the disturbance to the Protected Trees is due to the reasonable development of the Property. The Protected Trees are located outside of the forest, in the developable area of the Property. Any redevelopment or modifications considered for this Property would be faced with the same considerations of providing adequate septic system and stormwater management for the proposed development. Granting a variance to allow land disturbance within the developable portion of the Property and providing required septic and stormwater management facilities 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 Property conditions, including the location of the Protected Trees surrounding the existing house and driveway, within the developable area of the Property, and the requirement that the septic system and stormwater management features be installed.

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 design and layout of the development, and not a result of land or building use on a neighboring property.

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

The variance will not violate State water quality standards or cause measurable degradation in water quality. No trees located within a stream buffer, wetland, or Special Protection Area will be impacted or removed as part of this Application. One tree is proposed to be removed and five trees will be impacted. The tree that will be removed will be mitigated for by planting trees on the site to replace the function lost by the removal of this tree. The five trees that will be impacted,

but not removed will continue to provide their existing functions. In addition, the Montgomery County Department of Permitting Services (MCDPS) has found the stormwater management concept for the proposed project to be acceptable as stated in a letter dated November 18, 2016 (Attachment 9). The stormwater management concept incorporates Environmental Site Design (ESD) standards.

Mitigation for Protected Trees – Mitigation for the removal on one Protected Tree is recommended at a rate that approximates the form and function of the tree removed. Therefore, Staff is recommending that replacement occur at a ratio of approximately 1-inch caliper for every 4 inches removed, using trees that are a minimum of 3 caliper inches in size. This Application proposes to remove 38 inches in DBH resulting in a mitigation requirement of 10 caliper inches of planted, native, canopy trees with a minimum size of 3-inch caliper. The Final Forest Conservation Plan will include the mitigation trees for the removal of the one Protected Tree. Although the trees planted for mitigation will not be as large as the tree lost, they will provide some immediate benefit and ultimately replace the canopy lost by the removal of this tree. Staff does not recommend mitigation for trees impacted, but not removed. The affected root systems will regenerate, and the functions provided restored.

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 December 21, 2017, the County Arborist provided a letter recommending that a variance be granted with mitigation (Attachment 12).

Variance Recommendation – Staff recommends that the variance be granted with mitigation described above.

5. *All stormwater management requirements shall be met as provided in Montgomery County Code Chapter 19, Article II, titled "Storm Water Management," Sections 19-20 through 19-35.*

The Preliminary Plan received an approved stormwater concept plan from the Montgomery County Department of Permitting Services, Water Resources Section on November 18, 2016 (Attachment 9). The Application will meet stormwater management goals for each new lot via the use of drywells.

## **SECTION 5: CITIZEN COORESPONDENCE AND ISSUES**

This Application was submitted and noticed in accordance with all Planning Board adopted procedures. One sign referencing the proposed Application was posted along the Subject Property frontage. A pre-submission meeting was held at the Potomac County Library on October 5, 2016. According to the minutes of the meeting, the Applicant and their representatives addressed all questions.

Staff, as of time of this writing, has received no written correspondence concerning the Application.

## **SECTION 6: CONCLUSION**

The proposed lot meets all requirements established in the Subdivision Regulations, Forest Conservation Law in Chapter 22A, and the proposed use substantially conform to the recommendations of *2002 Potomac Subregion Master Plan*. The lot is the appropriate size, orientation, width, and shape for the location of the subdivision and building type. Access and public facilities will be adequate to serve the proposed lot, and the Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the Preliminary Plan with the conditions provided. Therefore, approval of the Application with the conditions specified herein is recommended.

### **ATTACHMENTS**

- Attachment 1 – Statement of Justification
- Attachment 2 – Preliminary Plan
- Attachment 3 – Preliminary Forest Conservation Plan, Sheet 1
- Attachment 4 – Preliminary Forest Conservation Plan, Sheet 2
- Attachment 5 – MCDOT Approval
- Attachment 6 – DPS, Fire Department Access and Water Supply Approval
- Attachment 7 – Fire Access Plan
- Attachment 8 – DPS Well and Septic Approval
- Attachment 9 – Stormwater Management Concept Approval
- Attachment 10 – Rustic Roads Advisory Board Recommendation Letter
- Attachment 11 – Variance Request from Applicant
- Attachment 12 – County Arborist's Response Letter

## Attachment 1

***PACKARD & ASSOCIATES, LLC***

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*Gaithersburg, MD 20877*

*(301) 208-0250*

*(301) 208-1270 fax*

*dean@packardassociatesllc.com*

September 28, 2016

Montgomery County Planning Board

M.N.C.P.P.C.

8787 Georgia Avenue

Silver Spring, MD 20910

Re: Justement Woods  
Preliminary Plan  
#120170090  
Justification Statement

Dear Board Member:

The following is my Statement of Justification stating the facts and reasons for application for the preliminary plan.

The proposed subdivision is located at 11731 Glen Mill Road in Potomac, approximately 1200' north of the intersection with Glen Road. The property is a 2.49 acre parcel with an existing house built in 1956. The parcel was created after the 1958 zoning ordinance was approved and doesn't qualify for the single residential lot subdivision exemption. Therefore, this application is to subdivide one single residential lot and record a plat, making the property eligible for one building permit.

This property has been through subdivision once to subdivide it into two lots. The planning board denied the previous application (120070090) to subdivide the parcel into two lots on March 29, 2007. The basis for the denial claimed that two lot configuration wasn't compatible with similar zoned surrounding lots.

In May, we held a pre-application meeting to see if there was a change in position of the neighbors willing to support another two lot subdivision. The opinion of the neighbors didn't change, therefore the owner now wishes to apply for the single lot subdivision.

There is forest on the property and the property abuts park property in the rear. Most of the trees are proposed to be saved on the property except for what is necessary to construct a proposed house and septic field. The proposed house is pulled forward to the front building restriction line into an open area is intentioned to save as many trees as possible and provide a large back yard for the potential homebuyer. The proposal is to save most of the trees on the property but not

record a forest conservation easement, unless requested, due to issues related to maintaining easements on private property.

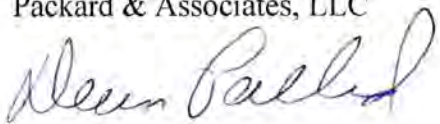
Even though we are not proposing to remove any trees 30" and larger a tree variance will be required due to critical root zone impacts to one 30" oak tree, just behind the proposed house and three 30"+ oak trees behind the limit of disturbance necessary to remove the existing house. A detailed variance report shall be included with the application.

Glen Mill Road is an exceptional rustic road and the existing driveway entrance is proposed to be left as it currently exists. The existing driveway beyond the proposed house shall be removed in addition to the existing house. There are two proposed septic systems approved for the site and only the one closest to Glen Mill Road is only proposed to be used. Private well systems are proposed for the site. The public water main abutting the property in Glen Mill Road is owned by the City of Rockville and we are not permitted to connect to it. The closest WSSC main is about 300' to the north and there is no reason to propose an extension for one lot.

One lot is consistent and compatible with other properties in the surrounding area. Stormwater management is proposed to be met by infiltration with drywells to address the remaining existing and proposed impervious site area. There is no existing storm drain systems in the area and all proposed runoff from the site is expected to sheet flow along the existing contours to the street or surrounding properties, consistent with the existing patterns now.

I have recently met with the existing homeowners. They are satisfied that the proposal now is for only one lot but they would prefer that the house be located further from the road. I explained the intent was to minimize the site impervious area on the preliminary plan and leave as much of the rear yard available to the future homeowner. I also explained that the purpose of the preliminary plan was to establish the one lot and only identify one possible house size and location, at this time. We discussed the future applicant or home purchaser will be responsible to following the conditions of preliminary plan approval and applicable county and zoning codes to obtain permits.

Sincerely,  
Packard & Associates, LLC

A handwritten signature in blue ink, appearing to read "Dean Packard", is written over the printed name.

Dean Packard, PE  
Managing Member

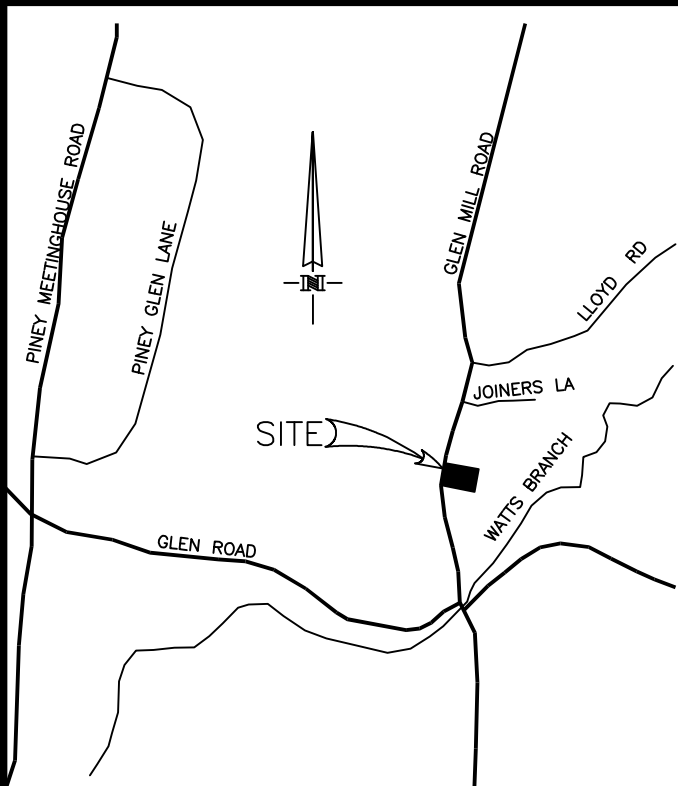


Attachment 2

MISS UTILITY  
CALL "MISS UTILITY" AT 1-800-257-777, 48 HOURS PRIOR TO THE START OF WORK. THE EXCAVATOR MUST NOTIFY ALL PUBLIC UTILITY COMPANIES WITH UNDER GROUND FACILITIES IN THE AREA OF PROPOSED EXCAVATION AND HAVE THOSE FACILITIES LOCATED BY THE UTILITY COMPANIES PRIOR TO COMMENCING EXCAVATION. THE EXCAVATOR IS RESPONSIBLE FOR COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 36A OF THE MONTGOMERY COUNTY CODE.

