



Glen Mill – Parcel 833, Preliminary Plan No. 120160180

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Completed: 5/25/18

Description

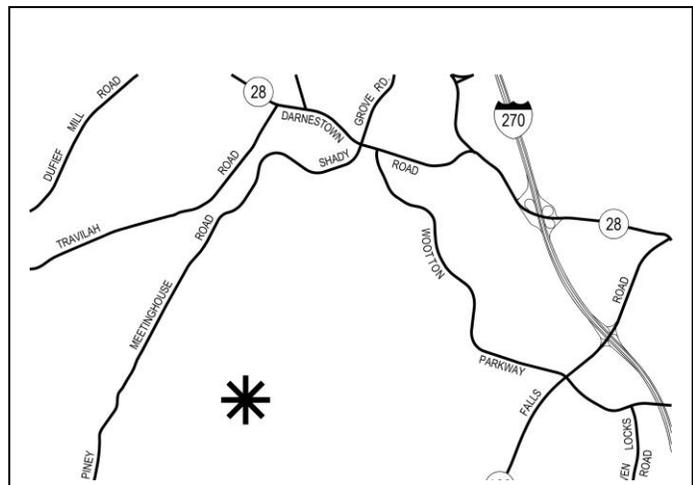
Glen Mill – Parcel 833, Preliminary Plan No. 120160180: Request to create two (2) lots from one (1) unplatted parcel; located on Glen Mill Road approximately 650 feet east of Boswell Lane, 2.77 acres, RE-1 Zone, 2002 Potomac Master Plan.

Staff Recommendation: *Approval with conditions*

Applicant: Sara A. Vazer

Accepted Date: February 22, 2016

Review Basis: Chapter 50



Summary

- Staff recommends **Approval with conditions** of Preliminary Plan No. 120160180 including Final Water Quality Inventory, and Preliminary Forest Conservation Plan with a tree variance.
- The Subject Property is zoned RE-1.
- Application creates two lots for two single family detached homes.
- Meets requirements of Chapter 22A, Forest Conservation Law.
- Substantially conforms to the 2002 Potomac Subregion Master Plan.
- Application has been reviewed under the Subdivision Regulations effective prior to February 13, 2017.
- Staff has received three letters of opposition regarding this Application and met with local residents on multiple occasions.

SECTION 1 – RECOMMENDATIONS AND CONDITIONS

PRELIMINARY PLAN NO. 120160180: Staff recommends approval of the Preliminary Plan subject to the following conditions:

1. This Application is limited to two (2) lots for two (2) single family detached homes.
2. The Applicant must comply with the conditions of approval for the Preliminary Forest Conservation Plan (PFCP), plan number 120160180, approved as part of this Preliminary Plan, including:
 - a. Prior to record plat approval, the Final Forest Conservation Plan (FFCP) must be reviewed and approved by the Planning Board or Planning Director as specified in Section 22A-11(g) of the Forest Conservation Law.
 - b. The FFCP must be consistent with the approved PFCP.
 - c. Prior to record plat approval, the start of any demolition, clearing, grading or construction on the Subject Property, the Applicant must record a Category I Conservation Easement over all areas of forest retention, forest planting and environmentally sensitive areas as shown on the approved FFCP. 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 and the Liber Folio for the easement must be referenced on the record plat.
 - d. Prior to the start of any demolition, clearing, grading or construction on the Subject Property, the Applicant must submit a five-year Maintenance and Management Agreement approved by the M-NCPPC Office of General Counsel. The maintenance and management agreement is required for all forest planting areas credited toward meeting the requirements of the PFCP, including the reforestation/afforestation of environmental buffers.
 - e. The limits of disturbance (LOD) on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved PFCP.
3. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated March 1, 2018, 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. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section in its letter dated April 5, 2018, 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.

5. The Applicant must dedicate and show on the record plat thirty-five (35) feet of dedication from the centerline of Glen Mill Road along the Subject Property's entire frontage.
6. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements as required by MCDOT.
7. The Planning Board accepts the recommendations of the MCDPS – Water Resources Section in its Final Water Quality Inventory letter dated May 25, 2017, 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.
8. 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.”
9. Record plat must show all necessary easements.
10. The record plat must reflect common ingress/egress and utility easements over all shared driveways.
11. 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 property is a 2.77-acre unplatted parcel, identified as Parcel 833 on Tax Map FR31, located along Glen Mill Road, approximately 650 feet east of the intersection with Boswell Lane (“Property or Subject Property”) (Figure 1).



Figure 1– Vicinity

The Property is zoned RE-1 and is located in the *2002 Potomac Subregion Master Plan* ("Master Plan"). The Property is undeveloped and heavily forested (Figure 2).

Site Vicinity

Surrounding the Subject Property on the north, south, and west sides are detached single-family homes in the RE-1 zone. To the east is Piney Branch stream valley and the Glen Hills Local Park owned by M-NCPPC. The Subject Property has frontage on Glen Mill Road which is classified as a Rustic Road.

Site Analysis

The Subject Property is a 2.77-acre unplatted parcel which is undeveloped (Figure 1 & 2). The Property slopes upwards from Glen Mill Road and the Piney Branch stream valley and levels out in the southwest corner of the Property. There is approximately 45 feet of elevation change from Glen Mill Road to the flat area where the building footprints are shown on the Preliminary Plan. The Property is entirely forested with a pond/wetland on the east side of the Property. The Property contains a total of 1.54 acres of forest. Within this forested area and within 100-feet outside of the property lines, there are 40 trees equal to or greater than 24" diameter breast height (DBH). Of those 40 trees, 14 trees are 30" DBH or greater (specimen tree).

The Property is located within the Watts Branch watershed, which is classified by the State of Maryland as Use Class I-P waters. The Subject Property also includes a portion of the Piney Branch stream, a Use I-P stream and within a Special Protection Area. The Piney Branch stream flows from the north, under Glen Mill Road and enters the Subject Property from a box culvert under Glen Mill Road. The Piney Branch stream then flows south meandering onto and off the property along the eastern side of the Property. In addition to the Piney Branch stream, there is an existing hydraulically isolated pond located along the eastern side of the Property adjacent to the stream. The pond does not directly empty into the stream and is separated from the Piney Branch stream with a small berm. The pond outfalls onto the Subject Property immediately to the south of the Subject Property and seems to sheet flow through the neighboring forested area. In addition to the stream and pond, there is a very small wetland area associated with the stream measuring approximately 175-square feet in size located southeast of the pond.



Figure 2 – Aerial View

SECTION 4 – ANALYSIS AND FINDINGS - Preliminary Plan No. 120160180

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

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

The vision 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 maintaining 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. Generally, the planning area lack of community sewer systems has ensured low-density residential neighborhoods. The Application is an anomaly because the Subject Property abuts a major public sewer main allowing a connection to the public sewer system. However, the density proposed by the Application conforms to the density of surrounding properties developed on septic systems while allowing the preservation of forest that would have been removed to install a septic system.

Roads

The Master Plan designated this particular section of Glen Mill Road as a Rustic Road section. 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 with the exception of a new driveway apron onto Glen Mill Road, are proposed on this road. The Rustic Road Advisory Board recommended approval of this Application and construction of the new driveway apron in their letter dated April 14, 2017 (Attachment 10). The Application will not negatively effect this Rustic Road as recommended by the Master Plan.

Environment

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. The Application avoids and protects the stream valley buffer and the wetland areas in Category I Forest Conservation Easement as recommended by the Environmental Resources Section of the Master Plan. Furthermore, The County has approved the Water Quality Inventory as required by the Special Protection Area in order to achieve the goals cited in the Master Plan.

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

Adequate Public 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 two new single-family detached houses will not generate more than 30 vehicle 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 Rustic Road with 70 feet of right-of-way recommended in the *2002 Potomac Subregion Master Plan*. The Application proposes granting 35 feet of right-of-way from the centerline which satisfies the requirements of the Master Plan. Because Glen Mill Road is classified as a Rustic Road, no sidewalks or other frontage improvements are proposed or required.

Other Public Facilities and Services

Other public facilities and services are available and adequate to serve the proposed lots. The Subject Property is in the W-1 and S-1 water and sewer service categories, respectively, and will utilize public water and sewer. A sewer hookup has been allowed by the Montgomery County Department of Environment (MCDEP) in accordance with the Piney Branch Sewer Agreement Recommendations via the recording of a covenant on the Subject Property (Attachment 4). A second sewer hookup is allowed by MCDEP because the Subject Property granted a portion of the easement necessary to construct the Piney Branch Trunk Sewer.

The Application was reviewed by the MCDPS, Fire Department Access and Water Supply Section, and a Fire Access Plan was approved on April 5, 2018 (Attachment 9). 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 in effect at that time that the Application was submitted.

Calculation of Student Generation

To calculate the number of students generated by the proposed development, the number of dwelling units is multiplied by the applicable student generation rate for each school level. Dwelling units are categorized by structure type: single family detached, single family attached (townhouse), low- to mid-rise multifamily unit, or high-rise multifamily unit.

Table 1 - Per Unit Student Generation Rates

	Elementary School	Middle School	High School
SF Detached	0.204	0.111	0.150
SF Attached	0.234	0.111	0.147
MF Low- to Mid-Rise	0.212	0.084	0.112
MF High-Rise	0.072	0.029	0.038

With 2 single family detached units, the proposed development is estimated to generate the following number of students:

Table 2 – Students Generated by Application

Type of Unit	Net Number of Units	ES Generation Rates	ES Students Generated	MS Generation Rates	MS Students Generated	HS Generation Rates	HS Students Generated
SF Detached	2	0.204	0.408	0.111	0.222	0.150	0.300
TOTAL	2		0		0		0

This project is estimated to generate, on average, zero students.

Cluster Adequacy Test

The project is located in the Winston Churchill High School Cluster. Based on the FY18 Annual School Test results, the student enrollment and capacity projections for the Churchill Cluster are noted in the following table:

Table 3 – Cluster Adequacy

School Level	Projected Sept. 2022 Enrollment	100% Projected MCPS Program Capacity, 2022	Cluster % Utilization 2022-2023	Moratorium Enrollment Threshold	Projected Enrollment + Application Impact
Elementary	2,445	2,826	86.5%	3,392	2,445
Middle	1,292	1,689	76.5%	2,027	1,292
High	2,036	1,986	102.5%	2,384	2,036

The Moratorium Enrollment Threshold identified in the Table 3 is the enrollment at which the 120% utilization threshold is exceeded, resulting in a cluster-wide residential development moratorium. As indicated in the last column, the projected enrollment plus the estimated impact of this application fall below the moratorium thresholds at all three school levels. Therefore, there is sufficient capacity at the elementary, middle and high school cluster levels to accommodate the estimated number of students generated by this project.

Individual School Adequacy Test

The applicable elementary and middle schools for this project are Wayside ES and Hoover MS, respectively. Based on the FY18 Annual School Test results, the student enrollment and capacity projections for these schools are noted in Table 4:

Table 4 – Individual School Adequacy

School	Projected Sept. 2022 Enrollment	100% Projected MCPS Program Capacity, 2022	School % Utilization 2022-2023	Moratorium Enrollment Thresholds		Projected Enrollment + Application Impact
				120% Utilization	Seat Deficit	
Wayside ES	484	636	76.1%	764	746	484
Hoover MS	771	1,139	67.7%	1,368	1,319	771

Under the individual school adequacy test, a school is deemed inadequate if the projected school utilization rate exceeds 120% and if the school seat deficit meets or exceeds 110 seats for the elementary school or 180 seats for the middle school. If a school’s projected enrollment exceeds both triggers, then the school service area is placed in a residential development moratorium.

The Moratorium Enrollment Thresholds identified in Table 4 above are the enrollments at which the 120% utilization threshold and the seat deficit threshold are exceeded. As indicated in the last column, the projected enrollment plus the estimated impact of this application fall below the applicable moratorium thresholds for both Wayside ES and Hoover MS. Therefore, there is sufficient capacity at these schools to accommodate the estimated number of students generated by this project.

Analysis Conclusion

Based on the school cluster and individual school capacity analysis performed, there is adequate school capacity for the amount and type of development proposed by this application.

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 sizes, widths, shapes and orientations are appropriate for the location of the subdivision, taking into account the recommendations of the Master Plan, the recommendations of the Rustic Road Advisory Board as well as other County Agencies, and for the building type (single family homes) contemplated for the Property.

Due to topography and other environmental conditions on the Subject Property, the area most suitable for buildings is the flatter area on the southwest corner of the Property. This location for homes enables to gravity feed to the proposed public sewer extension. Furthermore, this building location pushes the homes away from the Glen Mill Road, which is a goal and recommendation of the Rustic Road Advisory Board.

While these lots are irregularly shaped, there are other irregular shaped lots in the vicinity of similar size. Staff finds that the lot shapes remain in keeping with the character of the neighborhood. The resubdivision test in Section 50-29(b)(2) "Resubdivision" is not applicable in this case because the Subject Property is a unplatted parcel.

The lots were reviewed for compliance with the dimensional requirements for the RE-1 zone as specified in the Zoning Ordinance. The lots will meet all the dimensional requirements for area, frontage and can accommodate a building which can reasonably meet the width and setbacks requirements in that zone. A summary of this review is included in Table 5. The Preliminary Plan has been reviewed by other applicable county agencies, all of whom have recommended approval.

Table 5 – Development Review Table

<i>RE-1</i>	Required by the Zone	Proposed for Approval
Minimum Lot Area	40,000 sq. ft.	Lot 1 = 43,602 sq. ft. Lot 2 = 76,994 sq. ft.
Minimum Lot Frontage	50 feet	50 feet or more
Minimum Lot Width at B.R.L.	125 feet	125 feet
Maximum Lot Coverage	15%	Lot 1: 6% Lot 2: 4%
Min. Setbacks (for all lots)		
Front	50 feet	50 feet
Side, abutting Residential	17 feet min./ 35 feet total	17 feet min./ 35 feet total or greater
Rear, abutting Residential	35 feet	35 feet or greater
Building Height	50 feet max.	50 feet or lower
Site Plan Required	No	No

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

Natural Resource Inventory/Forest Stand Delineation

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420151550 for the Subject Property was approved on November 9, 2015. The NRI/FSD identifies the environmental features and

forest resources on the Subject Property. The Subject Property is located within the Watts Branch watershed, a Use I-P stream, and in the Piney Branch Special Protection Area (SPA). The Subject Property also includes a portion of the Piney Branch stream, a Use I-P stream. The Piney Branch stream enters the Subject Property from a box culvert under Glen Mill Road. The Piney Branch stream then flows south meandering onto and off the Property along the eastern side of the Property. In addition to the Piney Branch stream, there is an existing hydraulically isolated farm pond located along the eastern side of the Property adjacent to the stream. The pond does not directly empty into the stream and is separated from the Piney Branch stream with a small berm. The pond outfalls onto the Property immediately to the south of the Subject Property and seems to sheet flow through the neighboring forested area. In addition to the stream and pond, there is a very small wetland area associated with the stream measuring approximately 175-square feet in size located southeast of the pond. The Subject Property also contains a total of 1.54 acres of forest. Within this forested area and within 100-feet outside of the Property lines, there are 40 trees equal to or greater than 24" diameter breast height (DBH). Of those 40 trees, 14 trees are 30" DBH or greater (specimen tree).

Associated with the Piney Branch stream is a stream buffer (SB) that extends onto the Subject Property totaling approximately 1.38 acres. This SB encompasses a portion of the existing forest, hydraulically adjacent steep slopes, a very small wetland area and the existing pond. The SB is calculated using the directives found in the approved Environmental Guidelines, pgs. 5-15. The SB width from the approved NRI/FSD is 125-feet from the stream bank. There is a portion of steep slopes (greater than 25%) that rise up from the stream to the proposed residential structures. This steep slope area parallels the stream about midway along the Property and runs from approximately the southern property line to mid-way into the Property. The southern half of this steep slope area lies outside of the SB and is considered hydraulically remote from the stream itself. As such, the SB is not extended to the top of the steep slope area as specified under the Environmental Guidelines. At the point where the SB intercepts the steep slopes, this area of the steep slopes are considered hydraulically adjacent to the stream, the SB is then extended to the top of the steep slope area to incorporate and protect these slopes within the buffer area.

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 PFCP for the project was submitted with the Preliminary Plan application. The total net tract area for forest conservation purposes is 2.77 acres. The Property is zoned RE-1 and is classified as Medium Density Residential as specified in the Trees Technical Manual.

The Subject Property contains a total of 1.54 acres of forest. The Applicant proposes to remove 0.97 acres of forest that lie outside of the SB and to retain 0.57 acres of forest within the SB. This results in a reforestation/afforestation requirement of 0.46 acres. The Applicant proposes to meet this requirement by installing afforestation plantings of 0.28 acres within the stream buffer as required under the Section 22A-12(e)(3) of the Forest Conservation Law and submitting a fee-in-lieu payment for the remaining 0.19 acres.

Forest Conservation Variance

Section 22A-12(b)(3) of 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 a 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, therefore, the Applicant has submitted a variance request for these impacts.

Variance Request

The Applicant submitted a variance request in a letter dated March 6, 2018. There are four (4) specimen sized trees proposed to be removed, Trees #1, #2, #3 and #7, and one (1) additional off-site specimen tree, Tree #12, that will be impacted by construction. The 4 trees proposed to be removed are within the active construction area of the homes and driveways. These 4 trees are in Poor to Fair condition and it is felt that given the amount of impact to these tree’s CRZs that in the future there is a good possibility these trees will become hazard trees. So, it is prudent to remove these 4 trees at the time of construction than to allow them to become hazard trees threatening the safety and welfare of the future homeowners. Tree 12 is located off the southwest corner of the Property and will have about 5% of it’s CRZ impacted by the construction of the proposed house.

Table 6: Variance Trees to be impacted or removed

Tree Number	Species	DBH Inches	Percent Impact to CRZ	Status
1	Yellow Poplar (<i>Liriodendron tulipifera</i>)	43	36%	To be removed.
2	Yellow Poplar (<i>Liriodendron tulipifera</i>)	36	44%	To be removed.
3	Yellow Poplar (<i>Liriodendron tulipifera</i>)	33	60%	To be removed.
7	Yellow Poplar (<i>Liriodendron tulipifera</i>)	32	90%	To be removed.
12	Black Oak (<i>Quercus velutina</i>)	30	5%	To be impacted.

Unwarranted Hardship Basis

Per Section 22A-21(a), an applicant may request a variance from Chapter 22A if the applicant can demonstrate that enforcement of Chapter 22A would result in an unwarranted hardship. In this case, the Applicant is faced with having to remove 4 specimen trees and impact 1 other. The four trees to be removed are on the Subject Property and the one tree being impacted is located off the Subject Property. These trees are spread over the active construction area of the Subject Property (Figure 4).

