



Cattail Road Property - Pre-Preliminary Plan No. 7201000040

JP

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Staff Report Date: 06/08/18

Description

Cattail Road Property - Pre-Preliminary Plan No.

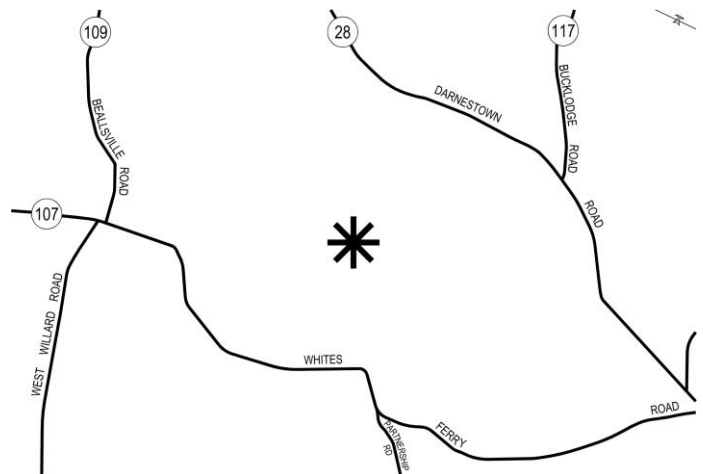
7201000040 Request for 1 lot (Lot 1) of 64.39 acres and a farm remainder parcel of 51.72 acres that is not part of this application); 18101 Cattail Road 2,000 feet south of Cattail Lane; Agricultural Reserve Zone, Agricultural and Rural Open Space (AROS) Master Plan.

Submittal Date: March 1, 2010

Applicant: Irvin Crawford ("Applicant")

Review Basis: Chapter 50, Section 50-35A(8)

Staff Recommendation: Approval to submit a minor subdivision record plat pursuant to Section 50-35A(a)(8) with conditions.



Summary

The Application requests Planning Board approval of one lot, which is greater than 5.0 acres in size in the AR zone, using the "minor subdivision" provision of Section 50-35A(8) of the Montgomery County Code.

- The Application had significant delays due to various reasons, this included a density issue which was resolved when ZTA 17-06 was adopted in January of 2018
- There are no significant issues associated with the Application.
- The Application was accepted as complete prior to October 30, 2014 and is therefore being reviewed under the old zoning ordinance.