LEGEND

- PROPERTY LINE
- EXISTING CONTOUR
- PROPOSED CONTOUR
- LIMIT OF DISTURBANCE
- ROOF TOP DISCONNECT FLOW PATH
- TREE LINE
- EXISTING OVERHEAD LINES
- EXISTING WATER LINES
- EXISTING SEWER LINES
- EXISTING STORM DRAIN
- EXISTING UNDERGROUND GAS LINES
- EXISTING UNDERGROUND ELECTRICAL LINES
- EXISTING UNDERGROUND TELEPHONE / CABLE LINES
- EXISTING WOOD FENCE
- EXISTING WIRE FENCE
- EXISTING RAIL FENCE
- PROPOSED SPOT GRADES
- PROPOSED DRY WELLS
- SOIL TEST

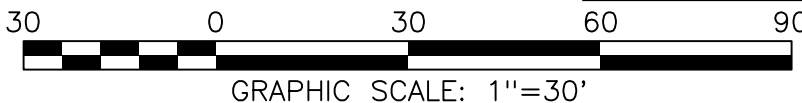


VICINITY MAP  
SCALE: 1" = 2000'  
ADC MAP 56 - GRID F-8

GENERAL NOTES

1. W.S.S.C. 200 SHEET: 215-NW-10
2. TAX MAP: FQ32, PARCEL 480.
3. PARCEL TAX I.D. #10-01472680
4. ADC MAP LOCATION: MAP 56, GRID F-8.
5. PROPERTY ADDRESS IS 11731 GLEN MILL ROAD.
6. DEED REFERENCE: L. 34421 F. 652
7. GROSS AREA: 2.49 AC. / 108,464 S.F.  
NET TRACT AREA = 2,273 AC. / 99,009 SF
8. SITE TO BE SERVED BY PRIVATE WELL AND SEPTIC SYSTEM.
9. WATER AND SEWER CATEGORY: W-1, S-6
10. THERE IS NO FLOODPLAIN OR WETLANDS ON THIS SITE.
11. WATERSHED: WATTS BRANCH, CLASS I.
12. STORMWATER MANAGEMENT:  
ESDV PROVIDED ON-SITE WITH DRYWELLS.
13. SOILS: 1B, GAILA SILT LOAM, 16D, BRINKLOW-  
BLOCKTOWN CHANNERY SILT LOAM
14. BOUNDARY VERIFIED BY PACKARD & ASSOCIATES, LLC 9/2016.
15. TOPOGRAPHIC FROM SURVEY FROM GOODE SURVEYS, INC.
16. WATER - PRIVATE WELLS / SEWER - PRIVATE SEPTIC SYSTEM.
17. UTILITY COMPANIES:  
ELECTRIC: PEPSCO  
TELEPHONE: VERIZON  
GAS: WASHINGTON GAS  
CATV: COMCAST  
WATER: WSSC
18. OWNER:  
SER, LLC  
12220 STONEY CREEK ROAD  
POTOMAC, MARYLAND 20854-1916  
PHONE: 240-876-0211
19. NR/FSD, #420160980, APPROVED 2/22/2016
20. TOTAL AREA OF DISTURBANCE: 24,657 S.F.
21. EXISTING ZONING: RE-1  
SETBACKS  
FRONT: 50 FEET  
SIDE: 17 FEET MIN ONE SIDE, 35 FEET TOTAL  
REAR: 35 FEET  
FRONTAGE AT RIGHT-OF-WAY: 25 FEET  
FRONTAGE AT BUILDING RESTRICTION LINE: 125 FEET  
NO IMPROVEMENT ARE PROPOSED TO GLEN MILL ROAD  
SINCE IT IS AN EXCEPTIONS RUSTIC ROAD
22. ALL WELLS AND SEPTIC SYSTEMS WITHIN 100' OF THE PROPERTY BOUNDARY HAVE BEEN SHOWN.
23. THE EXISTING WELL AND SEPTIC SYTEM MUST BE ABANDONED PRIOR TO BUILDING PERMIT APPROVAL.

DEVELOPMENT DATA		
	REQUIRED	PROPOSED
ZONING	RE-1	RE-1
MINIMUM AREA	1 ACRE	2.27 AC.
MAXIMIM DENSITY	1 PER ACRE =2 LOTS	1 LOT
BUILDING SETBACKS		
FRONT	50'	50'
SIDE	17'/35' TOTAL	29'/140' TOTAL
REAR	35'	248'
FRONTAGE @ FRONT BRL	125'	259'
FRONTAGE AT R/W	25'	238
MAXIMUM BUILDING COVERAGE	15% MAX	>5%



ENGINEERS CERTIFICATION

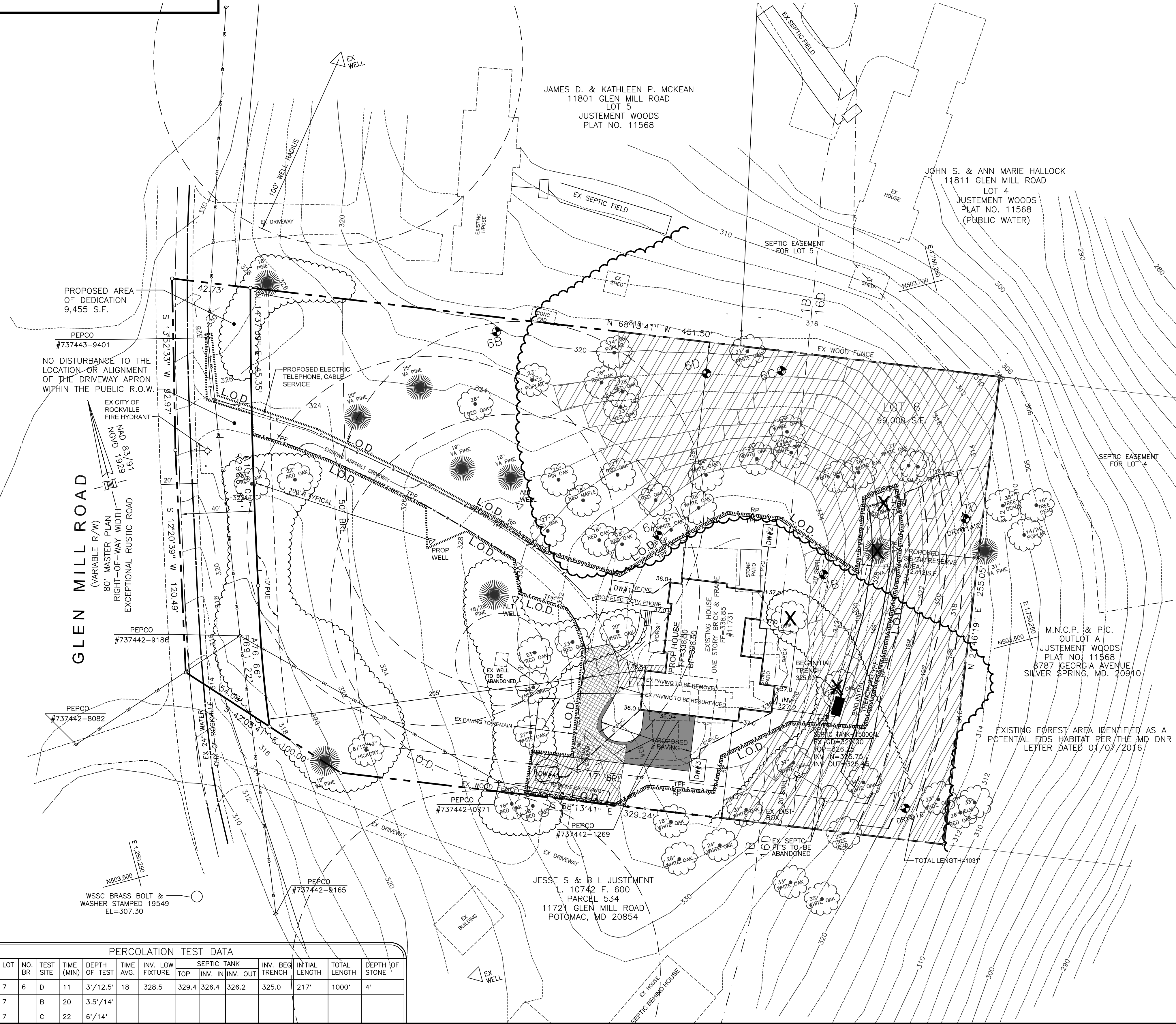
I HEREBY CERTIFY THAT THIS BOUNDARY SHOWN HEREON IS CORRECT BASED ON EXISTING DEEDS AND PLATS RECORDED AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND, SUBJECT TO CHANGE UPON FINAL SURVEY. TOPOGRAPHY FROM SOURCES NOTED.

DEAN PACKARD, P.E. \_\_\_\_\_ DATE \_\_\_\_\_

PROFESSIONAL CERTIFICATION

I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE No. 16518, EXPIRATION DATE: 06/10/2019.

DEAN PACKARD, P.E. \_\_\_\_\_ DATE \_\_\_\_\_



PERCOLATION TEST DATA													
LOT	NO. BR	TEST SITE	TIME (MIN)	DEPTH OF TEST	TIME AVG.	INV. LOW FIXTURE	SEPTIC TANK			INV. BEG TRENCH	INITIAL LENGTH	TOTAL LENGTH	DEPTH OF STONE
							TOP	INV. IN	INV. OUT				
7	6	D	11	3"/12.5'	18	328.5	329.4	326.4	326.2	325.0	217'	1000'	4'
7		B	20	3.5'/14'									
7		C	22	6'/14'									

PACKARD & ASSOCIATES, LLC

CIVIL ENGINEERS \* SURVEYORS \* LAND PLANNERS  
16220 FREDERICK ROAD, SUITE 300  
GAITHERSBURG, MARYLAND 20877  
PHONE (301) 208-0250 FAX (301) 208-1270