Staff has determined that the impacts to these trees for the construction on these lots are unavoidable. The location of the proposed homes have been moved as far as possible out of and away from the environmental buffers on this Property. Trees #1, #2 and #3 are located within the alignment of the proposed entry drive. These three trees are in poor to fair condition and it is felt that the impacts to these trees would create hazard trees in the future that would threaten the health, safety and welfare of any potential resident on these lots. Tree #7 is located approximately 20-feet from the

proposed house on Lot 1. Once again, Tree #7 is in poor condition and it is felt that this tree will become a hazard tree in the future threatening the health, safety and welfare of the residents. In all cases for these 4 trees it is prudent to remove them at the beginning of construction as opposed to attempting to save these trees.

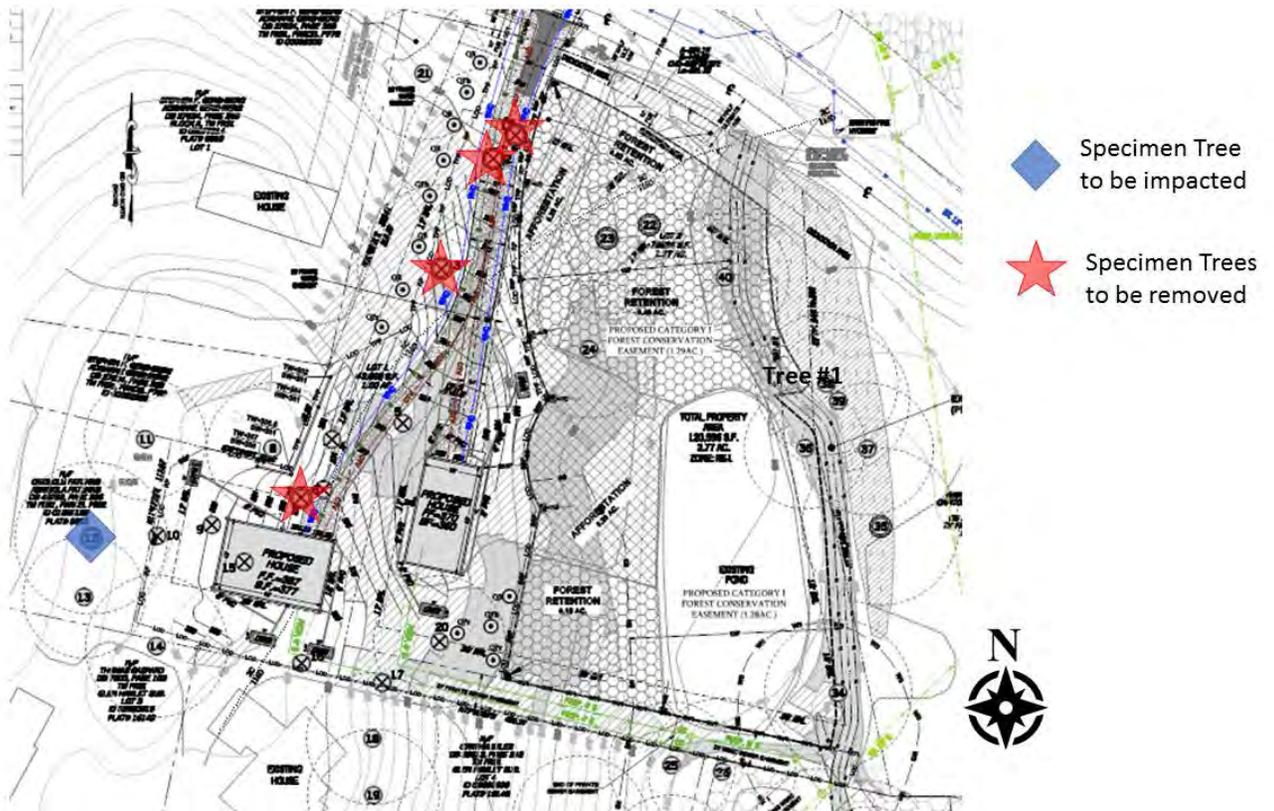


Figure 4 – Variance Trees and Site Constraints

Trees #1, #2, #3 and #7 are proposed to be removed. Tree #12 is located approximately 30-feet outside of the western property line in the southwest portion of the Property. Tree #12 will have its CRZ impacted by construction and regrading of the Property for the proposed house in this location.

As a result, not being able to request a variance to remove these 4 trees and impacting 1 other would constitute an unwarranted hardship on this Applicant to develop the Subject Property. Therefore, Staff concurs that the Applicant has a sufficient unwarranted hardship to justify a variance request.

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 determinations based upon the required findings in the review of the variance request and the Forest Conservation Plan:

Variance Findings

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

Granting the variance will not confer a special privilege on the Applicant as the removal of the 4 trees and impacting 1 other is due to the location of the trees and necessary site design requirements imposed by governmental agencies. Therefore, 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 requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon the existing conditions, current health conditions of the trees, requirements of governmental agencies and necessary design requirements of this preliminary plan application. The 4 specimen trees proposed to be removed (Trees #1, #2, #3 and #7) are located within the active construction area of the development. Trees #1, #2 and #3 are within the alignment of the proposed entry drive and Tree #7 is located adjacent to the proposed house on Lot 1. All of these trees are in declining health and the impacts of construction will only accelerate their decline causing these trees to eventually become hazard trees.

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

The requested variance is a result of the existing conditions and not as a result of land or building use on a neighboring property.

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

The variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen trees being removed are not located within a stream buffer. The Application proposes mitigation for the removal of these trees by planting twelve (12) larger caliper overstory trees on-site.

Mitigation for Trees Subject to the Variance Provision

There are 4 trees proposed for removal in this variance request resulting in a total of 144.0 inches of DBH being removed. These 4 trees being removed are located within an existing forest stand on the Subject Property. It has been M-NCPPC policy not to require mitigation for specimen trees removed within forest stands since the removal of the forest stand is compensated for through the Forest Conservation Worksheet. However, in this case, the Applicant has proposed to provide mitigation for the specimen tree loss by replacing the total number of DBH removed with $\frac{1}{4}$ of the amount of inches replanted. This results in a total mitigation of 36 inches of replanted trees. In this case, the Applicant proposes to plant 12 3" caliper overstory trees native to the Piedmont Region of Maryland on the Property outside of any rights-of-way and outside of any utility easements. Additionally, no mitigation is required for trees that are impacted, but retained.

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 February 16, 2018. The County Arborist responded with a recommendation to approve the Applicant's tree variance request on April 29, 2018. (Attachment 8).

Variance Recommendation

Staff recommends approval of the variance request.

WATER QUALITY

Piney Branch Special Protection Area Water Quality Plan

This Property is within the Piney Branch SPA and is required to obtain approval of a water quality inventory under sections 19-62 and 19-63 of the Montgomery County Code. Under Section 19-63 the Applicant is exempt from having to submit a water quality plan because the cumulative land area of the Property is less than 10 acres and the proposed impervious area is less than 15%. Under Section 19-64, the Planning Board has no review authority for water quality inventories. In a letter dated May 25, 2017, MCDPS has conditionally approved their portion of the Final Water Quality Inventory under its purview. The Piney Branch SPA does not have a specific numerical limit on impervious surfaces. Instead, Montgomery County relies on the combined application of the Special Protection Area Law and stated performance criteria issued by DPS.

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 water quality inventory from the Montgomery County Department of Permitting Services, Water Resources Section on May 25, 2017 (Attachment 6). The Application will meet stormwater management goals through the use of drywells and micro infiltration.

SECTION 5 – CITIZEN CORRESPONDENCE AND ISSUES

This Application was submitted and noticed in accordance with all Planning Board adopted procedures. One sign referencing the proposed modification was posted along the Subject Property's frontage. A pre-submission meeting was held at the Potomac Community Library on September 2, 2015.

As of the date of this report, Staff has received three letters in opposition (Attachment 11) to this Application. The concerns stated in the letter focus on primarily environmental issues, as well as lot pattern, and the number of allowed sewer connections.

Environment

- a. *Stream Valley Buffer* – The letters stated that the stream buffer is incorrect. As specified in Table 1, page 8 of the Environmental Guidelines, the stream buffer for a Use Class I/I-P stream is 100-feet. The Watts Branch stream is a Use Class I/I-P stream. At the time of the NRI/FSD review and approval, the applicant proffered a 125-foot stream buffer which was accepted and subsequently approved. A portion of this stream buffer was expanded to the top of the area of steep slopes that are considered to be hydraulically adjacent as discussed in Section 4.
- b. *Forest Preservation* –The letter insists that the forest will be negatively impacted by the two lot subdivision. As fully discussed in the findings section of the staff report, the Application meets all the

requirements of Chapter 22A which establishes the requirements pertaining to the preservation of forest in Montgomery County.

- c. *Piney Branch Sewer Agreement* – The letters contend that the Application fails to comply with the provisions of the Piney Branch Sewer Agreement Covenant. MCDEP provided the covenant document to the Applicant and has reviewed all the supporting materials during the Staff review. MCDEP has approved the Application in ePlans. Because the Piney Branch Sewer Agreement Covenant has been filed in the Land Records (Attachment 4) MCDEP is allowing a single connection to public sewer. Additionally, MCDEP is allowing an additional sewer connection for this Property based the fact that the Subject Property granted a portion of the easement necessary to construct the Piney Branch Trunk Sewer.

Lot Pattern

The letters state that the resulting lots will be incompatible with the surrounding neighborhood. As an unplatted parcel, the Subdivision Regulations do not establish criteria to determine compatibility. However, the existing properties in this area include a variety of lots shapes. There are some regularly shaped lots made up of rectangles and squares. However, there are also many irregularly shaped lots made of flag lot shapes, abnormal angles, as well as narrow but very deep lots. The lots proposed in this Application are not as extreme a shape as a flag lot, but are similar to some of the irregular shape lots to the south of the Subject Property.

Harmonious development

During meetings Staff has held with surrounding property owners, concerns were raised regarding the Subdivision Regulations purpose to create “harmonious development and promote the health, safety, and welfare” in Section 1.1. The citizens contend that this isn’t harmonious development. The term “harmonious development” is not defined in the Subdivision Regulations. However, the intent of the Subdivision Regulations is to achieve the purposes stated in Section 1.1 via the tools provided in other sections of the Subdivision Regulations (such as Section 4.3 – Technical Review), and by extension, the Zoning Ordinance. Once these adopted standards have been achieved, the Subdivision Regulations and Zoning Ordinance consider any application to have met the purposes stated in their introductory sections.

House spacing

Staff has also received concerns that the houses will be too close to existing homes. Under the current plan, the houses will be approximately 50 feet apart at their nearest point to existing houses. This amount of separation and the setbacks shown in the proposed plan will meet all of the setback requirements in the zoning ordinance. The zoning ordinance establishes setback requirements for each zone. As allowed densities (i.e. minimum lot sizes) in each zone decrease, the required setbacks increase to create the lot and housing pattern desired in each respective zone. In the RE-1 zone, the distance between homes with abutting side yards could be as little as 35 feet apart. As a result, a house separation distance of 50 feet is not unusual within this zone and meets all the applicable requirements.

Park Proximity

The Subject Property is adjacent to Glen Hills Local Park. As such, the surrounding neighbors suggested that there could be a public interest in this property, and therefore, the M-NCPPC Parks Department should oppose this Application. During the review process, the Parks Department has not provided Staff with comments opposing this Application, nor did they express interest in acquisition for public land.

SECTION 6 – CONCLUSION

The proposed lots meet all requirements established in the Subdivision Regulations in Chapter 50, Forest Conservation Law in Chapter 22A, and the proposed use substantially conform to the recommendations of *2002 Potomac Subregion Master Plan*. Access and public facilities will be adequate to serve the proposed lot, and the Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the 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 – Forest Conservation Plan

Attachment 4 – Recorded Sewer Covenant

Attachment 5 – MCDOT Approval Letter, March 1, 2018

Attachment 6 – MCDPS Final Water Quality Inventory Letter, May 25, 2017

Attachment 7 – Applicant’s Tree Variance Request

Attachment 8 – County Arborist’s Tree Variance Approval Letter, April 29, 2018

Attachment 9 – DPS Fire and Rescue Approval Letter, April 5, 2018

Attachment 10 – Rustic Road Advisory Board Letter, April 14, 2017

Attachment 11 – Citizen Correspondence

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**GLEN MILL, PARCEL 833
PRELIMINARY PLAN JUSTIFICATION STATEMENT****I. INTRODUCTION**

On behalf of our client, the applicant, Sara Vazer, we hereby submit this justification statement for the property located on Glen Mill Road, known as Parcel 833, which is approximately 2.77 acres in size. The property is approximately 650 feet east of the intersection of Boswell Lane and Glen Mill Road. The property is zoned RE-1, as described in Section 59.4.4.6 of the Montgomery Code.

Page | 1

II. EXISTING CONDITIONS

The property is currently vacant and unimproved. Approximately 1.54 acres of the site is covered by forest area, as well as other existing environmental features, such as a farm pond, stream, and steep slopes. Furthermore, the site is located within the piney Branch Special Protection Area (SPA). Access to the site is off Glen Mill Road which is located on the north side of the property.

Neighboring properties located to the south and west of the subject property are also zoned residential, RE-1. These properties are currently improved with single family dwelling units. The neighboring property to the east is also zone as RE-1 but is owned by the Maryland National Capital Park and Planning Commission and is improved as a sports field.

III. PROPOSED PRELIMINARY PLAN

The applicant proposes to subdivide the property to obtain two buildable lots, and to build one residential dwelling unit on each lot. The proposed access to each lot will be via a twenty feet shared driveway, at a single access point off Glen Mill Road. The proposed access point is at a location where there is an existing paved apron, and is clear of existing forest stands. In fact approximately 230 feet of the initial length of the driveway will be outside of the existing forest stand. However, a portion of the proposed driveway will impact the stream buffer, which is unavoidable. An alternative location for the driveway will have impact on the existing forest stand.

The project proposes to meet the required stormwater management regulations of Montgomery County, and the State of Maryland, by fully providing ESDv to MEP measures, through the use of micro-practices, and by developing the site with special attention to the existing environmental features of the site. This is accomplished by maintaining as much of the existing forest stands as possible, and by placing additional areas within proposed forest conservation areas, and by maintaining stream buffers to the extent possible.

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IV. DURATION OF VALIDITY PERIOD

50-20 (c0(3)(A)(iii)

A determination of adequate public facilities made under this Chapter is timely and remains valid:

for no less than 7 and no more than 12 years after the preliminary plan is approved, as determined by the Planning Board at the time of approval, for any plan approved on or after April 1, 2009, but before April 1, 2017; and

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V. COMPLIANCE WITH SUBDIVISION REGULATIONS

50-35 (d) Road grade and road profile.

Before the Board finally approves a preliminary plan, the subdivider must furnish road, and pedestrian path grades and a street profile approved in preliminary form by the County Department of Transportation.

The project does not propose to construct any new roads, sidewalks or pathways. The project proposes to provide access to existing Glen Mill Road, through a single shared twenty feet driveway. There are no existing sidewalks, or paths on this portion of Glen Mill Road, and therefore construction of sidewalk along the frontage of the property covered by the application, will not provide any connection to existing pedestrian network.

50-35 (e) Wells and septic systems.

Before the Board approves a plan for lots with individual wells or septic systems, the plan must be approved by the Department of Permitting Services. The Board must review any plan that includes residential lots under the Maryland Sustainable Growth and Agricultural Preservation Act of 2012 (Sections 9-206 and 9- 1110 of the Environment Article, and Section 1-401 and Subtitle 5 of the Land Use Article).

This section is not applicable to this application.

50-35(h)(2)(A) Duration of Validity

An approved preliminary plan for a single phase project remains valid for 60 months after its Initiation Date for any preliminary plan approved on or after April 1, 2009, but before April 1, 2017, and for 36 months after its Initiation Date for any preliminary plan approved on or after April 1, 2017. Before the validity period expires, the applicant must

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have secured all government approvals necessary to record a plat, and a final record plat for all property delineated on the approved preliminary plan must have been recorded in the County Land Records.

The project will developed under a single phase. The record plat will be recorded within five years, prior to April 1, 2017.

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50-35 (j) *Sediment control.*

All preliminary plans and extensions of previously approved plans must provide for erosion and sediment control, in accordance with all applicable laws and regulations governing sediment control.

This proposed Preliminary Plan for this application shows sediment control measures that are relevant to the site. The site is generally environmentally intensive, and care has been taken to design the project with minimal disturbance. Generally silt fence and super silt fence will be used to provide sediment control. A full sediment control plan will be submitted to Montgomery County DPS for review and approval at the time of permitting.

50-35 (k) *Adequate public facilities.*

The Planning Board must not approve a preliminary plan of subdivision unless the Board finds that public facilities will be adequate to support and service the area of the proposed subdivision. Public facilities and services to be examined for adequacy include roads and public transportation facilities, sewerage and water service, schools, police stations, firehouses, and health clinics.

(1) Roads and Public Transportation.

The project proposes to develop the site for two buildable lots. The traffic statement provided for this application, shows that the peak trip generation will be 2 A.M. and 2 P.M. trips. Therefore, since the project generates less than 30 peak trips, it is exempt from the adequate public facilities LATR test. Furthermore, since less than three (3) peak trips are generated, the proposed development is not subject to TPAR test.

Furthermore, the project provides adequate left turn and right turn sight distance. A sight distance of 450 feet clearance is provided to the left side and 485 feet to the right, considerably more than the minimum requirement of 150 feet.

(2) Sewerage and Water Service

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The water and sewer categories are W-1 and S-1 which all allow for water and sewer hookup. However, when the sewer category was changed from S-6 to S-1, this property received one sewer hookup, with advancement to unrestricted S-1 conditioned on the applicant providing MCDEP with a recorded covenant which includes the Piney Branch Sewer Agreement. In coordination with MCDEP we understand that a second hookup for lot 2 can be obtained without further restriction.

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(3) Public Schools

This project is exempt from the school test, since only two buildable/dwelling units are proposed, and therefore subject to the “de minimis” exemption for subdivisions of three or fewer housing units.

(4) Police Stations, Firehouses, and Health Clinics

All services are in relative close proximity to this proposed project.

50-35 (1) Relation to Master Plan.

In determining the acceptability of a preliminary plan submitted under this Chapter, the Planning Board must consider the applicable master plan, sector plan, or urban renewal plan. A preliminary plan must substantially conform to the applicable master plan, sector plan, or urban renewal plan, including maps and text, unless the Planning Board finds that events have occurred to render the relevant master plan, sector plan, or urban renewal plan recommendation no longer appropriate.

The property is subject of the 2002 Potomac Subregion Master plan. There is no specific recommendation for this property. Two land use issues that effect this property are the Environmental Resources Plan and the Transportation Plan.

The site is within the Piney Branch Special protection area, therefore it is subject to the restrictions that the master plan calls for sewer service for properties in the RE-1 zone. However, this property has already received sewer hookup connection as part of the Piney Branch Sewer Agreement.