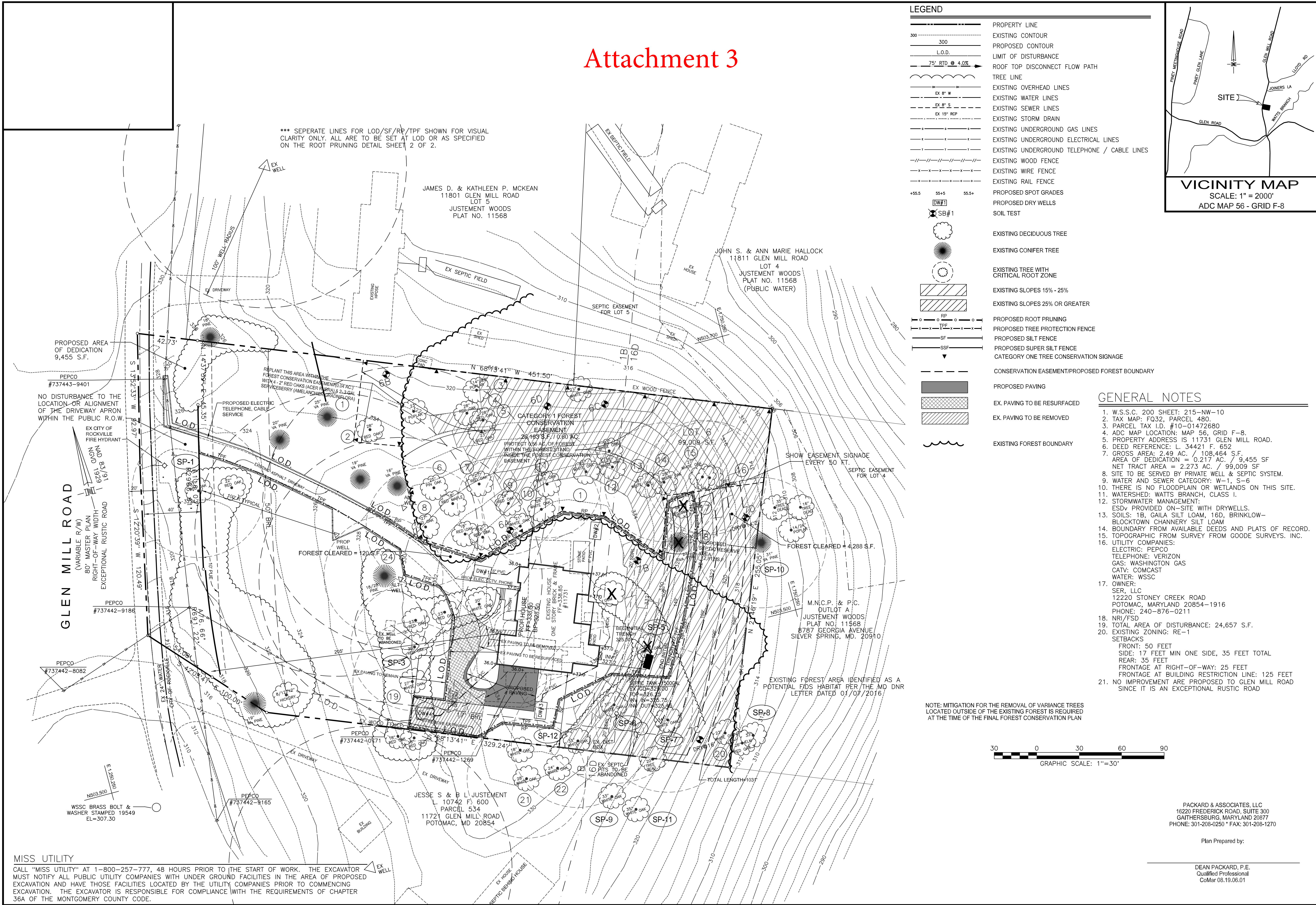
PRELIMINARY PLAN

11731 GLEN MILL ROAD  
PROPOSED LOT 6  
JUSTEMENT WOODS  
PROPERTY OF SER, LLC  
RECORDED IN L. 34221 F. 652.  
POTOMAC ELECTION DISTRICT No. 10 MONTGOMERY COUNTY, MARYLAND

SCALE 1"=30'	DRAWN
DATE 11-04-17	
ACAD FILE NAME	
SHEET 1 of 1	



Attachment 3



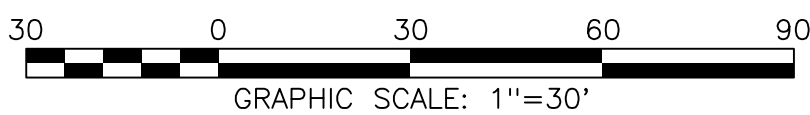
LEGEND

- PROPERTY LINE
- EXISTING CONTOUR
- PROPOSED CONTOUR
- LIMIT OF DISTURBANCE
- ROOF TOP DISCONNECT FLOW PATH
- TREE LINE
- EXISTING OVERHEAD LINES
- EXISTING WATER LINES
- EXISTING SEWER LINES
- EXISTING STORM DRAIN
- EXISTING UNDERGROUND GAS LINES
- EXISTING UNDERGROUND ELECTRICAL LINES
- EXISTING UNDERGROUND TELEPHONE / CABLE LINES
- EXISTING WOOD FENCE
- EXISTING WIRE FENCE
- EXISTING RAIL FENCE
- PROPOSED SPOT GRADES
- PROPOSED DRY WELLS
- SOIL TEST
- EXISTING DECIDUOUS TREE
- EXISTING CONIFER TREE
- EXISTING TREE WITH CRITICAL ROOT ZONE
- EXISTING SLOPES 15% - 25%
- EXISTING SLOPES 25% OR GREATER
- PROPOSED ROOT PRUNING
- PROPOSED TREE PROTECTION FENCE
- PROPOSED SILT FENCE
- PROPOSED SUPER SILT FENCE
- CATEGORY ONE TREE CONSERVATION SIGNAGE
- CONSERVATION EASEMENT/PROPOSED FOREST BOUNDARY
- PROPOSED PAVING
- EX. PAVING TO BE RESURFACED
- EX. PAVING TO BE REMOVED
- EXISTING FOREST BOUNDARY

GENERAL NOTES

1. W.S.S.C. 200 SHEET: 215-NW-10
2. TAX MAP: F032, PARCEL 480.
3. PARCEL TAX I.D. #10-01472680
4. ADC MAP LOCATION: MAP 56, GRID F-8.
5. PROPERTY ADDRESS IS 11731 GLEN MILL ROAD.
6. DEED REFERENCE: L. 34421 F. 652
7. GROSS AREA: 2.49 AC. / 108,464 S.F.
8. NET TRACT AREA = 0.217 AC. / 9,455 SF
9. SITE TO BE SERVED BY PRIVATE WELL & SEPTIC SYSTEM.
10. WATER AND SEWER CATEGORY: W-1, S-6
11. THERE IS NO FLOODPLAIN OR WETLANDS ON THIS SITE.
12. WATERSHED: WATTS BRANCH, CLASS I.
13. STORMWATER MANAGEMENT: ESDv PROVIDED ON-SITE WITH DRYWELLS.
14. SOILS: 1B, GAILA SILT LOAM, 16D, BRINKLOW-BLOCKTOWN CHANNERY SILT LOAM
15. BOUNDARY FROM AVAILABLE DEEDS AND PLATS OF RECORD.
16. TOPOGRAPHIC FROM SURVEY FROM GOODE SURVEYS, INC.
17. UTILITY COMPANIES: ELECTRIC: PEPCO TELEPHONE: VERIZON GAS: WASHINGTON GAS CATV: COMCAST WATER: WSSC
18. OWNER: SER, LLC 12220 STONEY CREEK ROAD POTOMAC, MARYLAND 20854-1916 PHONE: 240-876-0211
19. NRI/FSD
20. TOTAL AREA OF DISTURBANCE: 24,657 S.F.
21. EXISTING ZONING: RE-1 SETBACKS: FRONT: 50 FEET SIDE: 17 FEET MIN ONE SIDE, 35 FEET TOTAL REAR: 35 FEET FRONTAGE AT RIGHT-OF-WAY: 25 FEET FRONTAGE AT BUILDING RESTRICTION LINE: 125 FEET
22. NO IMPROVEMENT ARE PROPOSED TO GLEN MILL ROAD SINCE IT IS AN EXCEPTIONAL RUSTIC ROAD

NOTE: MITIGATION FOR THE REMOVAL OF VARIANCE TREES LOCATED OUTSIDE OF THE EXISTING FOREST IS REQUIRED AT THE TIME OF THE FINAL FOREST CONSERVATION PLAN



PACKARD & ASSOCIATES, LLC  
16220 FREDERICK ROAD, SUITE 300  
GAITHERSBURG, MARYLAND 20877  
PHONE: 301-208-0250 \* FAX: 301-208-1270

Plan Prepared by:

DEAN PACKARD, P.E.  
Qualified Professional  
CoMar 08.19.06.01

PACKARD & ASSOCIATES, LLC

CIVIL ENGINEERS \* SURVEYORS \* LAND PLANNERS  
16220 FREDERICK ROAD, SUITE 300  
GAITHERSBURG, MARYLAND 20877  
PHONE (301) 208-0250 FAX (301) 208-1270

PRELIMINARY FOREST CONSERVATION PLAN

11731 GLEN MILL ROAD

PROPOSED LOT 6

JUSTEMENT WOODS

PROPERTY OF SER, LLC

RECORDED IN L. 34421 F. 652.  
POTOMAC ELECTION DISTRICT No. 10 MONTGOMERY COUNTY, MARYLAND

DESCRIPTION  
REVISIONS

SCALE  
1"=30'

DRAWN

DATE  
11-4-17

ACAD FILE NAME

SHEET 1 of 2



SPECIMEN TREES						TREES						TREES					
No.	SPECIES	D.B.H.	CONDITION	REMARKS		No.	SPECIES	D.B.H.	CONDITION	REMARKS		No.	SPECIES	D.B.H.	CONDITION	REMARKS	
SP-1	RED OAK (1)	31"	FAIR	IMPACTED BUT RETAINED		1	VIRGINIA PINE	25"	POOR	DEADWOOD, DAMAGED ROOTS		13	WHITE OAK	27"	FAIR		
						2	RED OAK	28"	GOOD			14	WHITE OAK	28"	FAIR		
SP-3	RED OAK (1)	30"	POOR	IMPACTED BUT RETAINED		3	POPLAR	28"	GOOD			15	WHITE OAK	27"	GOOD		
						4	RED OAK	28"	POOR	NEAR DEAD		16	WHITE OAK	26"	GOOD		
SP-5	WHITE OAK (1)	38"	FAIR	REMOVED		5	REDOAK	28"	FAIR	LEANING		17	RED OAK	26"	POOR	POOR STRUCTURE, DEADWOOD	
SP-6	WHITE OAK (1)	37"	FAIR	IMPACTED BUT RETAINED		6	PIN OAK	25"	GOOD	REMOVE		18	VIRGINIA PINE	27"	FAIR		
SP-7	WHITE OAK (1)	34"	POOR	IMPACTED BUT RETAINED		7	RED OAK	27"	GOOD			19	WHITE OAK	27"	GOOD		
SP-8	ELM	33"	POOR	SAVE		8	RED OAK	27"	FAIR	LEANING		20	RED OAK	26"	FAIR		
SP-9	WHITE OAK	33"	GOOD	SAVE		9	RED OAK	24"	GOOD			21	WHITE OAK	28"	GOOD		
SP-10	VIRGINIA PINE	31"	FAIR	SAVE		10	WHITE OAK	28"	POOR			22	WHITE OAK	24"	GOOD		
SP-11	WHITE OAK	35"	GOOD	SAVE		11	WHITE OAK	24"	GOOD			24	VIRGINIA PINE	18/28"	GOOD		
SP-12	WHITE OAK (1)	31"	FAIR	IMPACTED BUT RETAINED		12	WHITE OAK	25"	GOOD								

(1) VARIANCE TREES CRITICAL ROOT ZONES IMPACTED

#### Sequence of Events for Properties Required to Comply with Forest Conservation Plans, Exemptions from Submitting Forest Conservation Plans, and Tree Save Plans

##### Pre-Construction

- An on-site pre-construction meeting is required after the limits of disturbance have been staked and flagged and before any land disturbance. The property owner shall contact the Montgomery County Planning Department inspection staff before any land disturbing activities occur to verify the limits of disturbance and discuss tree protection and tree care measures. The property owner's representative, construction superintendent, International Society of Arboriculture (ISA) certified arborist or Maryland licensed tree expert that will implement the tree protection measures, Forest Conservation Inspector, and Montgomery County Department of Permitting Services (DPS) Sediment Control Inspector must attend this pre-construction meeting.
- No land disturbance shall begin before stress-reduction measures have been implemented. Appropriate stress-reduction measures may include, but are not limited to:
  - Root pruning
  - Crown reduction or pruning
  - Watering
  - Fertilizing
  - Vertical mulching
  - Root aeration mattingMeasures not specified on the plan may be required as determined by the Forest Conservation Inspector in coordination with the property owner's arborist.
- A Maryland licensed tree expert, or an ISA certified arborist must perform all stress reduction measures. Implementation of the stress reduction measures must be observed by the Forest Conservation Inspector or written documentation must be sent to the Forest Conservation Inspector at 8787 Georgia Avenue, Silver Spring, MD 20910. The Forest Conservation Inspector will determine the exact method to convey the implementation of all stress reductions measures during the pre-construction meeting.
- Temporary tree protection devices shall be installed per the approved Forest Conservation Plan, exemption from submitting a Forest Conservation Plan, or Tree Save Plan and prior to any land disturbance. Tree protection fencing locations must be staked and flagged prior to the pre-construction meeting. The Forest Conservation Inspector, in coordination with the DPS Sediment Control Inspector, may make field adjustments to increase the survivability of trees and forest shown as saved on the approved plan. Temporary tree protect devices may include:
  - Chain link fence (four feet high)
  - Super silt fence with wire strung between the support poles (minimum 4 feet high) with high visibility flagging.
  - 14 gauge 2 inch x 4 inch welded wire fencing supported by steel T-bar posts (minimum 4 feet high) with high visibility flagging.

- Temporary protection devices must be maintained and installed by the property owner for the duration of construction project and must not be altered without prior approval from the Forest Conservation Inspector. No equipment, trucks, materials, or debris may be stored within the tree protection fence areas during the entire construction project. No vehicle or equipment access to the fenced area is permitted. Tree protection must not be removed without prior approval of Forest Conservation Inspector.
- Forest retention area signs must be installed as required by the Forest Conservation Inspector, or as shown on the approved plan.
- Long-term protection devices must be installed per the approved plan. Installation will occur at the appropriate time during the construction project. Refer to the approved plan drawing for the long-term protection measures to be installed.

##### During Construction

- Periodic inspections by the Forest Conservation Inspector will occur during the construction project. Corrections and repairs to all tree protection devices, as determined by the Forest Conservation Inspector, must be made within the timeframe established by the Forest Conservation Inspector.
- The property owner must immediately notify the Forest Conservation Inspector of any damage to trees, forests, understory, ground cover, and any other undisturbed areas shown on the approved plan. Remedial actions to restore these areas will be determined by the Forest Conservation Inspector and those corrective actions must be made within the timeframe established by the Forest Conservation Inspector.

##### Post-Construction

- After construction is completed, the property owner must request a final inspection with the Forest Conservation Inspector. At the final inspection, the Forest Conservation Inspector may require additional corrective measures, which may include:
  - Removal and replacement of dead and dying trees
  - Pruning of dead or declining limbs
  - Soil aeration
  - Fertilization
  - Watering
  - Wound repair
  - Clean up of retention areas including trash removal
- After the final inspection and completion of all corrective measures the Forest Conservation Inspector will request all temporary tree and forest protection devices be removed from the site. Removal of tree protection devices that also operate for erosion and sediment control must be coordinated with both DPS and the Forest Conservation Inspector. No additional grading, sodding, or burial may take place after the tree protection fencing is removed.

##### INSPECTIONS

All field inspections must be requested by the applicant.

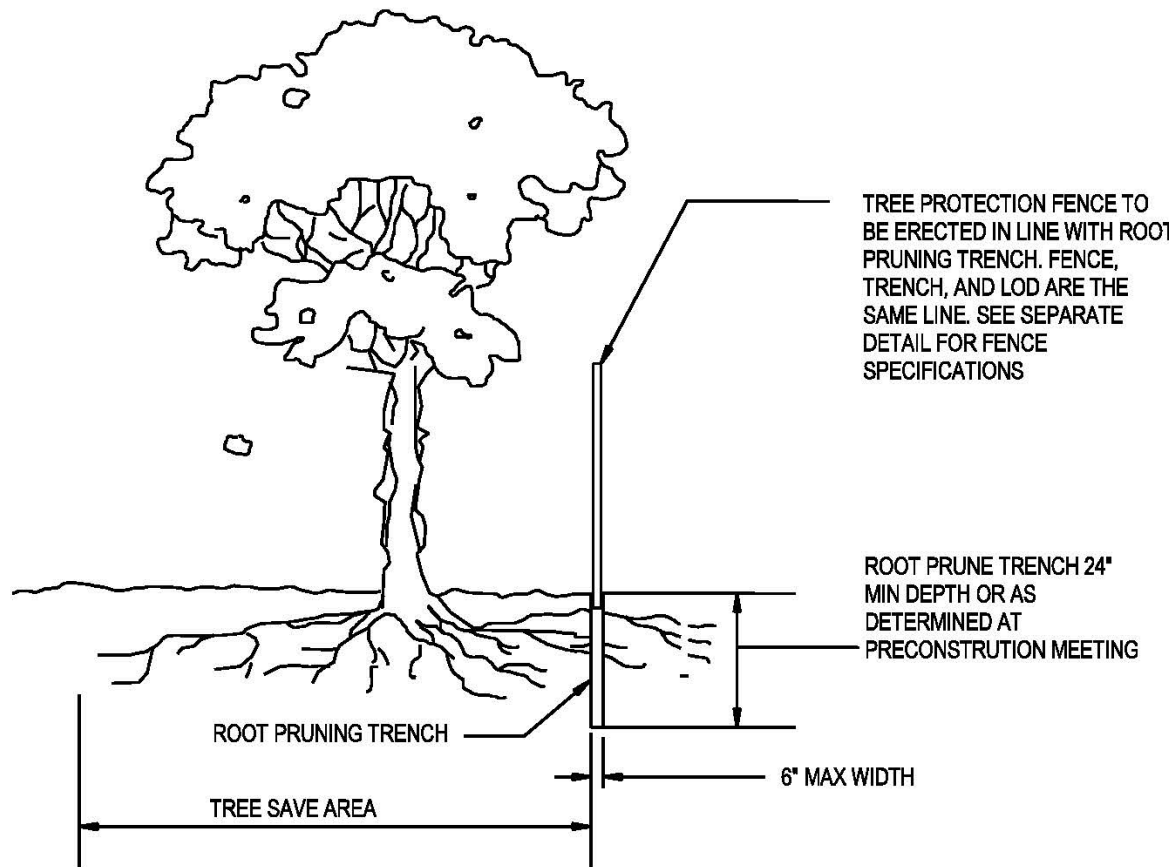
Field Inspections must be conducted as follows:

##### Plans without Planting Requirements

- After the limits of disturbance have been staked and flagged, but before any clearing or grading begins.
- After necessary stress reduction measures have been completed and protection measures have been installed, but before any clearing and grading begin and before release of the building permit.
- After completion of all construction activities, but before removal of tree protection fencing, to determine the level of compliance with the provision of the forest conservation.

##### Additional Requirements for Plans with Planting Requirements

- Before the start of any required reforestation and afforestation planting.
- After the required reforestation and afforestation planting has been completed to verify that the planting is acceptable and prior to the start the maintenance period.
- At the end of the maintenance period to determine the level of compliance with the provisions of the planting plan, and if appropriate, release of the performance bond.



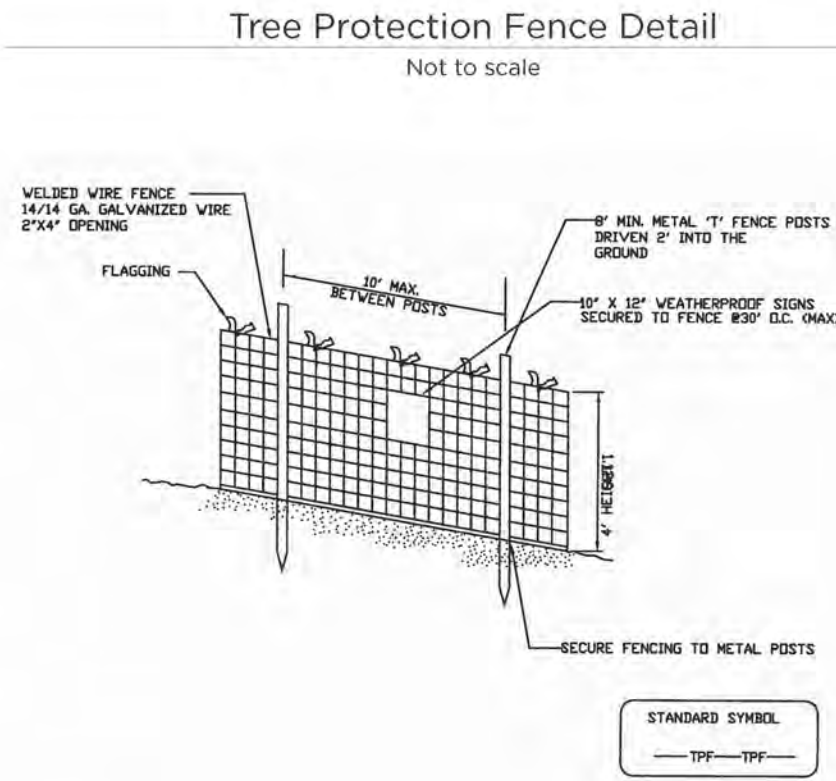
##### NOTES:

- RETENTION AREAS WILL BE SET AS PART OF THE REVIEW PROCESS AND PRECONSTRUCTION MEETING.
- BOUNDARIES OF RETENTION AREAS MUST BE STAKED AT THE PRECONSTRUCTION MEETING AND FLAGGED PRIOR TO TRENCHING.
- EXACT LOCATION OF TRENCH SHALL BE DETERMINED IN THE FIELD IN COORDINATION WITH THE FOREST CONSERVATION (FC) INSPECTOR.
- TRENCH SHOULD BE IMMEDIATELY BACKFILLED WITH EXCAVATED SOIL OR OTHER ORGANIC SOIL AS SPECIFIED PER PLAN OR BY THE FC INSPECTOR.
- ROOTS SHALL BE CLEANLY CUT USING VIBRATORY KNIFE OR OTHER ACCEPTABLE EQUIPMENT.
- ALL PRUNING MUST BE EXECUTED WITH LOD SHOWN ON PLANS OR AS AUTHORIZED IN WRITING BY THE FC INSPECTOR.

##### ROOT PRUNING DETAIL

NTS

## Attachment 4



##### NOTES

- Practice may be combined with sediment control fencing.
- Location and limits of fencing should be coordinated in field with arborist.
- Boundaries of protection area should be staked prior to installing protective device.
- Root damage should be avoided.
- Protection signage is required.
- Fencing shall be maintained throughout construction.