Furthermore, the proposed development proposes to maintain the existing environmental aspects of the property including stream buffers, a significant portion of the existing forest stands, and place additional areas outside of existing forest stands within forest conservation easement.

In terms of the Transportation Plan, this site is fronted by Glen Mill Road, which is rustic road in this stretch between Red Barn Lane and Circle Drive. The master plan calls for a

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mike@raztecengineers.com

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seventy feet (70') public right of way in this part of Glen Mil Road. The proposed project will not negatively affect the rustic road, since it is proposing to provide access through Glen Mill Road, with only one shared single ingress and egress to the site for two proposed lots. The rustic nature of Glen Mill Road will thus be maintained.

50-35(o) Forest Conservation.

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If a forest conservation plan is required under [Chapter 22A](#), the Board must not approve a preliminary plan or any extension until all requirements of that law for plan approval are satisfied. Compliance with a required forest conservation plan, including any plan reviewed on a preliminary or final basis, must be made a condition of any approved preliminary plan.

A forest conservation plan in compliance to chapter 22 has been prepared and submitted as part of this application.

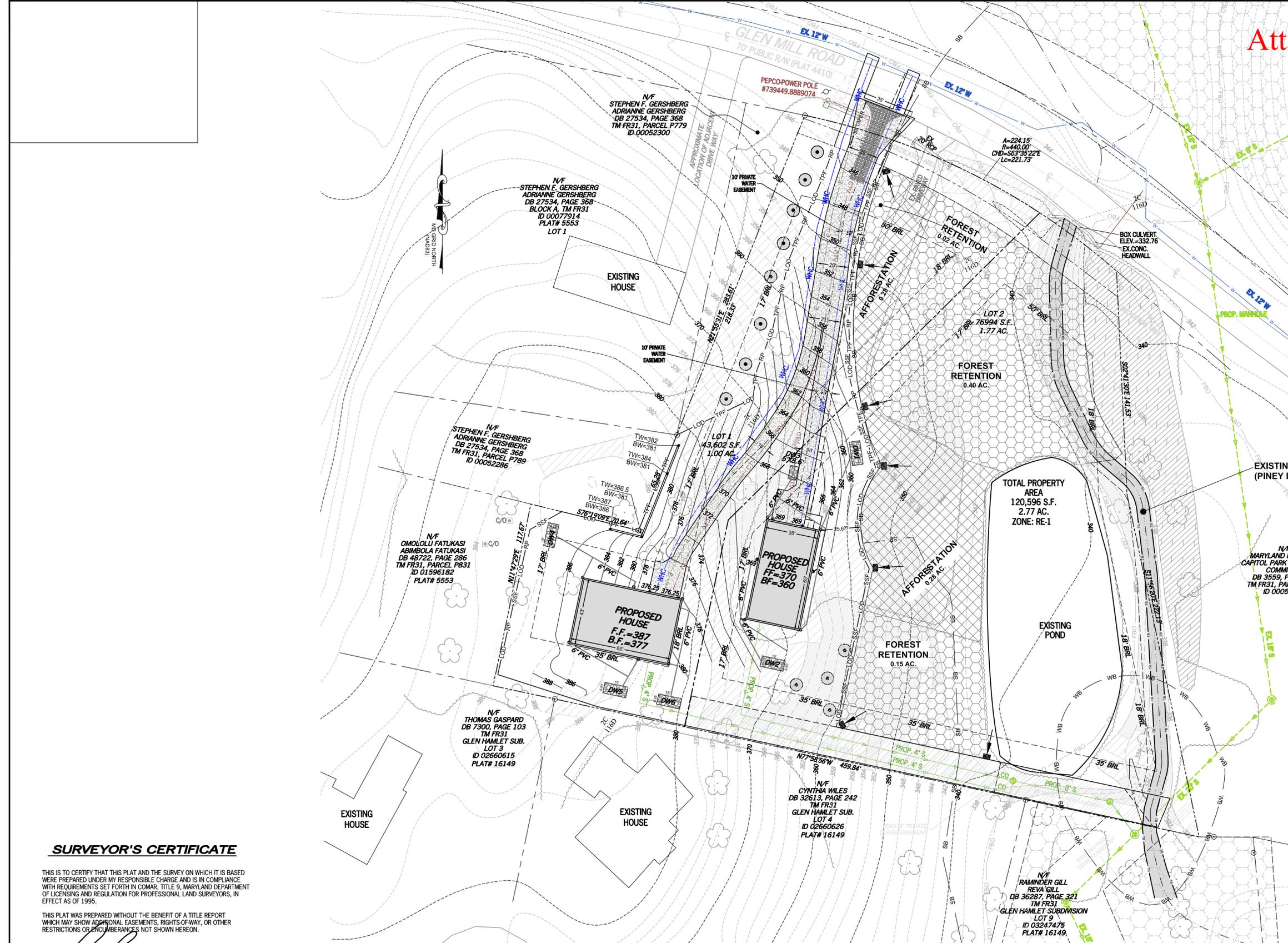
50-35(r) Water quality.

If a water quality plan is required under [Chapter 19](#), the Planning Board must not approve a preliminary plan or any extension until all requirements of [Chapter 19](#) for plan approval are satisfied. Compliance with a required water quality plan, including any plan reviewed on a preliminary or final basis, must be made a condition of any approved preliminary plan.

This property is situated within the Piney Branch special protection area, and since it proposes to provide under 15% of impervious area it is subject to a water quality inventory plan, which has already been prepared and submitted to Montgomery County DPS for review and approval.

VI. CONCLUSION

Based on the justification provided herein, the applicant requests that the Planning Board grant approval of this Preliminary Plan. The plan prepared and presented with this justification, as part of the Preliminary Plan Application, satisfies the requirements that the Planning Board will consider and act upon as part of the approval of this application.



LEGEND	
EXISTING FEATURE	SYMBOL
SUBJECT SITE BOUNDARY	---
ADJOINING PROPERTY BOUNDARY	---
BUILDING RESTRICTION LINE	--- 25' BRL ---
EXISTING STRUCTURES	EX
EXISTING CONTOURS (MINOR)	101
EXISTING CONTOURS (INDEX)	100
EXISTING FENCE	x
SOIL TYPE BOUNDARY
EXISTING GRAVITY SEWER	4" S
EXISTING WATER LINE	W
EX. OVERHEAD WIRE	OH
CENTER LINE OF PAVEMENT	C
PROPOSED STRUCTURE	
PROPOSED STRUCTURE	SYMBOL
PROPOSED CONTOUR	---
LIMITS OF DISTURBANCE	---
PROP. HOUSE	[House Symbol]
PROP. DRIVEWAY	[Driveway Symbol]
DOWNSPOUT ROOF LEADER	[Roof Leader Symbol]
GRAVEL DRYWELL	[Drywell Symbol]
PROPOSED WATER HOUSE CONNECTION	8" W
PROPOSED SEWER HOUSE CONNECTION	4" S
SUPER SILT FENCE	SSF
PROPOSED UNDERGROUND C/T/V	C/V
PROPOSED UNDERGROUND ELECTRIC	E
EXISTING TREE	[Tree Symbol]
NON-TIDAL WTLAND	[Wetland Symbol]
CENTERLINE PERENNIAL STREAM	---
TOP OF BANK	---
EXISTING PERENNIAL STREAM	---
STREAM BUFFER	SB
WETLAND BUFFER	WB
FLOOD PLAIN BOUNDARY	FBO
FOREST RETENTION AREA	[Forest Retention Pattern]
FOREST RETENTION AREA	[Forest Retention Pattern]
AFFORESTATION AREA	[Afforestation Pattern]
BAMBOO STAND	[Bamboo Stand Pattern]
NOTE: This symbol represents a proposed forest conservation sign location (arrow indicates direction of facing). See Detail on sheet 3 for installation instructions.	[Sign Symbol]
NEW FOREST CONSERVATION EASEMENT BOUNDARY	---
PROPOSED SEWER CLEANOUT	CO
MITIGATION TREE PLANTING SYMBOL:	[Planting Symbol]

SURVEYOR'S CERTIFICATE

THIS IS TO CERTIFY THAT THIS PLAN AND THE SURVEY ON WHICH IT IS BASED WERE PREPARED UNDER MY RESPONSIBLE CHARGE AND IS IN COMPLIANCE WITH REQUIREMENTS SET FORTH IN COMAR, TITLE 9, MARYLAND DEPARTMENT OF LICENSING AND REGULATION FOR PROFESSIONAL LAND SURVEYORS, IN EFFECT AS OF 1995.

THIS PLAN WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT WHICH MAY SHOW ADDITIONAL EASEMENTS, RIGHTS-OF-WAY, OR OTHER RESTRICTIONS OR ENCUMBRANCES NOT SHOWN HEREON.

DAVID M. MILLER DATE 12-21-2015
PROFESSIONAL LAND SURVEYOR #21427

REV#	DATE



PRELIMINARY PLAN #120160180
 GLEN MILL PARCEL 833
 PRELIMINARY PLAN # 120160180

PROJECT LOCATION:
 GLEN MILL ROAD
 TAX MAP: FR-31, PARCEL P833
 MONTGOMERY COUNTY, MD
 WSSC GRID: 217 NW 10

OWNER/APPLICANT INFO:
 SARA A. VAZER
 4 S. DUKE STREET
 ROCKVILLE, MD 20854
 PHONE: (301) 755-4107

ZONE: RE-1



RAZTEC ASSOCIATES, INC.
 civil engineers & planners
 341 West Patrick St. Frederick, Maryland 21701
 Tel (301) 775-4394
 email: raztecengr@comcast.net

PROFESSIONALS' REVIEW STATEMENT:
 I CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND LICENSE NUMBER: 22742 EXPIRES: JUNE 15, 2018

DRAWN BY: SL	DATE: 3/29/2018	SCALE: 1" = 30'	SHEET NUMBER: 2 of 2
CHECKED BY: MR			

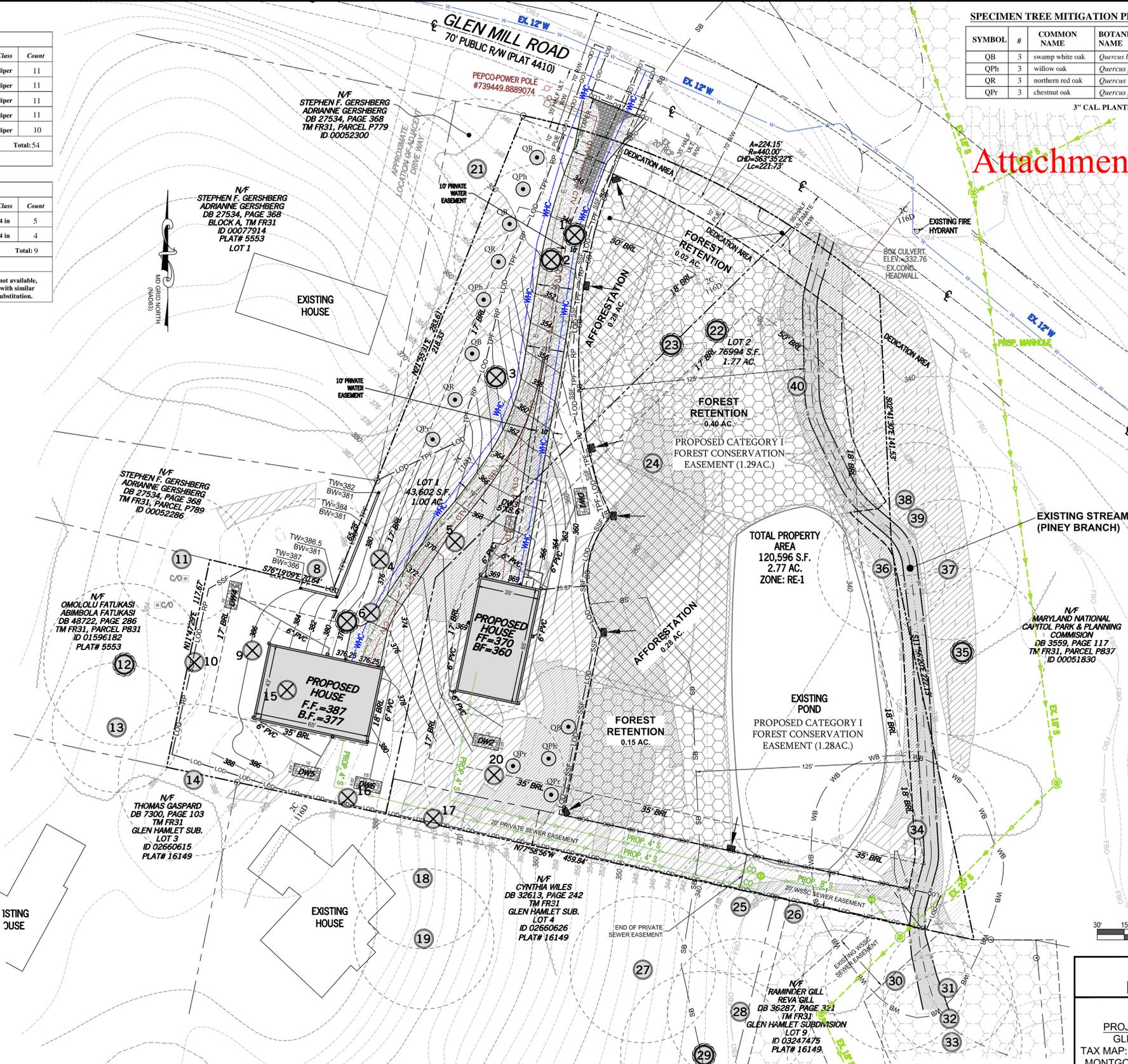
AFFORESTATION PLANT LIST			
Common Name	Scientific Name	Size Class	Count
white oak	<i>Quercus alba</i>	1" caliper	11
willow oak	<i>Quercus phellos</i>	1" caliper	11
sweetgum	<i>Liquidambar styraciflua</i>	1" caliper	11
American sycamore	<i>Platanus occidentalis</i>	1" caliper	11
red maple	<i>Acer rubrum</i>	1" caliper	10
Total: 54			
0.27 acres x 200 trees = 54 trees			

SHRUB PLANTING LIST			
Common Name	Scientific Name	Size Class	Count
paw-paw	<i>Asimina triloba</i>	18-24 in	5
Common witchhazel	<i>Hamamelis virginiana</i>	18-24 in	4
Total: 9			
0.27 acres x 33 trees = 9 shrubs			

NOTE: In the event that plant material listed above is not available, substitutions will be made using native plant material with similar characteristics. No *Fraxinus* (Ash) will be used as a substitution.

SPECIMEN AND SIGNIFICANT TREE TABLE					
TREE #	COMMON NAME	SCIENTIFIC NAME	DBH INCHES	CONDITION	COMMENTS
1	Yellow Poplar	<i>Liriodendron tulipifera</i>	43	Fair	storm damage, thin crown and dieback, dead branches.
2	Yellow Poplar	<i>Liriodendron tulipifera</i>	36	Poor	trunk sprouts, severe crown dieback.
3	Yellow Poplar	<i>Liriodendron tulipifera</i>	33	Fair	storm damage, dieback, co-dominant leader.
4	Black Oak	<i>Quercus velutina</i>	29	Fair	dead branches, poor crown form and dieback.
5	Black Oak	<i>Quercus velutina</i>	28	Fair	numerous dead branches.
6	Black Oak	<i>Quercus velutina</i>	24	Very Poor	entire crown almost dead.
7	Yellow Poplar	<i>Liriodendron tulipifera</i>	32	Poor	poor crotch attachment, included bark, co-dominant leader.
8	White Oak	<i>Quercus alba</i>	26	Fair	size estimated, off property.
9	White Oak	<i>Quercus alba</i>	26	Good	
10	White Oak	<i>Quercus alba</i>	25	Good	
*11	White Oak	<i>Quercus alba</i>	24	Good	size estimated, off property.
*12	Black Oak	<i>Quercus velutina</i>	30	Fair	size estimated, off property.
*13	White Oak	<i>Quercus alba</i>	24	Fair	size estimated, off property.
*14	Black Oak	<i>Quercus velutina</i>	28	Fair	size estimated, off property.
15	Black Oak	<i>Quercus velutina</i>	25	Fair	fungus on roots and trunk.
16	Yellow Poplar	<i>Liriodendron tulipifera</i>	25	Fair	vine cover, crooked bole.
17	Yellow Poplar	<i>Liriodendron tulipifera</i>	29	Fair	vine cover.
*18	Yellow Poplar	<i>Liriodendron tulipifera</i>	26	Fair	size estimated, off property.
*19	Yellow Poplar	<i>Liriodendron tulipifera</i>	26	Fair	size estimated, off property.
20	Yellow Poplar	<i>Liriodendron tulipifera</i>	26	Good	
21	White Oak	<i>Quercus alba</i>	26	Fair	size estimated, off property.
22	Yellow Poplar	<i>Liriodendron tulipifera</i>	35	Fair	poor form, crooked bole.
23	Yellow Poplar	<i>Liriodendron tulipifera</i>	30	Good	
24	Yellow Poplar	<i>Liriodendron tulipifera</i>	27	Fair	co-dominant leader, one broken at 30'.
25	Sycamore	<i>Platanus occidentalis</i>	25	Fair	
26	White Ash	<i>Fraxinus americana</i>	29	Fair	co-dominant leaders, poor crotch attachment, included bark.
*27	Yellow Poplar	<i>Liriodendron tulipifera</i>	27	Fair	size estimated, off property.
*28	Sycamore	<i>Platanus occidentalis</i>	27	Fair	size estimated, off property.
*29	Yellow Poplar	<i>Liriodendron tulipifera</i>	31	Fair	size estimated, off property.
*30	Sycamore	<i>Platanus occidentalis</i>	26	Fair	size estimated, off property.
*31	Sycamore	<i>Platanus occidentalis</i>	24	Fair	size estimated, off property.
*32	Sycamore	<i>Platanus occidentalis</i>	25	Fair	size estimated, off property.
*33	Sycamore	<i>Platanus occidentalis</i>	26	Fair	size estimated, off property.
34	Yellow Poplar	<i>Liriodendron tulipifera</i>	29	Fair	uneven rootplate (on streambank), lightning scar.
*35	Yellow Poplar	<i>Liriodendron tulipifera</i>	31	Fair	size estimated, off property.
36	Yellow Poplar	<i>Liriodendron tulipifera</i>	24	Good	
37	Sycamore	<i>Platanus occidentalis</i>	26	Fair	size estimated, off property.
38	Sycamore	<i>Platanus occidentalis</i>	28	Fair	size estimated, off property.
39	Sycamore	<i>Platanus occidentalis</i>	28	Fair	size estimated, off property.
40	Sycamore	<i>Platanus occidentalis</i>	25	Fair	crooked bole at base and in crown, vine cover.