Montgomery County Planning Department • M-NCPPC  
MontgomeryPlanning.org

### PERMANENT FOREST CONSERVATION EASEMENT SIGNAGE

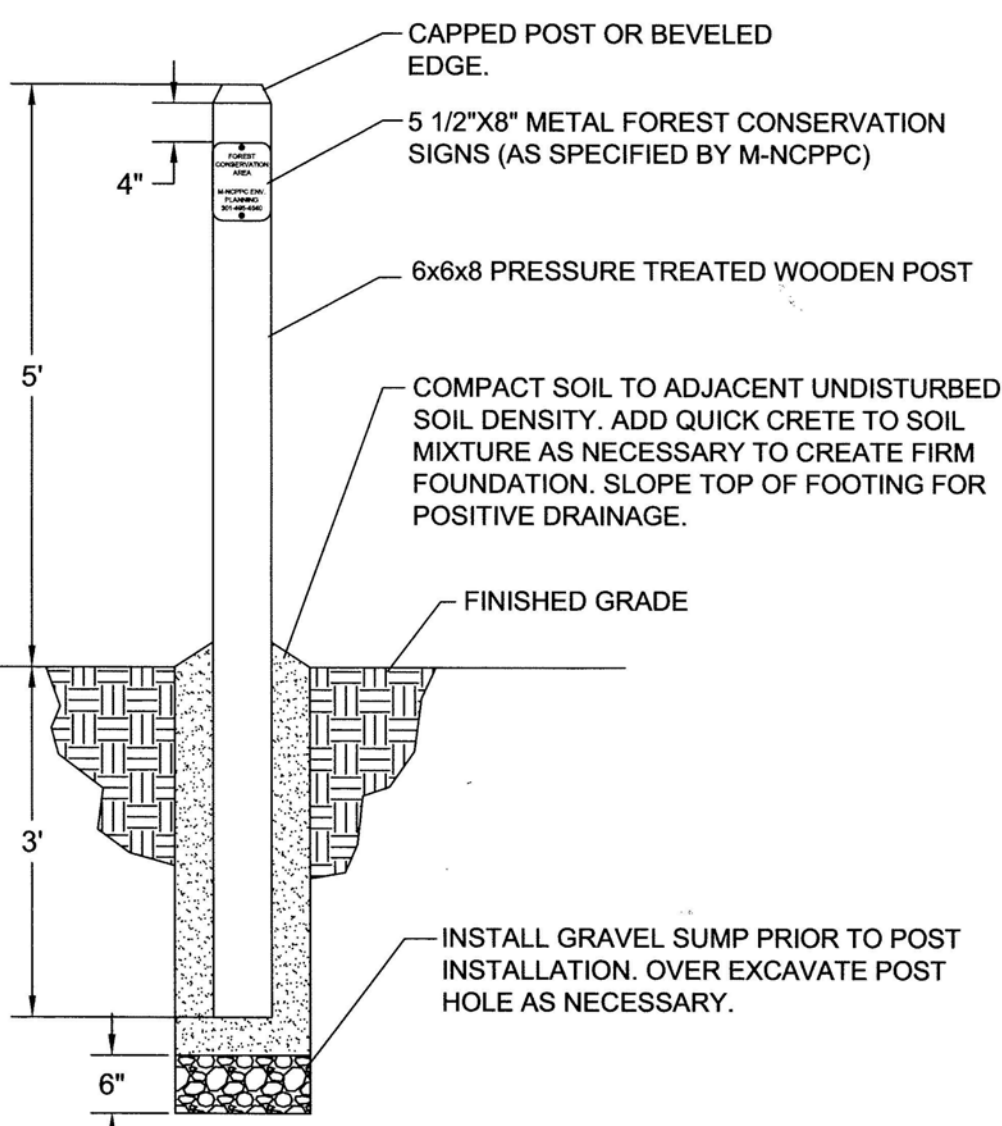
##### NOTES:

POST TO BE INSTALLED IN A VERTICALLY PLUMB POSITION.

ALL WOOD SHALL BE PRESSURE TREATED SOUTHERN YELLOW PINE OR CEDAR.

ALL FASTENERS SHALL BE STAINLESS STEEL 1-1/2\"/>

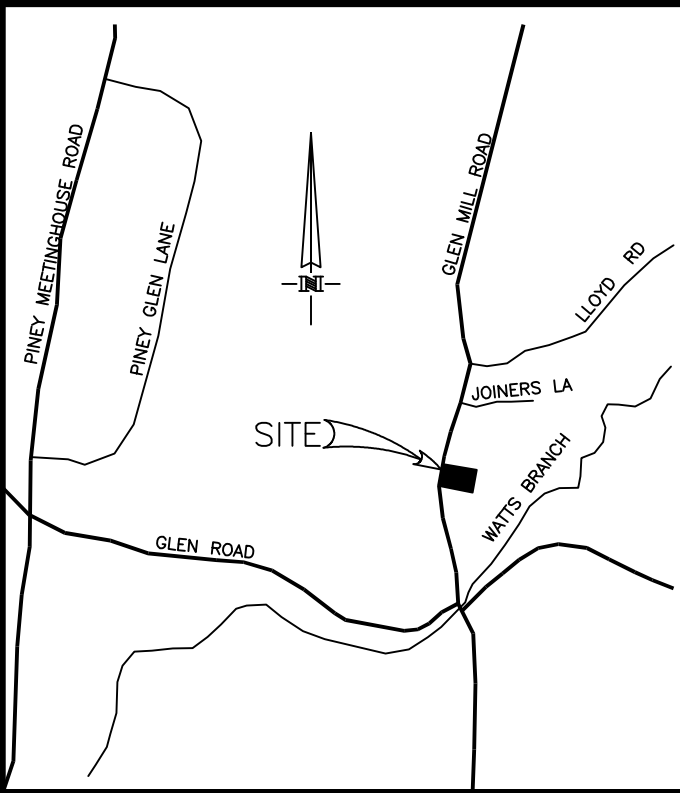
ALL POSTS TO BE INSTALLED ALONG FOREST CONSERVATION EASEMENT LINE AS SPECIFIED PER APPROVED FINAL FOREST CONSERVATION PLAN OR M-NCPPC FIELD INSPECTOR'S INSTRUCTIONS.



MONTGOMERY COUNTY PLANNING DEPT. 12/23/2008

### FOREST CONSERVATION DATA TABLE

ACREAGE OF TRACT REMAINING IN AGRICULTURAL USE	2.49 ACRES
ACREAGE OF ROAD AND UTILITY ROW'S WHICH WILL NOT BE IMPROVED AS PART OF THE DEVELOPMENT APPLICATION	0.00 ACRES
ACREAGE OF TOTAL EXISTING FOREST	0.21 ACRES
ACREAGE OF FOREST RETENTION	0.68 ACRES
ACREAGE OF TOTAL FOREST CLEARED	0.56 ACRES
LAND USE CATEGORY AND CONSERVATION / AFFORESTATION THRESHOLDS FROM SECTION 22A-12(1) OF THE FOREST CONSERVATION LAW	0.10 ACRES
ACREAGE OF FOREST RETAINED, CLEARED AND PLANTED WITHIN 100 YEAR FLOODPLAIN	MDR
ACREAGE OF FOREST RETAINED, CLEARED AND PLANTED WITHIN STREAM BUFFERS	0.00 ACRES
ACREAGE OF FOREST RETAINED, CLEARED AND PLANTED WITHIN PRIORITY AREAS	0.00 ACRES
LINEAR FEET AND AVERAGE WIDTH OF STREAM BUFFER PROVIDED ON EACH SIDE OF STREAMS	NONE



### VICINITY MAP

SCALE: 1" = 2000'  
ADC MAP 56 - GRID F-8

### SOIL DATA

SYMBOL	DESCRIPTION	PRIME FARMLAND	HIGHLY ERODIBLE	HYDRIC	K FACTOR
1B	GAILA SILT LOAM 3-8% SLOPES	YES	NO	NO	0.37 (<8" DEPTH) 0.32 (>8" DEPTH)
16D	BRINKLOW-BLOCKTOWN CHANNERY SILT LOAM 15-25% SLOPES	NO	NO	NO	0.28

### FOREST STAND SUMMARY TABLE

TOTAL SITE AREA	2.49 ACRES
TOTAL ROAD DEDICATION	0.22 ACRES
NET PROPERTY AREA	2.27 ACRES
DISTURBED AREA IN R.O.W./OFFSITE	0.01 ACRES
TOTAL TRACK AREA	2.28 ACRES
TOTAL FLOODPLAIN ON SITE	0.00 ACRES
FORESTED FLOODPLAIN ON SITE	0.00 ACRES
EXISTING FOREST ON SITE	0.66 ACRES
STREAM BUFFERS	0.00 ACRES
FORESTED STREAM BUFFER	0.00 ACRES
ANTICIPATED FOREST CLEARING	0.10 ACRES

### FOREST CONSERVATION WORKSHEET

Justem Woods 5-Aug-02

NET TRACT AREA:	
A. Total tract area	2.49
B. Land dedication acres (parks, county facility, etc.)	0.00
C. Land dedication for roads or utilities (not being constructed by this plan)	0.22
D. Area to remain in commercial agricultural production/use	0.00
E. Other deductions (specify)	-0.01
F. Net Tract Area	2.28

LAND USE CATEGORY: (from Trees Technical Manual)  
Input the number "1" under the appropriate land use; limit to only one entry.

ARA	MDR	IDA	HDR	MPO	CIA
0	1	0	0	0	0
G. Afforestation Threshold	20%	x F =	0.46		
H. Conservation Threshold	25%	x F =	0.57		

EXISTING FOREST COVER:	
I. Existing forest cover	0.66
J. Area of forest above afforestation threshold	0.20
K. Area of forest above conservation threshold	0.09

BREAK EVEN POINT:	
L. Forest retention above threshold with no mitigation	0.59
M. Clearing permitted without mitigation	0.07

PROPOSED FOREST CLEARING:	
N. Total area of forest to be cleared	0.10
O. Total area of forest to be retained	0.56

PLANTING REQUIREMENTS:	
P. Reforestation for clearing above conservation threshold	0.02
Q. Reforestation for clearing below conservation threshold	0.02
R. Credit for retention above conservation threshold	0.00
S. Total reforestation required	0.04
T. Total reforestation required	0.00
U. Credit for landscaping (may not exceed 20% of "S")	0.00
V. Total reforestation and afforestation required	0.04

PROPOSED EXTENSION OF THE FIDS HABITAT BY RECORDING A CATEGORY ONE FOREST CONSERVATION EASEMENT ON THE NORTHEASTERN OF THE PROPERTY, ABUTTING THE PARK LAND AMOUNTING TO 0.60 ACRES TO INCLUDE FOREST AND SPECIMEN TREE CRITICAL ROOT ZONES.

PACKARD & ASSOCIATES, LLC  
16220 FREDERICK ROAD, SUITE 300  
GAITHERSBURG, MARYLAND 20877  
PHONE: 301-208-0250 \* FAX: 301-208-1270

Plan Prepared by:

DEAN PACKARD, P.E.  
Qualified Professional  
CoMar 08.19.06.01

### PACKARD & ASSOCIATES, LLC

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PHONE (301) 208-0250 FAX (301) 208-1270

### PRELIMINARY FOREST CONSERVATION PLAN

11731 GLEN MILL ROAD  
PROPOSED LOT 6  
JUSTEMENT WOODS  
PROPERTY OF SER. LLC  
RECORDED IN L. 34221 F. 652-  
POTOMAC ELECTION DISTRICT No. 10 MONTGOMERY COUNTY, MARYLAND

SCALE 1"=30'	DRAWN
	DATE 11-04-2017
ACAD FILE NAME	
SHEET 2 of 2	





## Attachment 5

Isiah Leggett  
*County  
Executive*

### DEPARTMENT OF TRANSPORTATION

Al R. Roshdieh  
*Director*

November 9, 2017

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

RE: Preliminary Plan No. 120170090  
Justement Woods

Dear Mr. Sigworth:

We have completed our review of the preliminary plan dated November 4, 2017. A previous plan was reviewed by the Development Review Committee at its meeting on November 28, 2016. 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 the Department of Permitting Services in the package for record plats, storm drain, grading or paving plans, or application for access permit. This letter and all other correspondence from this department should be included in the package.