*denotes size estimated; tree located off subject property



SPECIMEN TREE MITIGATION PLANTING SCHEDULE					
SYMBOL	#	COMMON NAME	BOTANICAL NAME	SIZE	FORM
QB	3	swamp white oak	<i>Quercus bicolor</i>	3" CAL.	B&B
QPh	3	willow oak	<i>Quercus phellos</i>	3" CAL.	B&B
QR	3	northern red oak	<i>Quercus rubra</i>	3" CAL.	B&B
QPr	3	chestnut oak	<i>Quercus prinus</i>	3" CAL.	B&B

3" CAL. PLANTING SYMBOL:

LEGEND	
EXISTING FEATURE	SYMBOL
SUBJECT SITE BOUNDARY	
ADJOINING PROPERTY BOUNDARY	
BUILDING RESTRICTION LINE	
EXISTING STRUCTURES	
EXISTING CONTOURS (MINOR)	
EXISTING CONTOURS (INDEX)	
EXISTING FENCE	
EXISTING WATER LINE	
SOIL TYPE BOUNDARY	
PROPOSED STRUCTURE	
PROPOSED CONTOUR	
LIMITS OF DISTURBANCE	
PROP. HOUSE	
PROP. DRIVEWAY	
DOWNSPOUT ROOF LEADER	
GRAVEL DRYWELL	
PROPOSED WATER HOUSE CONNECTION	
PROPOSED SEWER HOUSE CONNECTION	
SUPER SILT FENCE	
ROOT PRUNING	
TREE PROTECTION FENCE	
LIMITS OF DISTURBANCE / TREE PROTECTION FENCE / SUPER SILT FENCE / ROOT PRUNING OCCURRING CONCURRENTLY	
TREE TO BE REMOVED	
CRITICAL ROOT ZONE	
TREE TO REMAIN	
NON-TIDAL WETLAND	
CENTERLINE PERENNIAL STREAM	
TOP OF BANK	
100 YEAR FLOODPLAIN BOUNDARY	
EXISTING PERENNIAL STREAM	
AREAS OF SLOPE >=25%	
AREAS OF SLOPE 15% - 25%	
STREAM BUFFER	
WETLAND BUFFER	
EXISTING FOREST RETENTION AREA	
FOREST RETENTION AREA	
AFFORESTATION AREA	
BAMBOO STAND	
NEW FOREST CONSERVATION EASEMENT BOUNDARY	

NOTE: This symbol represents a proposed forest conservation sign location (arrow indicates direction of facing). See Detail on sheet 3 for installation instructions.

MAPPED SOILS TABLE			
Symbol	Map Unit Name	k-Factor	Hydric
2C	Glenclg silt loam, 8-15% slopes	0.43	Nonhydric
54A	Hathorb silt loam, 0-3% slopes, frequently flooded	--	Hydric
116D	Blocktown channery silt loam, 15-25% slopes, very rocky	0.28	Nonhydric

Resource Data Table	
Existing Forest.....	1.54 acres
Non-tidal Wetlands.....	0.004 acres
Forest within the Non-tidal wetlands.....	0.004 acres
Existing Floodplain.....	0.35 acres
Forest within the Floodplain.....	0.12 acres
Existing Stream Buffer.....	1.35 acres
Forest within the Stream Buffer.....	0.53 acres

PRELIMINARY FOREST CONSERVATION PLAN
GLEN MILL SUBDIVISION

PROJECT LOCATION:
 GLEN MILL ROAD
 TAX MAP: FR-31, PARCEL P833
 MONTGOMERY COUNTY, MD
 ID# 04-00054582

OWNER/APPLICANT INFO:
SARA A. VAZER
 4 S. DUKE STREET
 ROCKVILLE, MD 20854
 PHONE: (301) 755-4107

ZONE: RE-1

SEAL

RAZTEC ASSOCIATES, INC.
 civil engineers & planners

341 West Patrick St.
 Frederick, Maryland 21701

Tel (301) 775-4394
 email: raztecengr@comcast.net

DRAWN BY: SL	DATE: 3/29/2018	SCALE: 1" = 30'	SHEET NUMBER: 2 of 4
CHECKED BY: MR			

DEVELOPER'S CERTIFICATE

The Undersigned agrees to execute all the features of the Approved/Final Forest Conservation Plan No. 120160130 including, financial bonding, forest planting, maintenance, and all other applicable agreements.

Developer's Name: Printed Company Name

Contact Person or Owner: SARA VAZER
 Printed Name

Address: 4 SOUTH DUKE ST
ROCKVILLE MD 20854

Phone and Email: Saravazer@gmail.com

Signature: [Signature]

REV#	DATE

Wetland Studies and Solutions, Inc.
 1131 Benfield Boulevard, Suite L
 Millersville, Maryland 21108
 Phone: (410) 672-5990
 FAX: (410) 672-5993

Plan prepared by:
[Signature] 04-13-2018
 Kenneth R. Wallis
 Qualified Professional
 CoMar 08.19.06.01

COVENANT

This Covenant is created on February 22, 2017, by the owner or developer, **RAZTEC ASSOC.** ("Owner") of certain property situated in Montgomery County, Maryland, in accordance with the terms and conditions set forth herein.

WHEREAS, the undersigned holds title in fee simple to a certain tract of land located in Montgomery County, Maryland, recorded among the Land Records of Montgomery County in Liber 46400 at Folio 226, and described as follows:

Parcel P833-EXHIBIT B is attached

WHEREAS, such property is located in the Piney Branch Stream Valley in Montgomery County, Maryland; and

WHEREAS, Owner has subdivided or intends to subdivide such property for the purpose of developing such property, and intends to install for the use and benefit of the residents of such subdivision a sewer system; and

WHEREAS, Owner desires a category change in accordance with the Montgomery County Comprehensive Water Supply and Sewerage Systems Plan to permit the development of the property; and

WHEREAS, significant public interest has been expressed concerning the potential water quality impacts and environmental disturbance that could result from construction of the Piney Branch gravity sewer to serve the above-described property and other properties in the Piney Branch Stream Valley System; and

WHEREAS, Owner intends to protect the water quality and minimize environmental disturbance in accordance with the Piney Branch sewer development recommendation attached hereto and made a part of this covenant ("Recommendations") in Exhibit A;

(Attach Piney Br. Sewer Agreement Recommendations as an exhibit)

NOW THEREFORE, in consideration of the premises and covenants contained herein, Owner, its successors and assigns, heirs, and administrators, hereby covenants

OWNER - SARA A. VAZER .
TAX ID - 54582 .

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 54360, p. 0334, MSA_CE63_54317. Date available 06/02/2017. Printed 08/29/2017.

and agrees to the following restrictions which shall be covenants running with the land.

1. Owner acknowledges that the attached recommendations are minimal conditions specified under a conditional category change which will be applied to the property to be subdivided as applicable and that adherence to these conditions is necessary for the use of the Piney Branch gravity sewer.

2. Owner is duly authorized to execute this covenant.

IN WITNESS WHEREOF, this covenant has been executed on the day and year herein before written.

ATTEST:

COMPANY - RAZTEC ASSOCIATES

(If Corporation; Secretary, Asst. Secretary, or Treasurer)

Owner (If Corporation, President or Vice-President)

5/30/2017

SARA A. VAZER.

STATE OF MARYLAND)

COUNTY OF MONTGOMERY)

ss:

On this 30 day of May, 2017, before me, Julia Viets,

the undersigned officer, personally appeared Sara Vazer, known to me (or satisfactorily proven) to be the person whose name is subscribed to within the instrument and acknowledged that he/she executed the same for the purposes therein contained. In witness whereof, I hereunto set my hand and official seal.

NOTARY PUBLIC

My Commission Expires:

August 7, 2018

JULIA VIETS
NOTARY PUBLIC
MONTGOMERY COUNTY
MARYLAND
MY COMMISSION EXPIRES AUGUST 7, 2018

(ADS:ads\S:\WMD\WS\SHEDS\PINEY\PBSCOVNT.DOC)

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 54360, p. 0335, MSA_CE63_54317. Date available 06/02/2017. Printed 08/29/2017.

EXHIBIT A PINEY BRANCH SEWER AGREEMENT RECOMMENDATIONS

The following recommendations were developed by the Piney Branch Technical Advisory Group (TAG) to the Director of the Department of Environmental Protection (DEP), the County Executive, and the County Council as necessary conditions that should be agreed to and ultimately met by developers to allow the Piney Branch gravity sewer to be implemented. They are the minimum requirements necessary to insure a high degree of environmental protection and do not limit the imposition of other requirements by reviewing agencies as development plans are reviewed in the subdivision process. It was the recommendation of the TAG that these be binding conditions that should be referenced in the Washington Suburban Sanitary Commission (WSSC) Capital Improvements Program (CIP) and the Comprehensive Water Supply and Sewerage Systems Plan. These conditions do not apply to applicants for single residences with lots that abut the line when such lots were recorded prior to August 1988. These lots are entitled to one service connection adequate for a single residence. The conditions are:

1. **IDENTIFICATION AND DEDICATION OF BUFFER (CORRIDOR).** For the purposes of these conditions, the Applicant (developer) must identify the stream valley corridor boundaries on the property:
 - a. At least 100 feet from the edge of the stream channel on both sides of the stream
 - b. All of the ultimate use flood plain as defined on M-NCPPC 1":200' maps + 25-foot buffer
 - c. The whole of wetlands which lie partly in the corridor described above + 25-foot buffer
 - d. Additional areas if needed for sewer right-of-way, pathway, or stormwater management
 - e. At the discretion of the Maryland-National Capital Park and Planning Commission (M-NCPPC), any or all of these lands may be dedicated as stream valley park land (corridor) at any time after the dedication of the corridor

2. **PERMITTED USES OF CORRIDOR.** Applicants must agree that the stream valley corridor will be used and disturbed only as follows:
 - a. **Sewer Right-of-Way.** A corridor will be cleared of vegetation to provide the sewer right-of-way. In no instance will the corridor be wider than 30 feet and the objective will be to keep the corridor as narrow as possible while allowing the work to proceed. WSSC will select a route that minimizes disturbance of mature trees and wetlands. Where the sewer must cross wetland areas, WSSC will take special precautions to avoid changing soil moisture conditions. After replanting by the developer, there should be no further disturbance of the right-of-way, except as is necessary for sewer maintenance.

 - b. **Street/Utility Crossings.** All utility crossings of the stream valley corridor must be kept to a minimum and should be installed within street rights-of-way, where possible. Street grading will be kept to a minimum with every effort made to establish street grades as close to the existing ground as possible while adhering to Montgomery County Department of Transportation standards. Additional public utility easements for Potomac Electric Power Co./Washington Gas Light Co. construction should be waived and construction for these utilities should be contained within the dedicated street rights-of-way.

c. Public Footpath.

- i. **Footpath requirements for properties that have received approval for sewer connection from the County Council prior to December 3, 1991.** The right of public access to the stream corridor must be granted as a part of this covenant. The agency that receives the ownership and takes responsibility for the maintenance of the stream corridor will decide if, when, and where a public pathway will be constructed in this corridor and what type of path is appropriate.

When these design decisions are made, the designing agency will consider whether the additional disturbance caused by a pathway will unacceptably impact the primary water quality protection function of the stream corridor, whether important wildlife habitats will be disturbed, will consult with neighboring properties to address concerns of security and privacy, and will consider the possibility of interconnection with neighboring path systems.

- ii. **Footpath requirements for properties south of Boswell Lane, west of Glen Mill Road, and north of Glen Road making application for sewer category change after December 3, 1991.** Properties meeting this definition have no requirement for public access or pathway.

- d. **Approved Landscape Maintenance.** In general, the stream valley vegetation should not be disturbed or maintained in any formal sense, the intention is to conserve the appearance of a natural stream valley. Minimal maintenance may be necessary for such problems as trees falling across the path, gypsy moth control, or aggressive vine growth. M-NCPPC will provide an updated list of approved maintenance techniques and will coordinate the maintenance of the public footpath.

- 3. **STORMWATER MANAGEMENT.** Additional stormwater management controls of both the quantity and quality of runoff are required to protect the stream. The nature of these additional features varies from property to property, but usually takes the form of ponds and artificial wetlands. Applicants must agree with the following Montgomery County Department of Environmental Protection special stormwater management requirements:

- a. Stormwater management practices must meet all current state and local standards, and
- b. on a case-by-case basis, stormwater management practices must provide additional water flow and quality control as required by the Montgomery County Department of Environmental Protection in consultation with the Maryland-National Capital Park and Planning Commission.

- 4. **WILDLIFE HABITAT.** Wildlife is to be promoted in the stream valley. Wetlands, stream banks, forest edges and shrub thickets are especially valuable wildlife habitats and sewer and path routes should avoid these features where possible. Some special planting or maintenance may be appropriate to preserve or enhance habitats. M-NCPPC will provide and update a list of approved techniques and will coordinate their application.

5. **GENERAL REQUIREMENT.** Except for those listed uses and disturbances, and areas currently under cultivation the stream valley corridor must remain undisturbed. Applicants must agree not to remove, introduce, or alter vegetation, grade, pave, or construct structures, use fertilizers or pesticides except those in M-NCPPC approved maintenance techniques, or in any other way alter the natural processes of the stream valley. Pedestrian access should be limited to the pathways.
6. **SEWER CONSTRUCTION CONTROL MEASURES.** WSSC has agreed to use the following siting and construction techniques during the layout and construction of the sewer:
- a. The engineer (WSSC) will adhere to WSSC's Standard Specifications and Details applicable to tree removal and protection to minimize the impact of gravity sewer construction on trees in the Piney Branch stream valley;
 - b. Where deemed feasible by the engineer (WSSC), the sewer will be designed to avoid "specimen" trees and minimize the number of other trees to be removed within the 30-foot sewer right-of-way;
 - c. Sewer will be designed to avoid environmentally sensitive areas such as wetlands and ponds where deemed feasible by the engineer (WSSC);
 - d. Where deemed feasible by the engineer (WSSC), required construction strips (10-foot temporary easements along either or both sides of the sewer right-of-way for a total disturbed width of 30 feet), used for parking and maneuvering construction equipment, stockpiling pipe and materials, and other similar uses, will be selected to minimize the impact on trees and environmentally sensitive areas such as wetlands and ponds;
 - e. Anti-seepage collars and/or special impermeable pipe bedding will be used, where deemed appropriate by the engineer (WSSC) and after consultation with DEP and the M-NCPPC, to impede potential wetland draining due to sewer construction;
 - f. Tree planting will be used where deemed appropriate by the engineer (WSSC) at selected locations (e.g., road crossings) to "mask" the sewer right-of-way; and
 - g. Tree protection, as shown in WSSC Standard Detail SC 10.0 will be used to protect selected trees to be saved within the sewer right-of-way and construction strips and those adjacent to the sewer right-of-way and/or construction strips where deemed appropriate by the engineer (WSSC).
7. **ADDITIONAL GUIDELINES.** Areas currently under cultivation shall be restored in conformance with site plan requirements including an accelerated reforestation succession. Applicants are encouraged to limit disturbance in a secondary buffer at least 200 feet upslope from the stream valley corridor to provide further protection to the stream. In this secondary buffer, vegetation should be disturbed as little as possible, especially mature trees, and replanting should resemble the native floodplain forest. Structures should be avoided if possible and built on piles with suspended floors if essential, rather than strip foundations and at-grade floors. Paving should be porous. Runoff should be infiltrated and detained as much as possible near the source of generation with drip lines, infiltration trenches, gently sloping swales and detention areas. Pesticides and fertilizers should be avoided where possible.

Piney Branch Sewer Agreement Recommendations
 Revised: December 3, 1991

Page 4

Note: This page is provided for informational purposes only and is not intended for inclusion in the Piney Branch Sewer Agreement Recommendations or in any covenant including the Recommendations.

County Council Actions:

Council Resolution	Date	Action Taken
11-988	August 2, 1988	Piney Branch Sewer Agreement Recommendations adopted as an amendment to the Montgomery County Comprehensive Water Supply and Sewerage Systems Plan (CWSP).
11-1550	July 6, 1989	Piney Branch Sewer Agreement Recommendations/CWSP amended as follows: Added 2 sentences near the end of the opening paragraph beginning with "These conditions do not apply ..."
12-486	December 3, 1991	Piney Branch Sewer Agreement Recommendations/CWSP amended as follows: 1) Added at the end of section 1.e.: "(corridor) at any time after the dedication of the corridor." 2) Original section 2.c. deleted and replaced with sections 2.c.i. ("Footpath requirements for properties that have received approval ...") and 2.c.ii. ("Footpath requirements for properties south of Boswell Lane ..."). 3) Original sections 3.a. through 3.i. deleted and replaced with sections 3.a. ("Stormwater management practices must meet ...") and 3.b. ("on a case-by-case basis, stormwater management practices must provide ...").

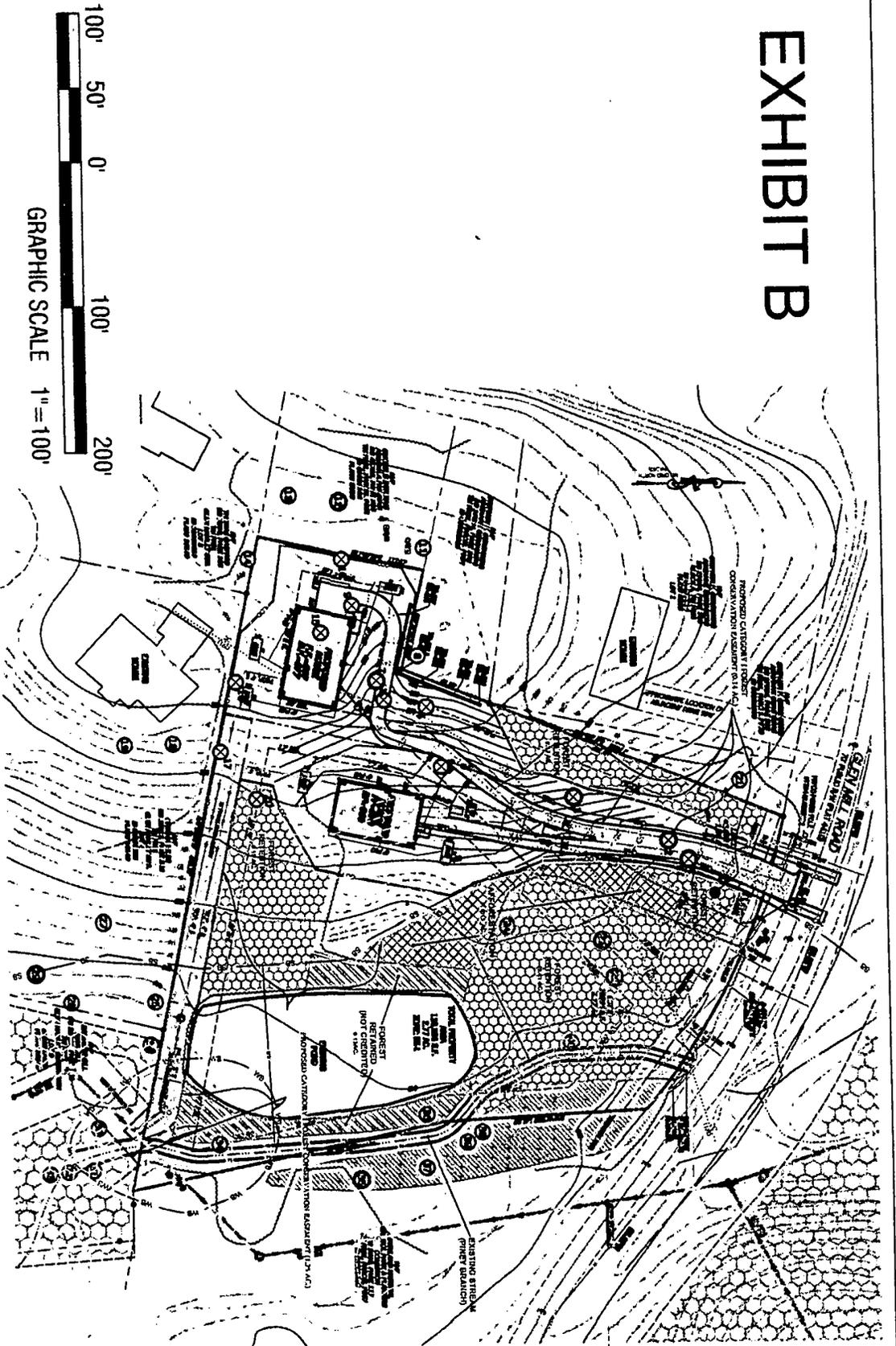
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MAIL TO:

SARA VAZER
 4 SOUTH DUKE ST
 ROCKVILLE MD 20850

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 54360, p. 0339, MSA_CE63_54317. Date available 06/02/2017. Printed 08/29/2017.