1. Necessary dedication of Glen Mill Road in accordance with the master plan.
2. The storm drain capacity and impact analyses **have not been approved** at this time. Prior to approval of the record plat, submit an updated drainage area map and study (for DPS approval) for any portion of the site that drains to a Montgomery County facility.
3. Prior to approval of the record plat by the Department of Permitting Services, submit a completed, executed and sealed MCDOT Sight Distances Evaluation certification form,

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#### Office of the Director

101 Monroe Street 10<sup>th</sup> Floor · Rockville Maryland 20850 · 240-777-7170 · 240-777-7178

FAX

[www.montgomerycountymd.gov](http://www.montgomerycountymd.gov)

*Located one block west of the Rockville Metro Station*

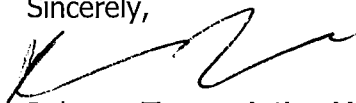
Mr. Ryan Sigworth  
Preliminary Plan No. 120170090  
November 9, 2017  
Page 2

for the existing driveway, for DPS review and approval. If access will be from a roadway included on the Rustic Roads Program, stake and pavement mark the proposed driveway location(s) for our evaluation of the impact on the Rustic Road features.

4. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.
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.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact myself at (240) 777-2118 or at [rebecca.torma@montgomerycountymd.gov](mailto:rebecca.torma@montgomerycountymd.gov).

Sincerely,



Rebecca Torma, Acting Manager  
Development Review Team  
Office of Transportation Policy

Sharepoint/transportation/director's office/development review/Rebecca/Potomac subregion/120170090 justement woods DOT.docx

cc: Rod Escobar SER LLC  
Dean Packard PG Associates, Inc.  
Preliminary Plan folder  
Preliminary Plan letters notebook

cc-e: Sam Farhadi MCDPS RWPR



---

Department of Permitting Services  
Fire Department Access and Water Supply Comments

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**DATE:** 20-Nov-17  
**TO:** Dean Packard - pgai@verizon.net  
P.G. Associates, Inc  
**FROM:** Marie LaBaw  
**RE:** Justement Woods  
120170090

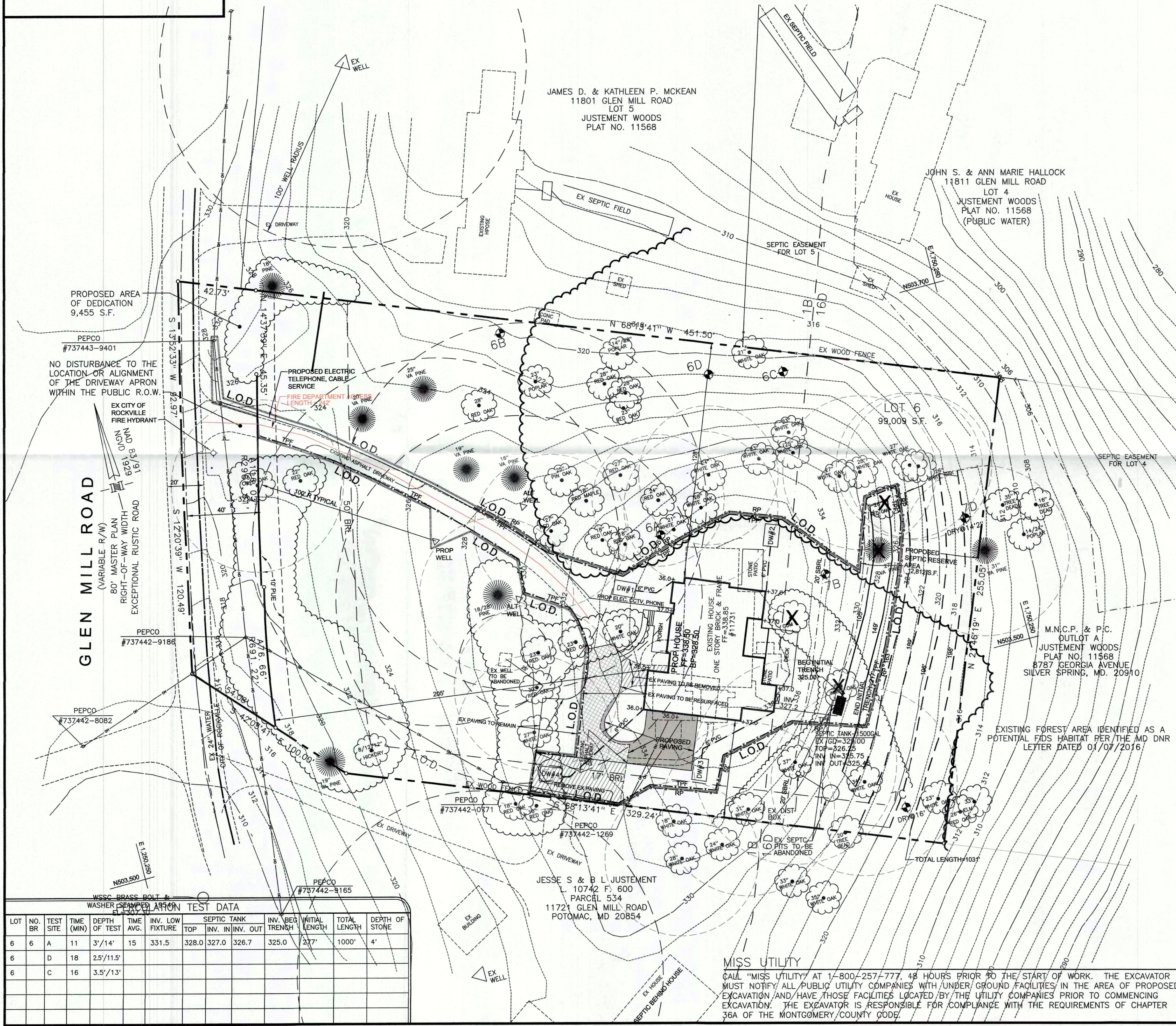
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**PLAN APPROVED**

1. Review based only upon information contained on the plan submitted 20-Nov-17. 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.

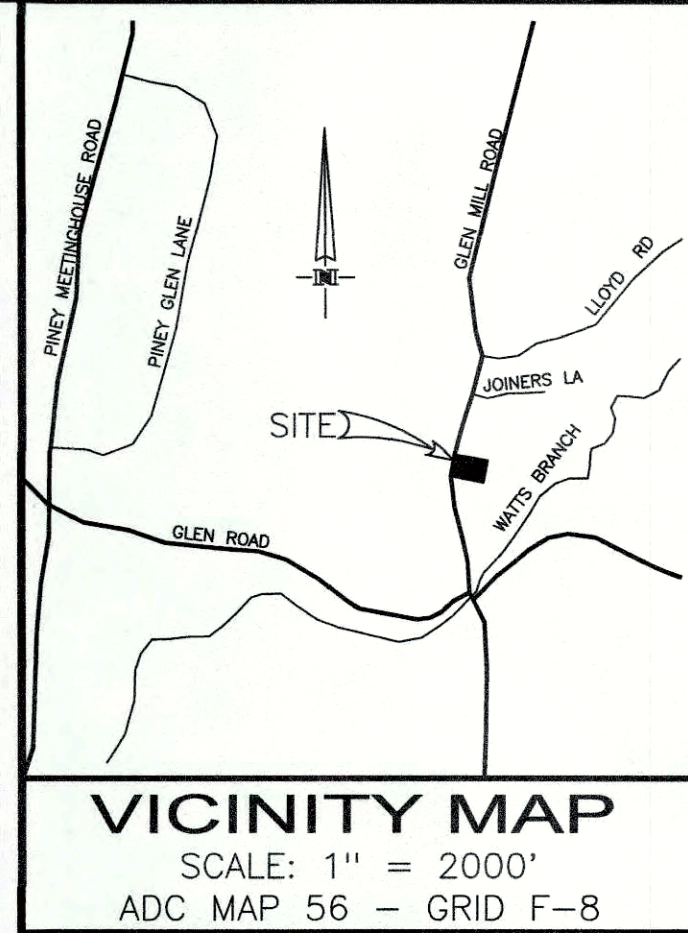


Attachment 7



**LEGEND**

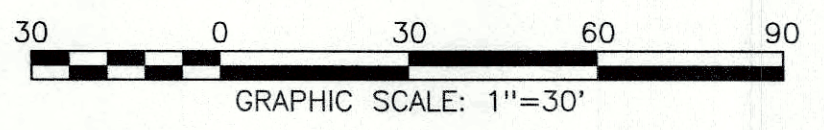
- PROPERTY LINE
- EXISTING CONTOUR
- PROPOSED CONTOUR
- LIMIT OF DISTURBANCE
- ROOF TOP DISCONNECT FLOW PATH
- TREE LINE
- EXISTING OVERHEAD LINES
- EXISTING WATER LINES
- EXISTING SEWER LINES
- EXISTING STORM DRAIN
- EXISTING UNDERGROUND GAS LINES
- EXISTING UNDERGROUND ELECTRICAL LINES
- EXISTING UNDERGROUND TELEPHONE / CABLE LINES
- EXISTING WOOD FENCE
- EXISTING WIRE FENCE
- EXISTING RAIL FENCE
- PROPOSED SPOT GRADES
- PROPOSED DRY WELLS
- SOIL TEST



- GENERAL NOTES**
- W.S.S.C. 200 SHEET: 215-NW-10
  - TAX MAP: F032, PARCEL 480
  - PARCEL TAX I.D. #10-01472680
  - ADC MAP LOCATION: MAP 56, GRID F-8.
  - PROPERTY ADDRESS IS 11731 GLEN MILL ROAD.
  - DEED REFERENCE: L. 34421 F. 652
  - GROSS AREA: 2.49 AC. / 108,464 S.F.
  - AREA OF DEDICATION = 0.217 AC. / 9,455 SF
  - NET TRACT AREA = 2.273 AC. / 99,009 SF
  - SITE TO BE SERVED BY EXISTING PUBLIC WATER AND PRIVATE SEPTIC SYSTEM.
  - WATER AND SEWER CATEGORY: W-1, S-6
  - THERE IS NO FLOODPLAIN OR WETLANDS ON THIS SITE.
  - WATERSHED: WATTS BRANCH, CLASS I.
  - STORMWATER MANAGEMENT: ESDV PROVIDED ON-SITE WITH DRYWELLS.
  - SOILS: 1B, GAILA SILT LOAM, 16D, BRINKLOW-BLOCKTOWN CHANNERY SILT LOAM
  - BOUNDARY VERIFIED BY PACKARD & ASSOCIATES, LLC 9/2016.
  - TOPOGRAPHIC FROM SURVEY FROM GOODE SURVEYS, INC.
  - WATER - PRIVATE WELLS / SEWER - PRIVATE SEPTIC SYSTEM.
  - UTILITY COMPANIES: ELECTRIC: PEPCO TELEPHONE: VERIZON GAS: WASHINGTON GAS CATV: COMCAST WATER: WSSC
  - OWNER: SER, LLC 12220 STONEY CREEK ROAD POTOMAC, MARYLAND 20854-1916 PHONE: 240-876-0211
  - NRI/FSO, #420160990, APPROVED 2/22/2016
  - TOTAL AREA OF DISTURBANCE: 24,657 S.F.
  - EXISTING ZONING: RE-1
  - SETBACKS: FRONT: 50 FEET SIDE: 17 FEET MIN ONE SIDE, 35 FEET TOTAL REAR: 35 FEET FRONTAGE AT RIGHT-OF-WAY: 25 FEET FRONTAGE AT BUILDING RESTRICTION LINE: 125 FEET
  - NO IMPROVEMENT ARE PROPOSED TO GLEN MILL ROAD SINCE IT IS AN EXCEPTIONS RUSTIC ROAD

**FIRE DEPARTMENT ACCESS**  
LENGTH SHOWN FROM EDGE OF PAVED PUBLIC ROAD TO WHERE FIRE TRUCK WOULD STOP

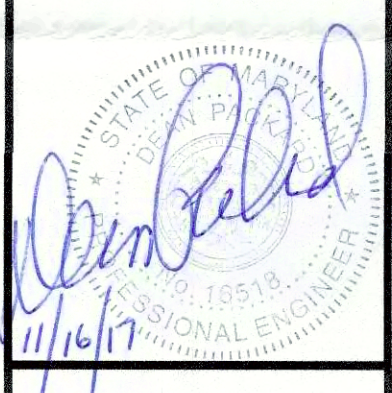
**STORM DRAINAGE**  
ON THIS PARCEL THERE ARE NO DRAINAGE STRUCTURES NOR ARE THERE ANY IN GLEN MILL ROAD. GLEN MILL ROAD IS AN EXCEPTIONAL RUSTIC ROAD AND HAS NO ROADSIDE SWALES. THE EXISTING HOUSE IS THE HIGH POINT ON THE PROPERTY AND RUNOFF SHEET FLOWS IN ALL FOUR DIRECTIONS FROM THE EXISTING HOUSE LOCATION. RUNOFF REACHING GLEN MILL ROAD FLOWS ALONG THE PAVING APPROXIMATELY 1300' BEFORE REACHING WATTS BRANCH.



**ENGINEERS CERTIFICATION**  
I HEREBY CERTIFY THAT THIS BOUNDARY SHOWN HEREON IS CORRECT BASED ON EXISTING DEEDS AND PLATS RECORDED AMONG THE LAND RECORDS OF MONTGOMERY COUNTY, MARYLAND, SUBJECT TO CHANGE UPON FINAL SURVEY. TOPOGRAPHY FROM SOURCES NOTED.

**PROFESSIONAL CERTIFICATION**  
I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND, LICENSE NO. 16518, EXPIRATION DATE: 06/10/2019.

**PACKARD & ASSOCIATES, LLC**  
CIVIL ENGINEERS \* SURVEYORS \* LAND PLANNERS  
16220 STONEY CREEK ROAD, SUITE 300  
GAITHERSBURG, MARYLAND 20877  
PHONE (301) 208-0250 FAX (301) 208-1270



**UTILITY PLAN**  
11731 GLEN MILL ROAD  
PROPOSED LOT 6  
**JUSTEMENT WOODS**  
PROPERTY OF SER, LLC  
RECORDED IN L. 34421 F. 652.  
POTOMAC ELECTION DISTRICT No. 10 MONTGOMERY COUNTY, MARYLAND

SCALE	DRAWN
1"=30'	LG
DATE	11-4-16
ACAD FILE NAME	
SHEET	1 of 1





## Attachment 8

### DEPARTMENT OF PERMITTING SERVICES


Diane R. Schwartz Jones  
Director

Isiah Leggett  
County Executive

### MEMORANDUM

December 6<sup>th</sup>, 2017

TO: Neil Braunstein  
Development Review  
Maryland National Capital Park and Planning Commission

FROM: Heidi Benham, Manager   
Well and Septic Section  
Department of Permitting Services

SUBJECT: Status of Preliminary Plan: Justement Woods – Proposed Lot 6  
120170090

This is to notify you that the Well & Septic Section of MCDPS approved the plan received in this office on December 1, 2017.

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 record plat must show the septic reserve area as it is shown on this plan.

If you have any questions, please me at (240) 777-6318.

Cc: Dean Packard

File

255 Rockville Pike, 2nd Floor • Rockville, Maryland 20850 • 240-777-6300 • 240-777-6256 TTY  
[www.montgomerycountymd.gov](http://www.montgomerycountymd.gov)



## Attachment 9

### DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett  
County Executive

Diane R. Schwartz Jones  
Director

November 18, 2016

Mr. Dean Packard  
Packard & Associates, LLC  
16220 Frederick Road, Suite 300  
Gaithersburg, MD 20877

Re: **COMBINED STORMWATER MANAGEMENT  
CONCEPT/SITE DEVELOPMENT  
STORMWATER MANAGEMENT PLAN**  
Request for **Revised** Justement Woods  
Preliminary Plan #: N/A  
SM File #: 227838  
Tract Size/Zone: 2.27/RE-1  
Total Concept Area: 2.27  
Lots/Block: Proposed Lot 6  
Parcel(s): 480  
Watershed: Potomac Direct

Dear Mr. Packard:

Based on a review by the Department of Permitting Services Review Staff, the **revised** Combined Stormwater Management Concept/Site Development Stormwater Management Plan for the above mentioned site is **acceptable**. The plan proposes to meet required stormwater management goals via the use of drywells. This concept appears to be for the conversion of the property from parcel 480 to proposed lot # 6 for the construction of one single family residence.

The following **items** will need to be addressed **during** the final stormwater management design plan stage:

1. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
2. An engineered sediment control plan must be submitted for this development.
3. Formal geotechnical evaluation will be required with the first submission of the detailed plans.
4. An attempt to treat the vehicular impervious area must be made prior to providing compensation in the drywells for the proposed house.

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


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

Mr. Dean Packard  
November 18, 2016  
Page 2 of 2

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

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

Sincerely,



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

MCE: TEW

cc: C. Conlon  
SM File # 227838

ESD Acres:	2.27ac
STRUCTURAL Acres:	N/A
WAIVED Acres:	N/A



**RUSTIC ROADS ADVISORY COMMITTEE**

February 24, 2017

Dean Packard  
Packard & Associates, LLC  
16220 Frederick Road, Suite 300  
Gaithersburg, MD 20877

RE: Justement Woods 120170090, Glen Mill Road, Exceptional Rustic

Dear Mr. Packard

During its January 24, 2017 meeting the Rustic Roads Advisory Committee (RRAC) reviewed the Preliminary Plan Drawing submitted for Justement Woods dated 11/1/2016. The Preliminary Plan Drawing proposes to remove an existing house at 11731 Glen Mill Road, and to build a new house which will be located approximately 150 feet closer to Glen Mill Road, which is designated as an Exceptional Rustic road. The proposed location of the new house will require that a significant percentage of the right front quadrant of the lot to be raised by 3 to 11 feet in order to establish the first floor elevation of the house. In addition, the Preliminary Plan Drawing also proposes to reutilize a significant portion of the exiting driveway and associated entrance on to Glen Mill Road.

After carefully reviewing the Preliminary Plan committee members expressed concern that the proposed house location will cause negative impacts to the visual character of Glen Mill Road. We do not recommend the approval of the Submitted Preliminary Plan until such time it is redesigned in manner that will substantially reduce the impact of the proposed house location and associated topographic changes to Glen Mill Road. Locating the new house where the existing house is located limits the disturbance to the greatest extent possible, so is preferred. If that location cannot be reused, then we would suggest the setback of the adjacent house, 11801 Glen Mill Road, which is about 155 feet from the centerline of the road, as the minimum setback. The Limits of Disturbance and especially the raised area that will be visible from the exceptional rustic road should be strictly limited.

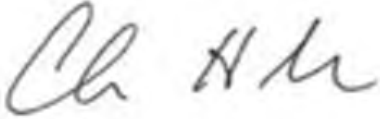
We support and appreciate your proposed reuse of the existing driveway.

You may not be aware that strong community support for retaining the character of the roads in the Glen, including this section of Glen Mill Road, was instrumental in the creation of the Rustic Roads Program. This strong support continues to this day. Residents of the area, including (we hope) the future residents of the home your client plans to build, place a high value on the pastoral, wooded character of the road. The Glen is a special place.

We would like to review your plan revisions, and we hope they will allow us to write a future letter in support of this project. Please submit updates to our staff coordinator, Michael Knapp, at 240-777-6335 or [Michael.Knapp@montgomerycountymd.gov](mailto:Michael.Knapp@montgomerycountymd.gov), and we will review them at our next scheduled meeting.



Sincerely,

A handwritten signature in dark ink, appearing to read "Ch H Marston".

Christopher H. Marston, Chair  
Rustic Roads Advisory Committee

Committee Members: Todd Greenstone, Thomas Hartsock, Sarah Navid, Jane Thompson, Robert Tworkowski

Cc: Casey Anderson, Chair, Montgomery County Planning Board  
Ryan Sigworth, M-NCPPC  
Leslie Saville, M-NCPPC

**Request for a Tree Variance In Connection with the Review of a Preliminary Plan  
Application - Justement Woods  
A Subdivision of Parcel 480**

A Variance is hereby requested pursuant to Section 22A-21 of Chapter 22A of the Montgomery County Code, 2004, as amended (the "County Code") on behalf of the Applicant, SER, LLC, the owners of Parcel 480 (the "Subject Property"). This Tree Variance Request is submitted in connection with the coordinated review of the above referenced Preliminary Plan of Subdivision and the Preliminary Forest Conservation Plan.

One protected tree must be removed and five (5) protected tree critical root zones are impacted but retained in order to develop the proposed single family one lot subdivision. The on-lot proposed driveway, proposed septic system, demolition of the existing house & driveway and necessary grading necessitate the impacts on these trees. These trees are identified on the approved Natural Resource Inventory Plan and Preliminary Forest Conservation Plan as #'s SP-1,3,5,6,7 & 12.

**1. Background Information**

A Chapter 22A Variance is required in order to secure approval of the removal or disturbance of certain identified trees that are considered priority for retention and protection under the Natural Resources Article of the Maryland Annotated Code. Accordingly, Packard & Associates hereby requests a Tree Variance for the property identified as Parcel 480. This Variance request is submitted pursuant to Section 22A-21 of Chapter 22A of the County Code and Section 5-1607(c) and Section 5-1611 of Title 5 of the Natural Resources Article of the Maryland Annotated Code, (the "Natural Resources Article").

The Subject Property consists of Parcel 480 which was recorded by that certain deed dated May 30, 2007 among the Land Records of Montgomery County in Liber 34221 at Folio 652. This parcel is proposed to be subdivided as on lot for a single detached residential dwelling to be constructed.

The property is currently improved with a single family detached dwelling constructed in 1956 and shall be demolished upon approval of the plans and issuance of the permits. Access is provided via an existing driveway from Glen Mill Road.

The property is fairly flat with grades of about 5% falling from a high point at the existing house, to the north and south on the adjoining properties, to the west onto Glen Mill Road and to the east onto the adjoining park property.