EXHIBIT B



RAZTEC ASSOCIATES, INC.

civil engineers & planners
 3280 Urbana Pike
 Jhamsville, Maryland 21754
 Tel (301) 775-4394
 email: raztecengr@comcast.net

PROJECT LOCATION:
 GLEN MILL ROAD
 TAX MAP: FR-31, PARCEL P833
 MONTGOMERY COUNTY, MD
 ID# 04-00054582
 WSSC GRID: 217 NW 10

OWNER/APPLICANT INFO:
SARA A. VAZER
 4 S. DUKE STREET
 ROCKVILLE, MD 20854
 PHONE: (301) 755-4107

LR - Agreement
Recording Fee 20.00
Name: RAZTEC
ASSOCIATES
Ref:
LR - Agreement
Surcharge 40.00
=====

SubTotal:	60.00
=====	
Total:	60.00

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Montgomery
County/CC06.02.04 -
Register 04

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) BHM 54360, p. 0341, MSA_CE63_54317. Date available 06/02/2017. Printed 08/29/2017.



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BARBARA H. MEIKLEJOHN
Clerk of the Circuit Court for Montgomery County
50 Maryland Avenue
Rockville, Maryland 20850
Recording and Licensing
(240) 777-9470



Attachment 5

Isiah Leggett
*County
Executive*

DEPARTMENT OF TRANSPORTATION

Al R. Roshdieh
Director

March 1, 2018

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

RE: Preliminary Plan No. 120160180
Glen Mill Parcel 833

Dear Mr. Sigworth:

We have completed our review of the preliminary plan dated February 15, 2018. A previous plan was reviewed by the Development Review Committee at its meeting on March 7, 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. Include this letter and all other correspondence from this department.

1. Wells and septic systems cannot be located within the right of way nor slope or drainage easements.
2. The storm drain study is acceptable. No existing enclosed public storm drain system is located near this property.
3. The sight distance study has been accepted. A copy of the accepted Sight Distance Evaluation certification form is enclosed for your information and reference.
4. Relocation of utilities along existing roads to accommodate the required roadway improvements shall be the responsibility of the applicant.

Office of the Director

101 Monroe Street 10th Floor · Rockville Maryland 20850 · 240-777-7170 · 240-777-7178
FAX

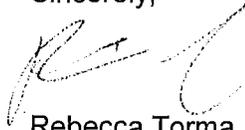
www.montgomerycountymd.gov

Located one block west of the Rockville Metro Station

Mr. Ryan Sigworth
Preliminary Plan No. 120160180
March 1, 2018
Page 2

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.

Sincerely,



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

Sharepoint/DOT/director's office/development review/Rebecca/Potomac subregion/120160180 glen mill p833.docx

Enclosure

cc: Sara Vazer Owner
Mike Razavi Raztec Associates, Inc.
Preliminary Plan folder
Preliminary Plan letters notebook

cc-e: Sam Farhadi MCDPS RWPR



DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Diane R. Schwartz Jones
Director

May 25, 2017

Mr. Mike Razavi, P.E.
Raztec Associates, Inc.
3280 Urbana Pike, Suite 101
Ijamsville, Maryland 21754

Re: **COMBINED WATER QUALITY
INVENTORY/SITE DEVELOPMENT
STORMWATER MANAGEMENT PLAN** for
Glen Mill Road Parcel 833
Preliminary Plan #: 120160180
SM File #: 281594
Tract Size/Zone: 2.77 acres/RE-2
Total Concept Area: 2.77 acres
Lots/Block: 1 and 2
Parcel(s): 833
Watershed: Watts Branch/Piney Branch

Dear Mr. Razavi:

Based on a review by the Department of Permitting Services Review Staff, the Water Quality Inventory for the above-mentioned site is **acceptable**. The Water Quality Inventory proposes to meet required stormwater management goals via dry wells and micro infiltration.

The following items will need to be addressed during the detailed sediment control/stormwater management 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. The sanitary sewer connection in the area of the existing pond embankment will need to be examined further at the detail sediment control/stormwater management plan review stage. The pond embankment may need to be upgraded or breached as part of the development process.

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

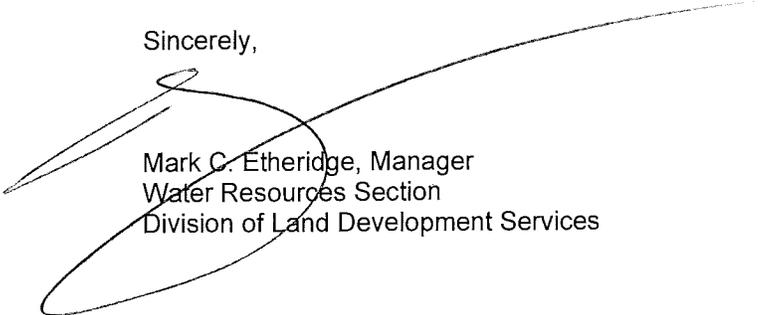
This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically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



Mr. Mike Razavi
May 25, 2017
Page 2 of 2

If you have any questions regarding these actions, please feel free to contact Leo Galanko at 240-777-6242.

Sincerely,



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

MCE: me lmg

cc: C. Conlon
SM File # 281594

ESD Acres:	2.77
STRUCTURAL Acres:	0
WAIVED Acres:	0



March 6, 2018

Mr. Douglas Johnsen
Montgomery County Park and Planning-Area 3 Staff
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Glen Mill Subdivision - Montgomery County, Maryland
WSSI# - MD1014.01

Dear Mr. Johnsen,

Please consider this letter a formal request for a Tree Variance to impact and remove specimen trees on the above reference property located on the south side of Glen Mill Road in Montgomery County, Maryland. The variance is requested from Section 22A-21 of the Montgomery County Code which requires that all trees 30-inches or greater be retained onsite.

A variance is requested to remove four (4) specimen trees and impact the critical root zone (CRZ) of a fifth during the construction of two single family homes on the property. A total of 8 specimen trees and 32 significant trees were identified on the property as shown on the NRI/FSD Plan which was approved by Montgomery County Park and Planning on November 9, 2015. The originally proposed layout showed the existing driveway being used as the main driveway into the site. However, per comments generated by Park and Planning Commission staff it was required that we move the proposed driveway so that it is outside of the 125-foot stream buffer. As depicted on the Forest Conservation Plan, the construction of a proposed driveway and house will impact the critical root zones of five (5) specimen trees.

The new alignment of the driveway will require that four (4) specimen trees be removed (trees 1, 2, 3 and 7) as these trees are too close to the driveway to avoid. The first tree to be removed is Specimen tree #1, a 43-inch yellow-poplar (*Liriodendron tulipifera*) in "Fair" condition. The second #2, a 36-inch yellow-poplar (*Liriodendron tulipifera*) in "Poor" condition. The third is #3, a 33-inch yellow-poplar (*Liriodendron tulipifera*) in "Fair" condition and the fourth is Specimen tree (#7) is a 32-inch yellow-poplar (*Liriodendron tulipifera*) in "Poor" condition. Specimen tree #7 is situated immediately adjacent to the westernmost proposed house and within its proposed driveway. It is not possible to move the driveway in any direction due to the proximity to the corner of the property and the house.

Specimen tree #12 is a 30" black oak (*Quercus velutina*) that is located offsite. This specimen tree will be impacted during the lot grading for the westernmost proposed house. The specimen tree information is depicted on the attached Specimen Tree Table. This table also includes the post-construction disposition and the percentage of critical root zone impacts to each of the specimen trees.

The variance criteria and a response can be found below:

(1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship.

Due to the stream buffer that currently exists within most of the property frontage along Glen Mill Road there is only 55 linear feet of land where the proposed driveway can be located without impacting the stream buffer. The engineers have aligned the driveway to go through this area which completely avoids the stream buffer. Due to the presence of the hillslope it is not possible to avoid impacting four of the specimen trees. Since the property boundary is located immediately to the west and the stream buffer to the east there is no way to reroute the driveway. If the three trees cannot be impacted, then the proposed development of the property is not possible. The applicant will either need to impact the stream buffer or impact the four specimen trees. Since there have been other projects in the county which have removed specimen trees for the purpose of constructing a driveway this is not an uncommon request. The limited access points into the property due to the presence of the stream buffer is a special condition particular to this property.

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

Due to the limited access into the property and the number of specimen trees located on the northern end of the property, avoiding the specimen trees is not possible. Prohibiting the development of this site due to the impacts to these five specimen trees would deprive the landowner of rights commonly enjoyed by others in similar situations. Other owners in Montgomery County have removed specimen trees in order to gain access to their properties. This property is no different, but because of the tight access area, steeper slopes and number of specimen trees it does not allow the applicant to avoid all these features.

(3) verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance.

The applicant is required to submit stormwater management plans which depict the treatment being provided for the proposed project. This project will need to have Sediment and Erosion Control Plans approved by the Department of Permitting Services before construction can begin on this project. Having approved Sediment and Erosion Control plans ensures that State water quality standards have been met and that there will be no measurable degradation in water quality onsite.

(4) provide any other information appropriate to support the request.

Avoiding these trees altogether is not a possibility due to the constraints of the stream buffer and property boundary. Stress reduction techniques will not work in this situation because the driveway cannot be moved far enough away from any of the four trees to get the critical root zone impacts

Mr. Douglas Johnsen
March 6, 2018
WSSI project #: MD1014.01

down to around 30%. The CRZ for Specimen tree #12 will be root pruned to reduce impacts to the tree.

I trust that this information is sufficient for your office to render a decision regarding this variance request. If you have any questions or require any additional information, please do not hesitate to contact me.

Sincerely,

WETLAND STUDIES AND SOLUTIONS, INC.



Kenneth R. Wallis
Senior Associate Environmental Scientist

Enclosures: 1) Specimen Tree Table

cc:

Mike Razavi, *Raztec Associates, Inc.*
Sara Vazer

L:_Maryland\Projects\MD01000s\MD01000\MD01014.01\Admin\05-ENVR\Tree Variance2.docx

SPECIMEN TREE TABLE

TREE #	COMMON NAME	SCIENTIFIC NAME	DBH INCHES	CONDITION	COMMENTS	POST CONSTRUCTION DISPOSITION	IMPACTS TO THE CRZ	MITIGATION MEASURES
1	Yellow Poplar	<i>Liriodendron tulipifera</i>	43	Fair	Storm Damage, Thin Crown and Dieback, Dead Branches,	Removed	36%	Replanting
2	Yellow Poplar	<i>Liriodendron tulipifera</i>	36	Poor	Trunk sprouts, Severe crown dieback	Removed	44%	Replanting
3	Yellow Poplar	<i>Liriodendron tulipifera</i>	33	Fair	Storm Damage, Dieback, Co-dominant Leader	Removed	60%	Replanting
7	Yellow Poplar	<i>Liriodendron tulipifera</i>	32	Poor	Poor crotch attachment, included bark, Co-dominant leader,	Removed	90%	Replanting
12*	Black Oak	<i>Quercus velutina</i>	*30	Fair	Size estimated, Off property	CRZ Impacted	5%	None
22	Yellow Poplar	<i>Liriodendron tulipifera</i>	35	Fair	Poor form, Crooked bole	Retained-No Impact	0%	None
23	Yellow Poplar	<i>Liriodendron tulipifera</i>	30	Good		Retained-No Impact	0%	None
29	Yellow Poplar	<i>Liriodendron tulipifera</i>	*31	Fair	Size estimated, Off property	Retained-No Impact	0%	None
35	Yellow Poplar	<i>Liriodendron tulipifera</i>	*31	Fair	Size estimated, Off property	Retained-No Impact	0%	None

*denotes size estimated; tree located off subject property



Attachment 8

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Patty Bubar
Acting Director

April 29, 2018

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

RE: Glen Mill – Parcel 833, ePlan 120160180, NRI/FSD application accepted on 2/26/2015

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.

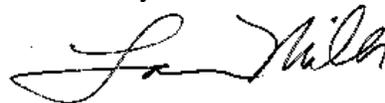
3. The disturbance of trees, or other vegetation, by the applicant does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property. Therefore, the variance can be granted under this criterion.
4. The disturbance of trees, or other vegetation, 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,



Laura Miller
County Arborist

cc: Doug Johnsen, Senior Planner



Department of Permitting Services
Fire Department Access and Water Supply Comments

DATE: 05-Apr-18
TO: Mike Razavi
Raztec Associates Inc.
FROM: Marie LaBaw
RE: Glen Mill Subdivision - Parcel 833
120160180

PLAN APPROVED

1. Review based only upon information contained on the plan submitted **05-Apr-18** .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.



RUSTIC ROADS ADVISORY COMMITTEE

April 14, 2017

MIKE RAZAVI, P.E.
RAZTEC ASSOCIATES, INC.
3280 Urbana Pike
Ijamsville, MD 21754

RE: Parcel 833, 07-PREL-120160180, Glen Mill Road, Rustic

Dear Mr. Razavi:

During its February 28, 2017 meeting the Rustic Roads Advisory Committee (the committee) reviewed the Preliminary Plan 07-PREL-120160180 submitted for Glen Mill Road dated January, 2017. The Preliminary Plan proposes to construct a new driveway entrance approximately 30 feet from the northwestern corner of the subject property along Glen Mill Road that will serve two proposed single-family homes.

The committee's review of this project centered around its potential to cause negative impacts to the visual character of Glen Mill Road. In this case, the committee found that the use of a single driveway to serve two residences will act to minimize potential visual impacts, and voted unanimously to recommend approval of 07-PREL-120160180 as depicted on the iteration of the plan dated January 2017.

Please note that the committee will need to review any substantive revisions to 07-PREL-120160180 to evaluate their potential impact to Glen Mill Road. Please submit any revisions to our staff coordinator, Michael Knapp, at 240-777-6335 or Michael.Knapp@montgomerycountymd.gov, and we will review them at our next scheduled meeting.

Sincerely,

A handwritten signature in black 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

Attachment 11

April 1, 2016

The Honorable Casey Anderson, Chair
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Preliminary Plan #120160180 for Glen Mill Road -- Parcel 833 (the “Subject Property”)

CC: Members, Montgomery County Planning Board
Ryan Sigworth, Senior Planner and Lead Reviewer, Planning Area 3
Susanne Lee, President, West Montgomery County Citizens Association
Dr. Sara A. Vazer, Owner/Applicant

Via: USPS and email: MCP-Chair@mncppc-mc.org, Ryan.sigworth@montgomeryplanning.org,
Susannelee1@hotmail.com, saravazer@gmail.com

Dear Chairman Anderson and Members of the Planning Board:

We -- all contiguous and several adjacent homeowners – are writing to express strong objection to the application for a two house/two lot subdivision of the Subject Property located in the Piney Branch Special Protection Area.

It is important to note at the outset that we have in person and in writing stated our objections to the applicant, Dr. Sara Vazer, and have offered to reconsider our position if there were a single lot proposed by an amended plan that took into consideration the numerous concerns of the community. Despite multiple attempts, we have not heard from Dr. Vazer in the two weeks since that offer was made, such that at this time there is no other plan to evaluate...only the currently pending application, which we ask the Planning Board to **deny**.