**2. Unique adjacency relationships**

The Subject Property is bounded on the north by Lots 4 and 5 previously subdivided in the Justement Woods Subdivision with existing houses zoned as RE-1. The property to the east was purchased by the MNCPPC and currently exists as vacant park land. The property to the south is the parcel residue to the original Justement Tract and is occupied by the original house. The

property to the west is Glen Mill Road, an exceptional rustic road which provides access to the subject property through an existing driveway entrance proposed to be unaltered within the public right of way.

### **3. Tree Removal and Critical Root Zone Disturbance**

The redevelopment of the Subject Property into a one lot subdivision requires approval of a Specimen Tree Variance pursuant to Section 22A-21 of Chapter 22A of the County Code. The proposed plan proposes the removal of tree SP# 5 and critical zone impacts to SP#'s 1,3,6,7, & 12. Approval of the Specimen Tree Variance Request will enable the Applicant to develop the Subject Properties in a manner consistent with other properties in the neighborhood. The proposed location of the house, proposed septic field, and demolition of the existing house necessitates the noted critical root zone disturbance. Care has been taken in the design to minimize the disturbance to these trees.

Approval of this Tree Variance Request in conjunction with the subdivision application will enable the Applicant to redevelop the Subject Property by replacing the existing dwelling with one single family detached dwelling.

### **4. The Variance Requirements**

Section 5-1607 of the Natural Resources Article requires a variance for the removal or disturbance of trees having a diameter of 30 inches when measured at 4.5 feet above the ground. Section 5-1611 of the Natural Resources Article authorizes a local jurisdiction to grant a variance:

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

Chapter 22A of the County Code implements the Natural Resources Article of the State Law and specifies the circumstances that permit the Planning Board to grant a variance from Chapter 22A. Section 22A-21(a) of the County Code establishes the “minimum criteria” for securing a Tree Variance and an applicant seeking a variance from any Chapter 22A requirement must:

- “(1) describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) describe how enforcement of this Chapter will deprive the landowner of rights commonly enjoyed by others in similar areas;
- (3) verify that State water quality standards will not be violated and that a measurable degradation in water quality will not occur as a result of granting the variance; and
- (4) provide any other information appropriate to support the request.”

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

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

The following paragraphs illustrate the factual basis supporting Planning Board approval of this Tree Variance. Technical information for this request has been provided by the Applicants’ engineer, Dean Packard, PE, of Packard & Associates, LLC.

**The special conditions that are peculiar to the Subject Property that would cause the unwarranted hardship are described as follows:**

The location of the proposed house was selected to minimize the disturbance to any variance or specimen sized trees. Although the proposed house size or location isn’t binding on any future developer of the lot, the proposed LOD is binding and that is what the variance request is based on.

We are proposing to remove one of the variance trees (SP-5) due to the proposed septic field impacting 100% of the critical root zone. For tree SP-1 the LOD show indicates minor impacts to the CRZ. Since the existing driveway is the primary access to the house demolition and construction, it is included within the LOD. There is no proposal to remove or alter the existing driveway in this area. Only minor impacts to the CRZ are proposed to install electric and cable lines on the north side of the existing driveway, furthest away from the tree CRZ. For tree SP-3, there are no grading impacts to the critical root zone. The areas within the LOD are to remove paving, resurface existing paving and to pave a small area at the edge of the CRZ. The condition of the tree on the NRI was listed as poor but recovery is progressing due to other surrounding trees demise in recent years and care for the tree. There is no reason to remove the tree in my opinion. For tree SP-6, we have moved the LOD to provide protection to reduce the impacts and save the tree. The impacts to this tree are due to the proposed; septic field, stormwater drywell and single house construction. For tree SP-7, we have moved the LOD to provide protection to reduce the impacts to the tree. The impact to this tree are due to septic field construction. For tree SP-12, we have moved the LOD to provide protection to reduce the impacts to the tree. The impacts to this tree are due to the stormwater drywell and a small are of proposed driveway paving. The proposed house is to be constructed in approximately the same location as the existing house. The existing driveway is proposed to be kept also, to minimize impacts to all noted trees.

This property is located within the S-6 Sewer Category which indicates there is no available public sewer in the area. Given that, a private septic system is required for the property. There is an approved septic area shown on the property that necessitates an initial septic system and reserve areas for future expansion. This system doesn’t encroach on the root zones of any of the



variance trees but it does impact part of the existing forest and some specimen trees shown on the plan. The denial of the Variance to impact these five trees will deny the ability to construct one single family detached dwelling.

**Unwarranted hardship is demonstrated, for the purpose of obtaining a Chapter 22A Variance when an applicant presents evidence that denial of the variance would deprive the Applicant of the reasonable and substantial use of the property.**

Section 5-1611 of the Natural Resources Article authorizes the Planning Board to grant a forest conservation variance “where owing to special features of a site or other circumstances, implementation of this subtitle would result in unwarranted hardship to the applicant.” Those special features are described above.

Section 22A-21 of the County Code authorizes the grant of a variance under that Chapter when an applicant “shows that enforcement would result in unwarranted hardship.” The phrase “unwarranted hardship” used in both the State Code and County Code is not defined in either. Under Chapter 22A of the County Code a variance may only be granted following consideration of a list of factors set out in the Code, one of which is the presence of special conditions that would result in unwarranted hardship if the variance were denied. The decision of the Maryland Court of Appeals in *White v. North* is instructive. In that case the Court of Appeals concluded that the list of factors “must be considered are part of the entire matrix that defines what information is necessary to reach a finding as to the existence or nonexistence of an unwarranted hardship.” The list of factors in *White vs. North* is strikingly similar to the variance requirements in Chapter 22A of the County Code.

The factors identified in the described as:

(1) a deprivation of rights commonly enjoyed by others; (2) that no special privilege will be conferred on an applicant; (3) that the need for relief not be caused by an applicant’s own acts; (4) the need for a variance does not arise from conditions on adjacent property; (5) a variance will not adversely affect water quality. (736 A.2d at 1083.)

According to the Court of Appeals “If total compliance with every specific requirement were necessary, relief would be really impossible and serious “taking” questions might arise.” The Court went on to express its view “that these specifically stated requirements are to be considered in the context of the entire variance ordinance, to the end that, when interpreted as a whole, either they are or are not generally met.”

Interpreting the factors that apply under the County Code, the Applicant would suffer unwarranted hardship if the disturbance to the designated trees were not allowed. If the requested Variance were denied the Applicants would be precluded from redeveloping the subject property and constructing a single detached single family house, a right commonly and previously enjoyed by the owners of the surrounding properties.

**State water quality standards will not be violated and that a measurable degradation in water quality will not occur as a result of granting the variances.**

A Stormwater Management Concept Plan has been submitted to the Department of Permitting Services for the Subject Property using environmental site design techniques to the maximum extent practicable and the proposed single lot development, upon approval, will meet State water quality standards. None of the affected trees are located within a stream buffer. The approval of the requested Variance will not result in any measurable degradation in water quality standards.

**Other information that supports the requested variances:**

The Approved and Adopted trees Technical Manual lists several factors for consideration when reviewing applications for clearing that now require the approval of a Specimen Tree Variance. Generally, the Technical Manual recognizes that clearing is appropriate to create a building envelope for development and for street and driveway construction to provide access to new development and to create a building envelope for development. Among the development factors that the Technical manual considers appropriate for consideration when a Variance request is before the Planning Board is whether an urban form of development is desired at a particular location. The area in which the Subject Property is located, with its medium density residential zoning is an appropriate for form of development, consistent and compatible with the neighborhood and surrounding properties.

**TREES TO BE REMOVED**

Tree	Common Name	Tree Species	DBH	Condition	Variance Request
#SP-5	White Oak	<i>Quercus alba</i>	38"	Fair	Yes

(cont.)

Tree	Comments	% CRZ Impacts	Disposition
#SP-5	Impacts for grading and septic tank and trench installation	100.0%	Remove

**TREES TO BE IMPACTED BUT RETAINED**

Tree	Common Name	Tree Species	DBH	Condition	Variance Request
#SP-1	Red Oak	<i>Quercus rubra</i>	31"	Fair	Yes
#SP-3	Red Oak	<i>Quercus rubra</i>	30"	Poor	Yes
#SP-6	White Oak	<i>Quercus alba</i>	37"	Fair	Yes
#SP-7	White Oak	<i>Quercus alba</i>	34"	Poor	Yes
#SP-12	White Oak	<i>Quercus alba</i>	31"	Fair	Yes

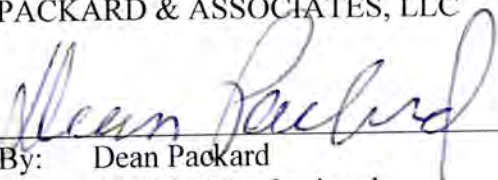
(cont.)

Tree	Comments	% CRZ Impacts	Disposition
#SP-1	The existing driveway is within the LOD but except for trenching at the edge to install the electric and cable lines. The driveway shall not be removed and any roots under the driveway won't be disturbed.	13.3% (LOD) 6.4% (excluding ex driveway to remain)	Minor impact. Existing driveway to remain over most of the LOD for driveway access
#SP-3	Minor area of the CRZ will propose removal of ex paving. Area closest to the tree inside the LOD proposes resurfacing the ex. driveway. No grading within the CRZ.	19.8% (LOD) 7.6% (excluding ex driveway to remain)	Minor impact. There will be no grading in the CRZ.
#SP-6	Impacts for grading and the installation of a stormwater management drywell	32.1%	Moderate impact. Root prune - reevaluate at final
#SP-7	Impacts for grading, house construction, deck and a stormwater management drywell	9.1%	Minor impact
#SP-12	Impacts for grading and house construction	10.7%	Moderate impact. Root prune

## 5. Conclusion

For the above reasons, and on behalf of the Applicants, SER, LLC, we respectfully request that the Planning Board Grant the Applicant's request for a Variance from the provisions of the Montgomery County Forest Conservation Ordinance, Chapter 22A of the County Code as identified on the Preliminary Forest Conservation Plan.

Respectfully submitted,  
PACKARD & ASSOCIATES, LLC

By:   
Dean Packard  
Qualified Professional

  
Date



## Attachment 12

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett  
County Executive

Patty Bubar  
Acting Director

December 21, 2017

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

RE: Justement Woods, ePlan 120170090, NRI/FSD applied for on 12/23/2015

Dear Mr. Anderson:

All applications for a variance from the requirements of Chapter 22A of the County Code submitted after October 1, 2009 are subject to Section 22A-12(b)(3). 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, 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.



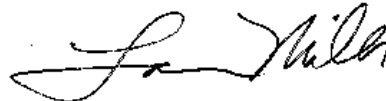
3. The disturbance of trees, or other vegetation, by the applicant does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. Therefore, the variance can be granted under this criterion.
4. The disturbance of trees, or other vegetation, 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 meeting all 'conditions of approval' pertaining to variance trees recommended by Planning staff, as well as 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 minor revisions to the impacts to trees subject to variance provisions 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,

A handwritten signature in black ink, appearing to read 'Laura Miller', with a stylized, flowing script.

Laura Miller  
County Arborist

cc: Mary Jo Kishter, Senior Planner