Our opposition is based on the following reasons:

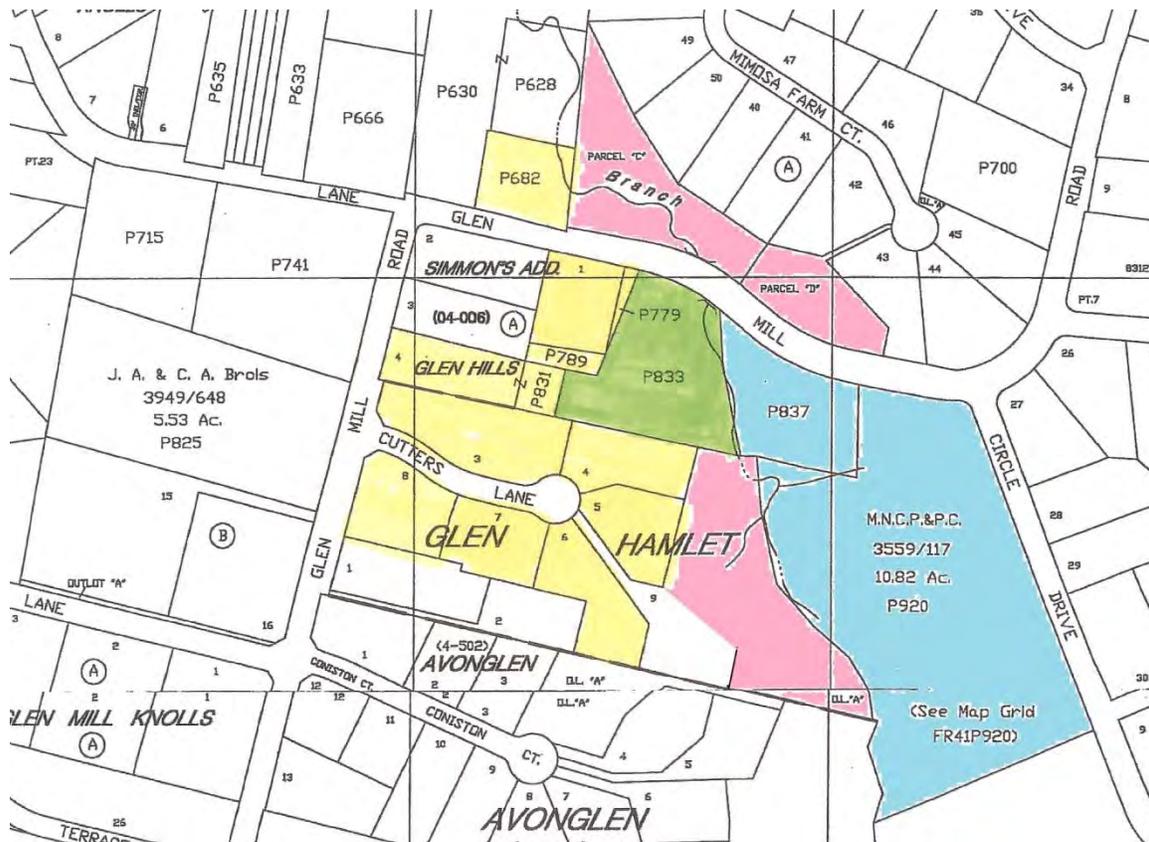
1. Environmental constraints on the Subject Property in this *Piney Branch Special Protection Area* (the stream itself, the stream valley, steep slopes, a pond, forest, and specimen trees) do not support creating two irregularly-shaped lots (Section 50-32 of the Subdivision Regulations).
 - Roughly half of the proposed ~250' shared driveway/access is within the Piney Branch stream buffer; as the application material notes, shoehorning two lots into this parcel leaves no room to avoid that incursion.
 - The original offering documents for sale of this parcel in 2011 included an opinion from land planners and engineers Benning and Associates that environmental conditions would likely prevent further division. The parcel was purchased by the Applicant (as she confirmed during our meeting with her) on the basis of supporting one single-family residence, and the consideration paid is reflective of that limitation.
2. This two-lot plan proposes a pattern of development that is inconsistent with the Potomac Subregion Master Plan and is incompatible with the established surrounding residential community (Section 50-35(1) of the Subdivision Regulations).
 - The Potomac Subregion Master Plan is quite clear in its primary focus being to maintain environmental integrity in managing new development, with protection of the subregions' natural resources – forests,

floodplains, wetlands, and stream valleys – at the core of the Plan’s recommendations and guiding principles, for the benefit of the entire region – see Introduction at Page 11 of the Plan. As regards land use and zoning, environmental sustainability is again the most critical policy determinant defined by the Plan to guide new development in this subregion – see Page 31. The proposed two-lot subdivision is entirely inconsistent with this primary focus of the Master Plan.

- The environmental constraints impacting the development of the Subject Property (steep slopes, stream and stream valley, wetlands/flood plain, etc.) result in only a small portion of the property (the far rear corners) being buildable, thus creating a proposed housing pattern wholly out of character for the neighborhood. Existing homes in this neighborhood as shown on the preliminary plan of subdivision are a *minimum* of roughly 100 feet apart, whereas the proposed two houses would be less than 50 feet from the nearest existing home in the neighboring subdivision to the south.
 - Additionally, because the proposed new houses would be built into a steep slope, they would have the appearance of being stacked and dense, with approximately 18 feet of elevation difference over just 50 feet of separation. The resultant change in the character of the established neighborhood would cause significant environmental and economic degradation, in violation of the law.
3. Two sewer connections, much less crossing a wetland buffer, the stream valley, and the stream itself to make *any* connection, are at odds with the restricted access for this environmentally sensitive area as set forth in both the County’s Comprehensive Water and Sewer Plan and the Potomac Subregion Master Plan.
- Access to the Piney Branch sewer in this subwatershed of the Watts Branch stream area has always been limited to one hookup per parcel/original lot. This limitation has been recently confirmed (original limitation when the sewer was built in the early 1990’s, reaffirmed in the County’s 2002 Potomac Subregion Master Plan [Page 25], and again confirmed this past summer in the Glen Hills Sanitary Study). The conditions and rationale for this limitation have not changed, and accordingly the request for two sewer hookups to support the proposed subdivision of the Subject Property is improper and grounds for denial.
4. Imperviousness associated with two houses is also not consistent with this special protection area, and the Applicant has not prepared an acceptable water quality plan that supports two lots (Chapter 19, Article V of the County Code).
- Much of the proposed 12% impervious surface runoff would flow uncontrolled down as much as a 40’ slope through heavily wooded terrain onto a limited sight distance area of a designated “rural and rustic” section of Glen Mill Road, as well as to the pond and the Piney Branch stream.
5. The existing forest will be seriously compromised, all the more so with two lots. There are 40 trees on the Natural Resources Inventory. The application notes that 75% (6/8) of identified specimen trees will be negatively impacted.
6. A variance being sought with this subdivision application for the removal of two of these specimen trees is particularly problematic: Per Section 22-21 of the County Code, there is no unwarranted hardship justifying granting a tree variance; the applicant has failed to demonstrate compliance with any of the requirements for such a variance; and the minimum criteria for same have not been satisfied. Simply stated, granting a tree variance to accommodate this proposed plan is unlawful.
- The burden for justifying the granting of a variance allowing removal of a specimen tree is squarely on the Applicant. Section 22A-21(d) of the County Code 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 result from the actions by the applicant; ...or 4) will violate

State water quality standards or cause measurable degradation in water quality.” A variance in this case cannot be granted for any or all of these reasons. The request for a variance is to allow a two-lot subdivision that is incompatible with the surrounding neighborhood, inconsistent with the Potomac Subregion Master Plan and the County’s Comprehensive Water and Sewer Plan, and contrary to the water quality protection objectives and requirements in place for the Piney Branch Special Protection Area.

- The homeowners listed below as signatories, all of whom have co-authored this letter of opposition, are noted in yellow highlight on the following tax map excerpt. The Subject Property is in green highlight. Ironically, the largest adjoining property to this proposed subdivision (to the east and shown in blue highlight) is M-NCPPC’s -- the Glen Hills Park. The properties to the north (owned by an HOA) and south of the Subject Property, shown in pink highlight, are encumbered by conservation easements that protect the stream and stream valley by precluding building or other land-disturbing activity. As such, allowing development on the Subject Property would be inconsistent with the protections in place for the same stream and stream valley east, north, and south of the Subject Property.



- Furthermore, since the M-NCPPC holds and maintains the adjacent land to the east in public trust, protection of the natural resources that help define these public properties are likely of paramount concern to the Parks Department and the Planning Board in its role as the Parks Commission. We would maintain that the public interest served and preserved by the M-NCPPC would equally compel the agency to be actively opposed to a plan of subdivision that degrades the environmental resources in this Special Protection Area.

9. Finally, there are major executional issues associated with developing this parcel, with the added clearing, grading, and construction of two houses posing a serious environmental risk.
 - o Discussions with a renowned local builder (developer of the subdivision to the south of the Subject Property) and a leading engineering firm in the County underline these practical difficulties and the environmental downside: “Land preparation and building of the magnitude proposed on such a precarious slope would be extremely challenging to manage even for a single lot. Scaling the project to two lots makes this virtually impossible, with contractor error and the consequences of a breach in sediment control and storm-water management almost inevitable...an environmental disaster waiting to happen.”

These are significant disqualifications – violation of the County’s Subdivision Regulations and our water quality and forest resource conservation laws, as well as unlawful inconsistencies with the Potomac Subregion Master Plan and the County’s Comprehensive Water and Sewer Plan, plus the very real practical risk of difficult construction activity going wrong. For all these reasons, we request the Board’s denial for this two-lot plan.

It is our intent to vigorously oppose this application through additional testimony and evidence at the Board’s public hearing, establishing a record in support of denial that will be sustainable should there ultimately be judicial review of the administrative decision of the Planning Board.

Respectfully submitted,

Austin and Cady Burnes
10301 Cutters Lane
Potomac, MD 20854

Stephen and Adrienne Gershberg
13005 Glen Mill Road
Rockville, MD 20850

Lolu and Abby Fatukasi
12909 Glen Mill Road
Potomac, MD 20854

Jeffrey Holik and Amy Newman
10314 Cutters Lane
Potomac, MD 20854

John and Lynne Finnerty
13000 Glen Mill Road
Rockville, MD 20850

Brian and Mia Pearlstein
10306 Cutters Lane
Potomac, MD 20854

Thomas C. and Mary Ellen Gaspard
10305 Cutters Lane
Potomac, MD 20854

Roger and Kathleen Thies
10310 Cutters Lane
Potomac, MD 20854

November 9, 2017

The Honorable Casey Anderson, Chair
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Preliminary Plan #120160180 for Glen Mill Road -- Parcel 833 (the "Subject Property")

CC: Members, Montgomery County Planning Board
Montgomery County Planning Staff
West Montgomery County Citizens Association
Montgomery County Councilmember Sidney Katz
Dr. Sara A. Vazer, Owner/Applicant

Via: USPS/email: MCP-Chair@mncppc-mc.org, ryan.sigworth@montgomeryplanning.org,
sandra.pereira@montgomeryplanning.org, richard.weaver@montgomeryplanning.org,
susannelee1@hotmail.com, ginnybarnes@juno.com, kawer@msn.com,
Councilmember.Katz@montgomerycountymd.gov, saravazer@gmail.com

Dear Chairman Anderson and Members of the Planning Board:

Roughly 18 months ago, we -- all contiguous and adjacent homeowners (the "Neighbors" listed below) -- wrote to you expressing objection to this Preliminary Plan application (the "Plan") for a two house/two lot subdivision of the Subject Property located in the Piney Branch Special Protection Area (a copy of that previous correspondence is attached for convenience). While the Plan has been amended and resubmitted by the Applicant, the few changes that have been made to the Plan are completely unresponsive to the Neighbors' expressed concerns, and it is now abundantly clear that the proposed subdivision of the Subject Property with two lots cannot meet the legal requirements for subdivision approval.

As a matter of fact and law the Plan does not and cannot adequately protect the environmentally sensitive areas that comprise most of the Subject Property. Because the Plan is contrary to the purposes and requirements of Chapter 50 of the Montgomery County Code (the "Subdivision Regulations"), pursuant to Section 4.2 (C) (1) (c) of the Subdivision Regulations the Planning Board must deny the Plan.

While the Neighbors had previously indicated a willingness to work with the Applicant to arrive upon a mutually acceptable one lot subdivision of the Subject Property, the proposed Plan does not support this and as such must be denied outright. We remain receptive to a one lot plan that best responds to our expressed concerns -- and in particular one that proposes a house location that minimizes environmental degradation while also achieving separation from and compatibility with adjoining improved properties -- but to date there is no such alternative plan to evaluate. As set forth below and in the previous (attached) correspondence, and after considerable thought and discussion, the Neighbors remain strongly opposed to the Plan for the following reasons, any one of which is sufficient grounds for denial and the combined effect of which provide overwhelming rationale and a mandate for the Board's rejection of this Application.

The Planning Board cannot make the necessary findings pursuant to Section 4.2 (D) of the Subdivision Regulations to approve the Plan. The existing conditions of the Subject Property have nearly every conceivable natural environmental condition sought to be protected through the Subdivision Regulations for any subdivision in the County; and when considered in the context of the Potomac Subregion Master Plan (April 2002 – the “Master Plan”), where “sustaining the environment [is] the preeminent policy determinant” and any new development is required to be evaluated within the context of respecting and protecting the natural resources and unique ecosystems of the Subregion (p.1), it is quite clear that this Plan does not meet the required standards for approval. As reflected in the “existing conditions” documents submitted with the Preliminary Plan, the Subject Property is almost entirely compromised for land development by “environmentally sensitive areas” as defined in the Subdivision Regulations (steep slopes, wetlands, streams, and stream buffers, all per the “Guidelines for Environmental Management of Development in Montgomery County” – the “Environmental Guidelines”), as well as forest (including specimen and significant trees as defined by the County’s Forest Conservation Law), all of which are intended to be protected through the environmental principles of the Master Plan and the Subdivision Regulations. Factoring together all of these environmental resources that dominate the Subject Property, it is obvious that the Subject Property cannot support two buildable lots.

In further support of the Neighbors’ opposition to this Plan, we ask the Planning Board (and its Professional Staff) to consider the following:

- Environmental constraints on the Subject Property in this *Piney Branch Special Protection Area* (the stream itself, the stream valley and 100 year floodplain, slopes >25%, a pond, forest, and specimen trees) are a key impediment to any land development, let alone two lots (Section 4.3 (K) of the Subdivision Regulations).
 - Pursuant to Section 4.3(K)(2), the subdivision of the Subject Property must be restricted (a maximum of one building lot) for reasons of environmental protection, considering the cumulative impacts of the environmentally sensitive areas including wetlands, floodplain, steep slopes, and other topographic conditions (unsafe land) plus tree and forest conservation.
 - Over half of the total 2.77 acre parcel is inside what the Plan delineates as the Piney Branch stream buffer (though we understand that the West Montgomery Citizens Association presents (and the Neighbors support) a strong argument that the Subject Property’s slopes require a far larger stream buffer than the 125’ shown by the Applicant). Of the remaining <50%, comprised largely of afforested steep slopes, approximately 75% or 1.01 acres must be disturbed – essentially cut away – to shoehorn-in two building sites. The attached “existing” vs “proposed” Exhibit A shows the significance of this change, and the Exhibit B photos are worth more than words.
 - It appears that the proposed house on Lot 2 of the Plan is on land that is entirely comprised of steep slopes (in violation of Section 4.3(K)(2)(b)(i) and (iv) of the Subdivision Regulations), as is a significant portion of the proposed driveway serving Lot 1 and Lot 2 (in addition to other environmental constraints including forest and wetlands). A single lot, with a carefully located single house and access driveway could possibly navigate these restrictions. Again, see Exhibit B.
 - The original offering documents for sale of this parcel in 2011 included an opinion from land planners and engineers Benning and Associates to advise potential purchasers that environmental conditions would likely prevent further division (Exhibit C). The parcel was purchased by the Applicant (as she confirmed during our meeting with her) on the basis of supporting one single-family residence, and the consideration paid is reflective of a one-lot property – see Exhibit D for \$350,000 purchase price and a \$530,000 County

assessment which, per input to the Neighbors from several real estate advisors, is the approximate current market value of land for a one-house lot in the Potomac area.

- This Plan fails to substantially conform to the Master Plan, as required under Section 4.2(D)(1) and Section 4.3(A) of the Subdivision Regulations. As noted above, the primary and overriding policy determinant for the Master Plan is the need to preserve and protect and the natural resources and ecosystem that defines this Subregion.
 - The Master Plan is quite clear in its primary focus being to maintain environmental integrity in managing new development, with protection of the Subregions's natural resources – forests, floodplains, wetlands, steep slopes, and stream valleys – at the core of the Plan's recommendations and guiding principles, for the benefit of the entire region – see, among many other sections of the Master Plan, Introduction at Page 11. As regards land use and zoning, environmental sustainability is again the most critical policy determinant defined by the Plan to guide new development in this Subregion – see Page 31. The proposed two-lot Plan is in complete disregard of the significant environmental constraints to land disturbance activity and the Master Plan's demand that land development be respectful and protective of the natural environment and unique ecosystems of this Subregion. The Subject Property exemplifies the very blend of environmental resources that the Master Plan intends to protect, yet the Plan not only fails to safeguard these natural resources but also actually destroys the environment that contains and supports the protected ecosystem by proposing to force two lots and houses into an area that arguably cannot support a single lot and structure. Net, the Plan is entirely inconsistent with this primary focus of the Master Plan.
 - The environmental constraints impacting the development of the Subject Property (steep slopes, stream and stream valley, wetlands/flood plain, et al.) result in only a small portion of the property (the far rear corners) being buildable, thus creating a proposed housing pattern wholly out of character for the neighborhood. Existing homes in this neighborhood, as shown on the Plan, are a *minimum* of roughly 100 feet apart, whereas the proposed two houses would be less than 50 feet from the nearest existing home in the neighboring subdivision to the south.
 - Additionally, because the proposed new houses would be built into a steep slope, they would have the appearance of being stacked and dense, with approximately 18 feet of elevation difference over just 50 feet of separation. The resultant change in the character of the established neighborhood would cause significant environmental and economic degradation, in violation of the law.
 - Failure to be able to meet the full requirements of forestation under applicable forest conservation laws and removal of numerous specimen and significant trees, all as discussed below, is evidence by itself that a Plan proposing two lots for the Subject Property is not appropriate.
 - The proposed lot dimensions, shape, and orientation shown on the Plan are inconsistent with the neighborhood, violate the intent of the Subdivision Regulations (Section 4.3), and are inappropriate given the purposes and intentions for any new development pursuant to the Master Plan.
 - Net, the Plan is inconsistent and noncompliant with the Master Plan in applying the Environmental Guidelines. The Subject Property *could* serve as a model for an inventory of the natural resources that are sought to be protected by the Master Plan; on the other hand, through adherence to the Environmental Guidelines the Plan is prime example of a development application that ought be denied in order to properly apply and implement those regulatory mandates.
- Two sewer connections, much less crossing a wetland buffer, the stream valley, and the stream itself to make *any* connection, are at odds with the restricted access for this environmentally sensitive area as set forth in both the County's Comprehensive Water and Sewer Plan and the Master Plan.

- Access to the Piney Branch sewer in this subwatershed of the Watts Branch stream area has always been limited to one hookup per parcel/original lot. This limitation has been recently confirmed (original limitation when the sewer was built in the early 1990's, reaffirmed in the County's 2002 Potomac Subregion Master Plan [Page 25], and again confirmed last year in the Glen Hills Sanitary Study). The conditions and rationale for this limitation have not changed, and accordingly the request for two sewer hookups to support the proposed subdivision of the Subject Property is improper and grounds for denial.
- The proposed sewer extension and proposed private sewer easement will further degrade the protected environmentally sensitive areas on the Subject Property, including wetlands, steep slopes, forest, and specimen trees, a point that we understand that the West Montgomery Citizens Association maintains is an immediate disqualifier (which the Neighbors support and join).
- In addition, it would appear that the proposed sewer easement would require specimen tree removal and detrimental grading that would directly and substantively impact the adjacent property behind the Subject Property, directly causing irreparable economic harm and damages to those adjacent owners. This must be disallowed through denial of this Plan.
- Details of the WSSC approvals necessary to allow the proposed sewer hookup and extension laterals has been difficult for the Neighbors to obtain, most likely due to unfamiliarity with the process and the requirements. However, it has previously been brought to our attention that significant environmental degradation would be considered in evaluating any proposed public sewer service for the Subject Property, and we would respectfully request that the Board and Staff carefully scrutinize any proposed public sewer service to the Subject Property to ascertain that environmental protections are being properly considered.
- Imperviousness associated with two houses is also not consistent with this special protection area (Chapter 19, Article V of the County Code). The Plan proposes drywells and a microtrench for containment, though the former are recognized to be ineffective on steep, rocky terrain (see <https://www.montgomerycountymd.gov/DEP/Resources/Files/.../fact.../drywells.pdf>).
 - Much of the proposed impervious surface runoff would flow uncontrolled down as much as a 40' slope through heavily wooded terrain onto a limited sight distance area of a designated "rural and rustic" section of Glen Mill Road, as well as to the pond, the 100 year floodplain, and the Piney Branch itself. The Plan's claim that its drainage "enhances the stream" is at best disingenuous.
- The existing forest will be seriously compromised with the Plan. There are 40+/- trees on the Natural Resources Inventory submitted with the Application. The application notes that 75% (6/8) of identified specimen trees will be negatively impacted. We believe that this underestimates the impacts that the Plan will have on protected forest, as several neighboring trees (some of which are specimen or significant trees as defined by the applicable regulations) will be significantly compromised by disturbance of critical roots. There are also several trees that are on the cusp of being 30" DBH "specimen" trees (27-29" as reported).
- It is our understanding that the Applicant fails to meet, by over 40%, the reforestation required by the applicable forest conservation laws to compensate for the Plan's proposed tree/forest removal (presumably Chapter 22 of the Montgomery County Code – the Forest Conservation Law). Instead of meeting the reforestation required by law, the Applicant is proposing to pay a fee to cover this deficiency – see Exhibit E for the relevant portion of the Applicant's Preliminary Forest Conservation Plan. This would appear to the Neighbors to be unconscionable in this Piney Branch Special Protection Area and for a property that is dominated by environmentally sensitive areas so worthy of full environmental protection. Paying money into a fund does not provide the benefits and protections of real trees

(particularly those there now), and the inability of the Applicant to provide the necessary forestation to meet the full requirements of the forest conservation law is *prima facie* evidence that too much land disturbance is proposed in pursuit of two lots. A plan of development that requests a payment in lieu of compliance with an important environmental regulation in a special protection area is implicitly a flawed plan.

- A variance being sought with this Plan for the removal of four specimen trees is particularly problematic and objectionable. The tree variance seeking to allow the removal of these trees is deemed necessary to construct a second house on the Subject Property and to provide a driveway system necessary to support a two-lot subdivision of the Subject Property. It is highly likely that no variance (or surely a reduced number of specimen trees needing to be removed) would be required for a one lot subdivision, particularly with a more careful and deliberate siting of a proposed house. We also note that there are several other trees being proposed for removal that are an inch or two shy of being specimen trees, plus still other trees of specimen or near-specimen size (both on and off site) that are being significantly compromised through land disturbance over critical root zones. The Neighbors strenuously object to this requested tree variance (and also join in the objection that we understand is to be made separately by the West Montgomery Citizens Association). Per Section 22-21 of the County Code, there is no unwarranted hardship justifying granting a tree variance; the applicant has failed to demonstrate compliance with any of the requirements for such a variance; and the minimum criteria for same have not been satisfied. Simply stated, the burden of proof necessary for a tree variance is squarely on an applicant seeking to remove specimen trees, and in this instance the Applicant has entirely failed to meet these burdens.
 - Section 22A-21(d) of the County Code 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 result from the actions by the applicant; ...or 4) will violate State water quality standards or cause measurable degradation in water quality.” A variance in this case cannot be granted for any or all of these reasons. The request for a variance is to allow a two-lot subdivision that is incompatible with the surrounding neighborhood, inconsistent with the Master Plan and the County’s Comprehensive Water and Sewer Plan, and contrary to the water quality protection objectives and requirements in place for the Piney Branch Special Protection Area.
 - Two of the specimen trees sought to be removed through this variance are on the property line of the Subject Property, and actually might be considered to be partially on the property to the south of the Subject Property. The owners of this property to the south, who are among the Neighbors, expressly ***do not*** consent to the proposed tree removal, and thus we contend that the Applicants are not eligible to make this request for those two trees (trees 16 and 17 in the request). [The owners of this adjoining property might legally be required to be co-applicants for the tree variance request by virtue of having some ownership rights to the impacted trees. They are not co-applicants and in fact oppose the tree variance request.] As well, the benefits of these two trees on the adjacent property, with both trees being of sound health, are substantial (canopy, aesthetics, land value, etc.) and removal would be a real hardship on the adjacent owners , outweighing any marginal hardship argument by the Applicant in favor of removal.
 - The burden of demonstrating “hardship” by the Applicant in supporting the variance request has not been met. The only purpose served in seeking the variance to remove the trees is to gain the ability to add a second house to a property that is so impacted by environmentally protected natural resources as to make a single lot of subdivision fairly debatable. All of the reasons stated herein against this Plan are equally applicable to the issue of hardship for this variance.

- Finally, there are major executional issues associated with developing this parcel, with the added clearing, grading, and construction of two houses posing a serious environmental risk.
 - Renowned local builder Brendan O’Neill, who as developer of the subdivision immediately to the south is very familiar with the Subject Property, underlines these practical difficulties and the environmental downside. Per his attached letter (Exhibit F), “Tight site work and house construction for two lots on such a heavily wooded, precarious slope draining into a critical environmental area would be extremely challenging to manage even for a single lot. Scaling the project to two lots makes this virtually impossible, with huge potential for contractor error including possible breach in sediment control and storm-water management, challenging tree protection and likely erosion after market...an environmental disaster waiting to happen.” O’Neill recommends a single house on flatter terrain closer to Glen Mill Road.

In summary of the Neighbors’ objections to this Plan, the above several points are each grounds for denial; taken together they sum to overwhelming disqualification. Because this Plan is not in conformance with the Master Plan, runs afoul of Chapters 19 (Water Quality) and 22A (Forest Conservation of the County Code, and is in non-compliance with the Environmental Guidelines and all other regulations and guidelines that serve to protect the natural environment special to the Potomac Subregion and its ecosystems, the Planning Board cannot make the required findings for approval under the Subdivision Regulations and thus this Plan must be DENIED.

We therefore request the Planning Staff to recommend to the Planning Board a denial of the Plan and in turn we urge the Board to enforce the Subdivision Regulations and deny this Plan. We will attend the public hearing on this Plan to present additional supporting materials, evidence, and testimony in favor of denial. As previously offered and now reiterated, the Neighbors remain open to considering an alternative one lot subdivision of the Subject Property that respectfully sites a proposed house in a manner compatible with the surrounding properties and that adequately protects and preserves the environment.

Respectfully submitted,

Austin and Cady Burnes
10301 Cutters Lane
Potomac, MD 20854

Stephen and Adrienne Gershberg
13005 Glen Mill Road
Rockville, MD 20850

Lolu and Abby Fatukasi
12909 Glen Mill Road
Potomac, MD 20854

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Potomac, MD 20854

Thomas C. and Mary Ellen Gaspard
10305 Cutters Lane
Potomac, MD 20854

Roger and Kathleen Thies
10310 Cutters Lane
Potomac, MD 20854

Exhibit A

Parcel 833 Pre and Post Proposed Development
as shown in Preliminary Plan

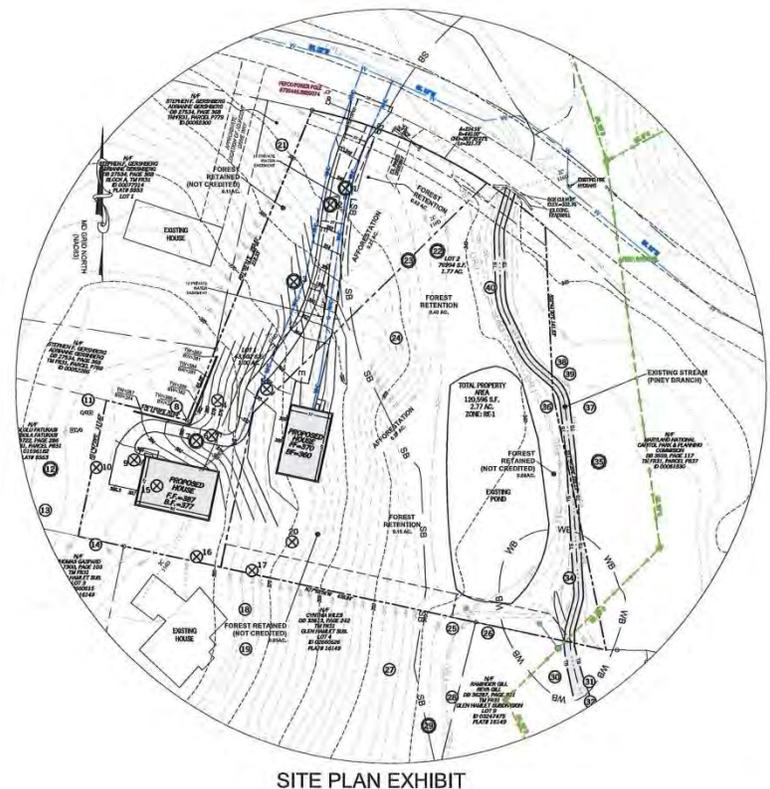


Exhibit B

Subject Property Photos



View to east from edge of proposed common driveway to stream and park beyond



View to west of remaining slope to be cut away for proposed common driveway

Exhibit B, cont'd



View to south from proposed House 2 site



View to Southeast from proposed House 1 site

Exhibit B, cont'd



Possible more desirable single house site: Flatter, relatively clear terrain roughly midway up slope
(area where former owner planted experimental American Chestnut Tree hybrids)

Exhibit CExcerpt from Original Offering Statement

(emphasis added)

Benning & Associates, Inc.

Land Planning Consultants
8933 Shady Grove Court
Gaithersburg, MD 20877
(301)948-0240
(301) 948-0241 fax
benninglandplan@aol.com

February 18, 2011

Mr. Hank May
Long & Foster Realtors
12520 Prosperity Drive, #105
Silver Spring, MD 20904

Via email: hank.may@longandfoster.com

Re: Burnworth Property – P833 (2.76 acres)

Dear Mr. May,

I am pleased to have the opportunity to present you with this proposal for land planning and surveying services. The purpose of the work outlined below is to convert the subject deed parcel into a plat recorded building lot. The process of converting the lot to a buildable property was started in 1987 but the lot was never recorded. Some of the work done in the 80's is still useful but many regulations have changed since that time.

The property consists of 2.76 acres of land which is zoned RE-1. The RE-1 zone permits residential lots with a minimum size of 40,000 square feet (just under 1 acre). Although the subject property has enough land area for 2 or 3 lots, there are significant environmental conditions on the site that appear to prevent subdivision of more than 1 lot. The property includes a stream and pond area and much of the site contains steep slopes. Current regulations require will require that a substantial portion of the property be protected within a stream buffer area.

Exhibit D

Purchase and Assessment Record

SDAT: Real Property Search

Page 1 of 1

Real Property Data Search (w2)		Guide to searching the database	
Search Result for MONTGOMERY COUNTY			
View Map		View GroundRent Redemption	
View GroundRent Registration			
Account Identifier: District - 04 Account Number - 00054582			
Owner Information			
Owner Name:	VAZER SARA A	Use:	RESIDENTIAL
Mailing Address:	4 S DUKE STREET ROCKVILLE MD 20854-0000	Principal Residence:	NO
		Deed Reference:	/46400/ 00226
Location & Structure Information			
Premises Address:	GLEN MILL RD 0-0000	Legal Description:	WICKHAM & POTTINGER
Map:	Grid:	Parcel:	Sub District:
FR31	0000	P833	0502
Subdivision:	Section:	Block:	Lot:
Assessment Year:	Plat No:	Plat Ref:	
2015			
Special Tax Areas:	Town:	Ad Valorem:	NONE
		Tax Class:	53
Primary Structure Built	Above Grade Enclosed Area	Finished Basement Area	Property Land Area
			2.7600 AC
County Use			910
Stories	Basement	Type	Exterior
Full/Half Bath	Garage	Last Major Renovation	
Value Information			
	Base Value	Value	Phase-in Assessments
		As of 01/01/2015	As of 07/01/2015
Land:	498,000	545,600	As of 07/01/2016
Improvements	0	0	
Total:	498,000	545,600	529,733
Preferential Land:	0		0
Transfer Information			
Seller: BURNWORTH HAROLD F JR ET AL TR	Date: 03/28/2013	Price: \$350,000	
Type: ARMS LENGTH VACANT	Deed1: /46400/ 00226	Deed2:	
Seller: BURNWORTH, HAROLD F JR & E S	Date: 01/09/2007	Price: \$0	
Type: NON-ARMS LENGTH OTHER	Deed1: /33616/ 00295	Deed2:	
Seller:	Date:	Price:	
Type:	Deed1:	Deed2:	
Exemption Information			
Partial Exempt Assessments:	Class	07/01/2015	07/01/2016
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00 0.00	0.00 0.00
Tax Exempt:	Special Tax Recapture:		
Exempt Class:	NONE		
Homestead Application Information			
Homestead Application Status: No Application			

Exhibit E

Forest Conservation Plan

(emphasis added)

4. FOREST CONSERVATION STANDARD NOTES

FOREST CONSERVATION WORKSHEET						
Glen Mill-Parcel 833						
NET TRACT AREA:						
A. Total tract area ...						2.77
B. Land dedication acres (parks, county facility, etc.) ...						0.00
C. Land dedication for roads or utilities (not being constructed by this plan) ...						0.00
D. Area to remain in commercial agricultural production/use ...						0.00
E. Other deductions (specify)						0.00
F. Net Tract Area						2.77
LAND USE CATEGORY: (from <i>Trees Technical Manual</i>)						
Input the number "1" under the appropriate land use, limit to only one entry.						
	ARA	MDR	IDA	HDR	MPD	CIA
	0	1	0	0	0	0
G. Afforestation Threshold ...					20%	x F = 0.55
H. Conservation Threshold ...					25%	x F = 0.69
EXISTING FOREST COVER:						
I. Existing forest cover						1.54
J. Area of forest above afforestation threshold						0.99
K. Area of forest above conservation threshold						0.85
BREAK EVEN POINT:						
L. Forest retention above threshold with no mitigation						0.86
M. Clearing permitted without mitigation						0.68
PROPOSED FOREST CLEARING:						
N. Total area of forest to be cleared						0.97
O. Total area of forest to be retained						0.57
PLANTING REQUIREMENTS:						
P. Reforestation for clearing above conservation threshold						0.21
Q. Reforestation for clearing below conservation threshold						0.25
R. Credit for retention above conservation threshold						0.00
S. Total reforestation required						0.46
T. Total afforestation required						0.00
U. Credit for landscaping (may not exceed 20% of "S")						0.00
V. Total reforestation and afforestation required						0.46

NOTE:
 0.27 Acres of Afforestation are proposed to meet the planting requirements.
 The deficit of 0.19 Acres is to be met by payment of a fee-in-lieu.

June 2017		COVER SHEET	
GLEN MILL SUBDIVISION			
PROJECT LOCATION:		OWNER/APPLICANT INFO:	
GLEN MILL ROAD		SARA A. VAZER	
TAX MAP: FR-31, PARCEL P833		4 S. DUKE STREET	
MONTGOMERY COUNTY, MD		ROCKVILLE, MD 20854	
ID# 04-00054582	ZONE: RE-2	PHONE: (301) 755-4107	

Exhibit FO'Neill Development Opinion

Brewster-Lipscomb House
11 Russell Avenue, Gaithersburg, MD. 20877
301.840.9310 FAX 301.840.9371
www.oneilldev.com · info@oneilldev.com

October 30, 2017

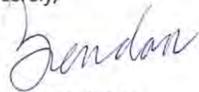
Cutters Lane Community
% Tom Gaspard
10305 Cutters Lane
Potomac. MD 20854

Re: Preliminary Plan #120160180 for Glen Mill Road-- Parcel 833

All:

As you know, over the years I have been a proponent of land development, but only if well planned and sensitive to surrounding neighbors and our precious environment. Because of my involvement in the original planning and development of Cutters Lane years ago, I have watched with interest the Preliminary Plan #120160180 for Parcel 833 on Glen Mill Rd. As I have mentioned, I think this two lot plan creates numerous practical difficulties and presents a huge environmental risk. Based on my experience, I feel that the extremely tight site work required for house construction on two lots on such a heavily wooded precarious slope draining into a critical environmental area will be extremely challenging to manage with huge potential for contractor error, including possible breach in sediment control and storm-water management, challenging tree protection and likely erosion aftermarket. I frankly feel this is an environmental disaster waiting to happen. It would seem to me that Park and Planning staff ought to recommend a single lot on this difficult site where the house pad, driveway and appropriate environmental protections could be better and more easily situated, preferably on the flatter terrain closer to the road. I would hope the Planning Commission will take a sensible approach and approve a single lot, thereby limiting environmental risk.

Sincerely,



Brendan O'Neill Sr.

Exhibit GOriginal Objection Letter

April 1, 2016

The Honorable Casey Anderson, Chair
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Preliminary Plan #120160180 for Glen Mill Road -- Parcel 833 (the “Subject Property”)

CC: Members, Montgomery County Planning Board
Ryan Sigworth, Senior Planner and Lead Reviewer, Planning Area 3
Susanne Lee, President, West Montgomery County Citizens Association
Dr. Sara A. Vazer, Owner/Applicant

Via: USPS and email: MCP-Chair@mncppc-mc.org, Ryan.sigworth@montgomeryplanning.org,
Susannelee1@hotmail.com, saravazer@gmail.com

Dear Chairman Anderson and Members of the Planning Board:

We -- all contiguous and several adjacent homeowners – are writing to express strong objection to the application for a two house/two lot subdivision of the Subject Property located in the Piney Branch Special Protection Area.

It is important to note at the outset that we have in person and in writing stated our objections to the applicant, Dr. Sara Vazer, and have offered to reconsider our position if there were a single lot proposed by an amended plan that took into consideration the numerous concerns of the community. Despite multiple attempts, we have not heard from Dr. Vazer in the two weeks since that offer was made, such that at this time there is no other plan to evaluate...only the currently pending application, which we ask the Planning Board to **deny**.

Our opposition is based on the following reasons:

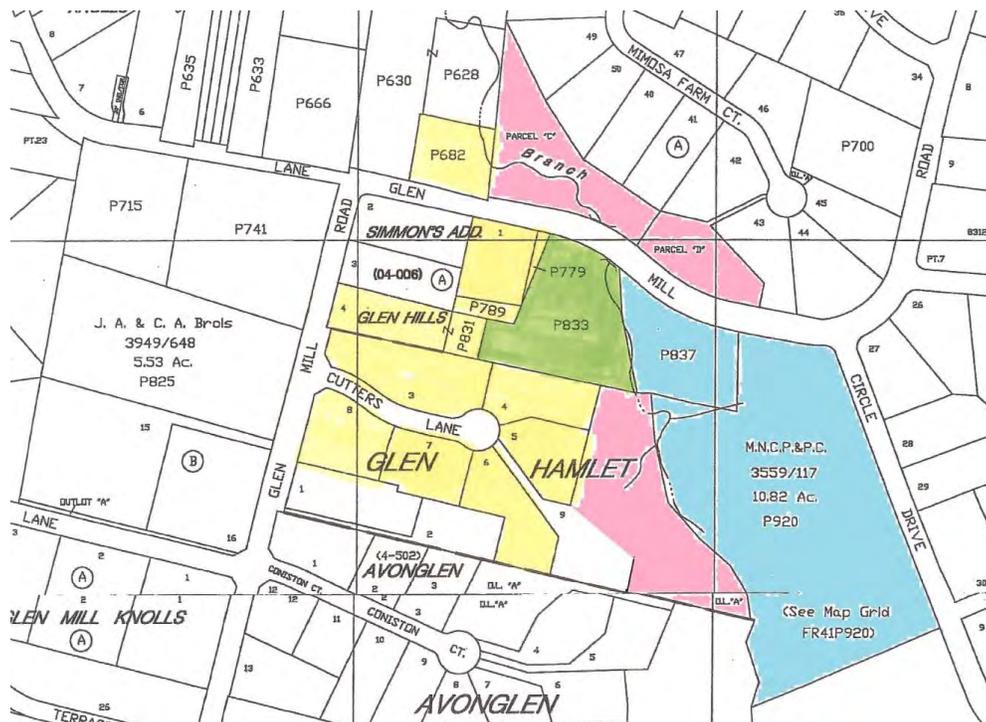
- Environmental constraints on the Subject Property in this *Piney Branch Special Protection Area* (the stream itself, the stream valley, steep slopes, a pond, forest, and specimen trees) do not support creating two irregularly-shaped lots (Section 50-32 of the Subdivision Regulations).
 - Roughly half of the proposed ~250' shared driveway/access is within the Piney Branch stream buffer; as the application material notes, shoehorning two lots into this parcel leaves no room to avoid that incursion.
 - The original offering documents for sale of this parcel in 2011 included an opinion from land planners and engineers Benning and Associates that environmental conditions would likely prevent further division. The

parcel was purchased by the Applicant (as she confirmed during our meeting with her) on the basis of supporting one single-family residence, and the consideration paid is reflective of that limitation.

- This two-lot plan proposes a pattern of development that is inconsistent with the Potomac Subregion Master Plan and is incompatible with the established surrounding residential community (Section 50-35(1) of the Subdivision Regulations).
 - The Potomac Subregion Master Plan is quite clear in its primary focus being to maintain environmental integrity in managing new development, with protection of the Subregions's natural resources – forests, floodplains, wetlands, and stream valleys – at the core of the Plan's recommendations and guiding principles, for the benefit of the entire region – see Introduction at Page 11 of the Plan. As regards land use and zoning, environmental sustainability is again the most critical policy determinant defined by the Plan to guide new development in this Subregion – see Page 31. The proposed two-lot subdivision is entirely inconsistent with this primary focus of the Master Plan.
 - The environmental constraints impacting the development of the Subject Property (steep slopes, stream and stream valley, wetlands/flood plain, etc.) result in only a small portion of the property (the far rear corners) being buildable, thus creating a proposed housing pattern wholly out of character for the neighborhood. Existing homes in this neighborhood as shown on the preliminary plan of subdivision are a *minimum* of roughly 100 feet apart, whereas the proposed two houses would be less than 50 feet from the nearest existing home in the neighboring subdivision to the south.
 - Additionally, because the proposed new houses would be built into a steep slope, they would have the appearance of being stacked and dense, with approximately 18 feet of elevation difference over just 50 feet of separation. The resultant change in the character of the established neighborhood would cause significant environmental and economic degradation, in violation of the law.
- Two sewer connections, much less crossing a wetland buffer, the stream valley, and the stream itself to make *any* connection, are at odds with the restricted access for this environmentally sensitive area as set forth in both the County's Comprehensive Water and Sewer Plan and the Potomac Subregion Master Plan.
 - Access to the Piney Branch sewer in this subwatershed of the Watts Branch stream area has always been limited to one hookup per parcel/original lot. This limitation has been recently confirmed (original limitation when the sewer was built in the early 1990's, reaffirmed in the County's 2002 Potomac Subregion Master Plan [Page 25], and again confirmed this past summer in the Glen Hills Sanitary Study). The conditions and rationale for this limitation have not changed, and accordingly the request for two sewer hookups to support the proposed subdivision of the Subject Property is improper and grounds for denial.
- Imperviousness associated with two houses is also not consistent with this special protection area, and the Applicant has not prepared an acceptable water quality plan that supports two lots (Chapter 19, Article V of the County Code).
 - Much of the proposed 12% impervious surface runoff would flow uncontrolled down as much as a 40' slope through heavily wooded terrain onto a limited sight distance area of a designated "rural and rustic" section of Glen Mill Road, as well as to the pond and the Piney Branch stream.
- The existing forest will be seriously compromised, all the more so with two lots. There are 40 trees on the Natural Resources Inventory. The application notes that 75% (6/8) of identified specimen trees will be negatively impacted.

- A variance being sought with this subdivision application for the removal of two of these specimen trees is particularly problematic: Per Section 22-21 of the County Code, there is no unwarranted hardship justifying granting a tree variance; the applicant has failed to demonstrate compliance with any of the requirements for such a variance; and the minimum criteria for same have not been satisfied. Simply stated, granting a tree variance to accommodate this proposed plan is unlawful.
 - The burden for justifying the granting of a variance allowing removal of a specimen tree is squarely on the Applicant. Section 22A-21(d) of the County Code 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 result from the actions by the applicant; ...or 4) will violate State water quality standards or cause measurable degradation in water quality.” A variance in this case cannot be granted for any or all of these reasons. The request for a variance is to allow a two-lot subdivision that is incompatible with the surrounding neighborhood, inconsistent with the Potomac Subregion Master Plan and the County’s Comprehensive Water and Sewer Plan, and contrary to the water quality protection objectives and requirements in place for the Piney Branch Special Protection Area.

- The homeowners listed below as signatories, all of whom have co-authored this letter of opposition, are noted in yellow highlight on the following tax map excerpt. The Subject Property is in green highlight. Ironically, the largest adjoining property to this proposed subdivision (to the east and shown in blue highlight) is M-NCPPC’s -- the Glen Hills Park. The properties to the north (owned by an HOA) and south of the Subject Property, shown in pink highlight, are encumbered by conservation easements that protect the stream and stream valley by precluding building or other land-disturbing activity. As such, allowing development on the Subject Property would be inconsistent with the protections in place for the same stream and stream valley east, north, and south of the Subject Property.



- Furthermore, since the M-NCPPC holds and maintains the adjacent land to the east in public trust, protection of the natural resources that help define these public properties are likely of paramount concern to the Parks Department and the Planning Board in its role as the Parks Commission. We would maintain that the public interest served and preserved by the M-NCPPC would equally compel the agency to be actively opposed to a plan of subdivision that degrades the environmental resources in this Special Protection Area.
- Finally, there are major executional issues associated with developing this parcel, with the added clearing, grading, and construction of two houses posing a serious environmental risk.
 - Discussions with a renowned local builder (developer of the subdivision to the south of the Subject Property) and a leading engineering firm in the County underline these practical difficulties and the environmental downside: “Land preparation and building of the magnitude proposed on such a precarious slope would be extremely challenging to manage even for a single lot. Scaling the project to two lots makes this virtually impossible, with contractor error and the consequences of a breach in sediment control and storm-water management almost inevitable...an environmental disaster waiting to happen.”

These are significant disqualifications – violation of the County’s Subdivision Regulations and our water quality and forest resource conservation laws, as well as unlawful inconsistencies with the Potomac Subregion Master Plan and the County’s Comprehensive Water and Sewer Plan, plus the very real practical risk of difficult construction activity going wrong. For all these reasons, we request the Board’s denial for this two-lot plan.

It is our intent to vigorously oppose this application through additional testimony and evidence at the Board’s public hearing, establishing a record in support of denial that will be sustainable should there ultimately be judicial review of the administrative decision of the Planning Board.

Respectfully submitted,

Austin and Cady Burnes
10301 Cutters Lane
Potomac, MD 20854

Stephen and Adrienne Gershberg
13005 Glen Mill Road
Rockville, MD 20850

Lolu and Abby Fatukasi
12909 Glen Mill Road
Potomac, MD 20854

Jeffrey Holik and Amy Newman
10314 Cutters Lane
Potomac, MD 20854

John and Lynne Finnerty
13000 Glen Mill Road
Rockville, MD 20850

Brian and Mia Pearlstein
10306 Cutters Lane
Potomac, MD 20854

Thomas C. and Mary Ellen Gaspard
10305 Cutters Lane
Potomac, MD 20854

Roger and Kathleen Thies
10310 Cutters Lane
Potomac, MD 20854

WEST MONTGOMERY COUNTY CITIZENS ASSOCIATION

P.O. Box 59335 Potomac, Maryland 20854

Founded 1947

November 14, 2017

Casey Anderson, Chair
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910
Re: Preliminary Plan No. 120160180 for Glen Mill Road – Parcel 833

Dear Chairman Anderson and Members of the Planning Board:

This is to express the West Montgomery County Citizens Association's opposition to the proposed subdivision of the above captioned parcel located in the Piney Branch Special Protection Area (SPA). We oppose the current proposal for two lots to construct two new houses to be serviced by two new sewer connections to the Piney Branch Limited Access Sewer. However, we also note that the lot is so environmentally constrained that construction of one house likely will be challenging.

This Piney Branch stream channel runs through the 2.77 acre parcel which lies entirely within the Piney Branch Special Protection area. Environmental constraints impact the entire parcel and include the stream bed, 100 yr. flood plain, wetlands, stream buffer, and 2 areas of steep slopes each with more than 25 % slopes. It is heavily wooded – 1.54 acres are forest and it contains 26 specimen and significant trees. As discussed below, each of these, and especially when taken together, so constrain the buildable area of the parcel that 2 houses cannot be constructed.

The factual information we relied upon was obtained primarily from the applicant's January, 2015 Natural Resource Inventory/Forest Stand Delineation and June 2017 Forest Conservation Plan and Preliminary Plans supplemented by a visit to the site. The standards we applied are primarily those contained in Montgomery County's Environmental Guidelines (2000), especially those for Special Protection Areas, the Forest Conservation statute, and the Piney Branch Sewer Agreement Covenant executed by the applicant on 2/22/17.

1. The Stream Buffer Must Be Expanded to Meet SPA Requirements

The required stream buffer is much larger than the 125' buffer proposed by the applicant and must be expanded to include the entire steep slope. The County's Environmental Guidelines (p. 32) regarding SPA stream buffer determinations state: "To protect all components of the stream system, the SPA stream buffer will be the *outermost limit* of the areas below." (Emphasis not supplied.) Of the five areas listed below that phrase, the following 2 are of particular relevance to this parcel. And of those 2, the second – the expansion of the stream buffer to the entire steep slope - is the "outermost limit" and is controlling.

"a) Regular stream buffer widths found in Table 1 (page 8) in Chapter III (100 to 200 feet) applied from the intermittent or perennial stream bank." Environmental Guidelines at p. 32.

Table 1 states that the stream buffer width is 150' for I/I-P (Piney Branch) sites with a slope

range of 25 or greater. Because there is a slope range of 25 % or greater, the minimum stream buffer under this calculation is 150'. (All but perhaps one small piece of the steep slopes are within 200 feet of the stream and are therefore considered "near stream or hydraulically adjacent" Environmental Guidelines pp. 5, 7).

"b) Steep slopes where the toe of the slope starts within the stream buffer from Table 1. Steep slopes are defined as slopes equal to or greater than 25 percent." Environmental Guidelines at p. 32.

Because the toe of the eastern area of steep slopes is clearly within the stream buffer (the 150' from Table 1 or even under the applicant's 125'), that entire steep slope must be included as part of the stream buffer. As the Guidelines (p. 7) state "[i]f the stream buffer...(Table 1), encompasses the toe of a steep slope, the buffer will be expanded beyond the width in Table 1 to include the entire slope." Including the entire slope expands the stream buffer substantially, and by a rough estimate of certain of the eastern steep slopes, to over 250' in certain spots. If the toe of any of the western steep slopes are within the 150' established in Table 1 that will expand it even further.

The accurate delineation of the stream buffer is critical because: "No buildings, structures, impervious surfaces, or activities requiring clearing or grading will be permitted in stream buffers, except for infrastructure uses, bikeways, and trails found to be necessary, unavoidable, and minimized by the Park and Planning Department environmental staff..." Given the extent of stream buffer on the lot and requirements for the proposed houses, there is no possible way a second house can be squeezed onto the site outside the stream buffer.

2. Wetlands Must Be Further Delineated

The applicant has delineated a very tiny area as wetlands ignoring the fact that all or part of an area of the parcel that is approximately 90' by 180' (16,200 sq.ft.) immediately adjacent to the stream contains classic forested wetlands. The applicant labels the area as a "pond" as if that somehow means it can't contain wetlands. While there is an exemption from the SPA's expanded wetland buffer for "isolated farm ponds," that does not exempt ponds and the areas around them from wetland designations.

Furthermore, not only is this not an isolated farm pond, and even though it might have been some sort of pond years ago, it clearly is not one now. Instead it has evolved into a forested wetland. See Attachment A – pictures taken on 10/ 20/2017 of that area indicate that it is inundated and saturated by water (green tint area). It is hydrologically connected to the stream as it is located within several feet of the stream channel itself and because the "assumption will be that all springs, seeps, and emergent and forested wetlands are hydrologically connected to both groundwater and stream systems." Environmental Guidelines at p. 32.

We have not been able to locate anything in the public record for this application that indicates what vegetation grows in this area and in particular whether it contains hydrophytic vegetation that would further confirm its wetland status. We ask that the Planning Board request that the applicant provide an inventory of the vegetation in the area the applicant has labeled "pond" and in particular report on all hydrophytic vegetation.

If, as we believe, this area is a wetland and because it clearly is adjacent to the eastern area of steep slopes then the SPA expanded wetland buffer requirements would control. Under those provisions, "buffers for wetlands adjacent to steep slopes will be expanded to the outer edge of the steep slopes up to the maximum distance shown in the table [table 3]." Environmental Guidelines at p. 34. The maximum distance in Table 3 for this Use I stream is 100 ft. This expanded wetland buffer along with the required stream buffer prohibit development in a large portion of the area designated for the second house and therefore the request for subdivision must be denied.

3. The Application Fails to Demonstrate Compliance with the Provisions of the Required Piney Branch Sewer Agreement Covenant

In order to receive two sewer hookups for the property, the applicant was required to create and record a covenant which includes the Piney Branch Sewer Agreement, which the applicant has done. The Covenant states that the "Owner acknowledges that the attached recommendations are minimal conditions specified under a conditional category change which will be applied to the property to be subdivided as applicable and that adherence to these conditions is necessary for the use of the Piney Branch gravity sewer." The first paragraph of the Agreement likewise states that the recommendations are "the minimum requirements necessary to insure a high degree of environmental protection and do not limit the imposition of other requirements."

A minimum requirement is that an applicant must identify and dedicate a "buffer (corridor)" in which the applicant must agree that only very limited uses and disturbances may occur. The corridor must be "at least 100 feet from the edge of the stream channel on both sides of the stream" and include the flood plain and all wetlands and their buffers. Furthermore, "at the discretion of the Maryland-National Capital Park and Planning Commission any or all of these lands may be dedicated as stream valley park (corridor) at any time after the dedication of the corridor." Exhibit A to Covenant at p. 1. Based on the submissions in the record it does not appear that the applicant has identified this corridor nor confirmed that she will not engage in prohibited activities in the corridor. Also, we urge the Planning Commission to exercise its right to dedicate this environmentally sensitive area as park land which will protect the corridor and extend the Glen Hills Park.

The Applicant has also failed to address the additional guidelines regarding limiting "disturbance in a secondary buffer at least 200 feet upslope from the stream valley corridor to provide further protection to the stream." In that secondary buffer "vegetation should be disturbed as little as possible, especially mature trees, and replanting should resemble the native flood plain forest. Structures should be avoided if possible and built on piles with suspended floors if essential, rather than strip foundations and at-grade floors. Paving should be porous. Runoff should be infiltrated and detained as much as possible near the source of generation with drip lines, infiltration trenches, gently sloping swales and detention areas. Pesticides and fertilizers should be avoided where possible." Exhibit A to Covenant at p. 3. The enormity of the environmental constraints on this parcel and the degradation that will occur with subdivision are highlighted by the fact that the 2 proposed houses and a driveway will be constructed primarily in this buffer.

4. The Proposal Fails to Meet the Section 22A-21 Requirements for a Tree Variance

The applicant seeks a variance from the Forest Conservation Law in order to remove the 4 largest trees on the property (Trees No. 1, 2, 3, and 7), 3 of which are located on portions of the steep slopes (Nos. 1, 2, and 3). The request asserts that because of the extensive environmental constraints on the property, particularly the stream buffer, the proposed driveways for the 2 houses cannot be built without destroying Trees No. 1, 2, and 3 in the front of the property and Tree No. 7 because it is in the proposed driveway to the westernmost proposed house and is too close to the corner of the property and the proposed house.

The applicant has failed to provide evidence of special conditions peculiar to the property which would cause the alleged unwarranted hardship. Section 22A-21(b). The conditions are not special. They are found on the majority of land containing streams and wetlands and the

applicant knew and was forewarned by a previous engineering firm that development on the lot would be difficult and constrained. These conditions are found throughout Special Protection Areas and negative impacts are magnified enormously by granting subdivision rather than just building one house.

Furthermore, the applicant has failed to demonstrate that retaining the trees will cause “unwarranted hardship.” She has failed to demonstrate that if the variance is not granted she will “be denied a use of the property that is significant and reasonable.” Assateague Coastal Trust, Inc. v. Roy T. Schwalbach, et al. 448 MD 112, 136 A. 3d 866 (2016). To the contrary, she can still have a driveway, it just has to be located closer to the western property line and as is shown on the Preliminary Plan there is space available in that area where tree planting is proposed. She has failed to meet the burden of showing that access cannot be accomplished on the property without a variance. Furthermore, the amount of space required is a result of the conditions and circumstances created by the applicant who is requesting subdivision and the resulting increase in driveway size. Allowing her to develop this parcel so intensely would confer on her an unwarranted special privilege not given to other homeowners in the SPA with similar stream buffers. Therefore, the variance should be denied.

Thank you for the opportunity to provide comments on this proposed subdivision. For the reasons set forth above, we urge you to reject this application for subdivision.

Sincerely,

Ginny Barnes

President, WMCCA

Susanne Lee

Vice President , WMCCA

Kenneth Bawer

Board Member, WMCCA

ATTACHMENT A