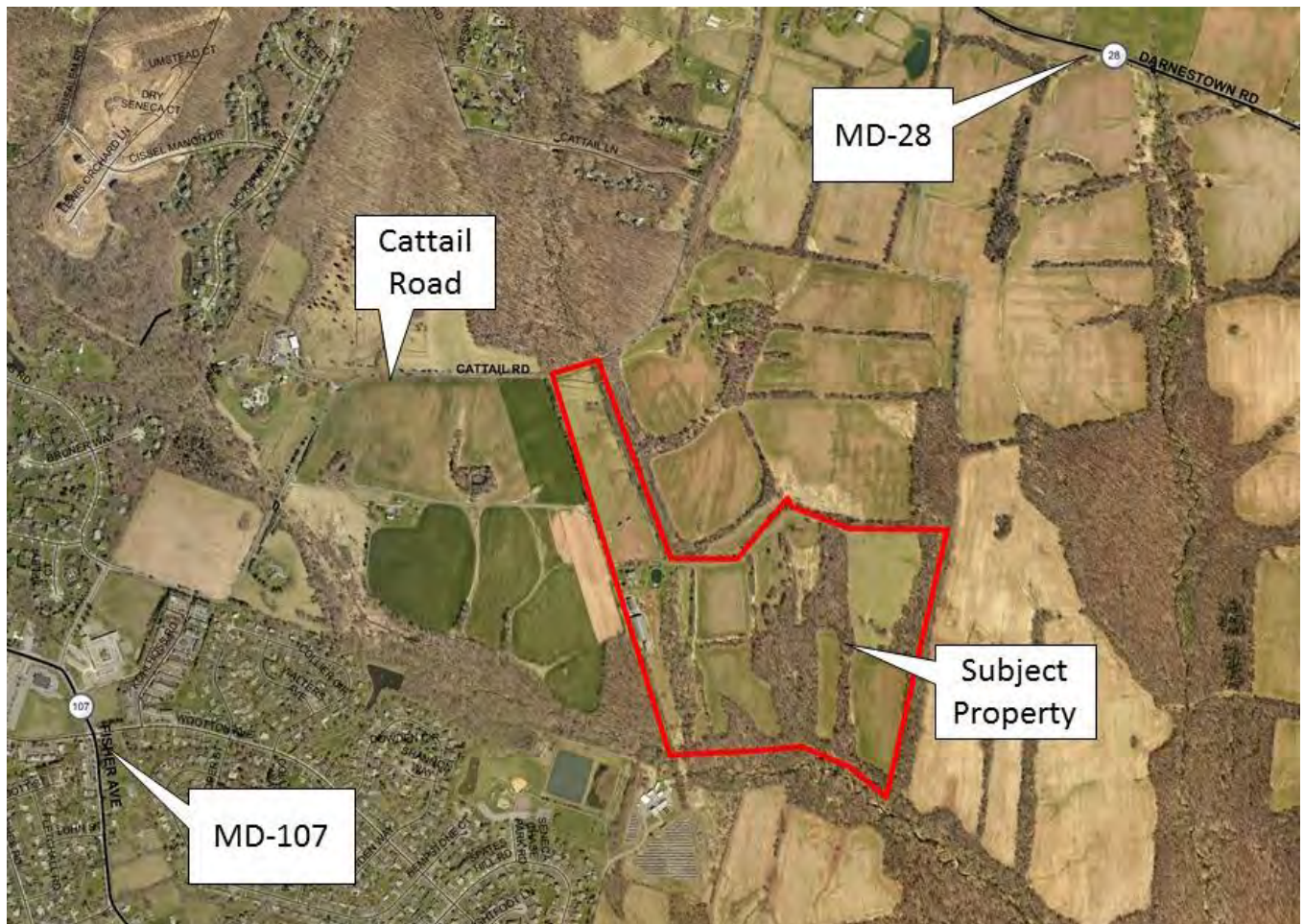
RECOMMENDATION: Approval, subject to the following conditions:

1. This Pre-Preliminary Plan is limited to one (1) lot.
2. The Applicant must place a Category I Conservation Easement over all areas of stream valley buffers within Lot 1 not currently being farmed. The easement must be in the form of a deed approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records prior to recordation of plat(s). The liber and folio of the recorded deed of easement must be shown on the record plat.
3. Prior to recordation of plat(s), the Applicant must submit and secure M-NCPPC staff approval of a Final Forest Conservation Plan.
4. Prior to recordation of plat(s), a deed of easement must be recorded on the farm remainder noting that density and a TDR has been used for Lot 1. This easement must be referenced on the record plat for Lot 1.
5. The Applicant must dedicate and show on the record plat(s) approximately thirty-five (35) feet of right-of-way from the existing pavement centerline along the lot's frontage on Cattail Road, as shown on the Pre-Preliminary Plan.
6. Prior to recordation of plat(s), the Applicant must satisfy any provisions for access and improvements as required by MCDOT.
7. The record plat must show all necessary easements.
8. Prior to recordation of plat(s), the Applicant must provide an affidavit for Staff review and concurrence demonstrating the existence and availability of a TDR for each lot shown on the plat. The record plat(s) must reflect serialization and liber/folio reference for the TDR used for each lot.
9. The record plat(s) must contain the following note:
"Agriculture is the preferred use in the Agricultural Reserve (AR) Zone. All agricultural operations shall be permitted at any time, including the operation of farm machinery and no agricultural use shall be subject to restriction because it interferes with other uses permitted in the Zone."
10. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Well and Septic Section in its letter dated June 7, 2018, and incorporates them as conditions of the Pre-Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Well and Septic Section provided that the amendments do not conflict with other conditions of the Pre-Preliminary Plan approval.

SITE DESCRIPTION

The Cattail Road Property is located approximately 7 miles west of Germantown on Cattail Road, approximately one mile south of the intersection with Darnestown Road (MD 28). Cattail Road is a Rustic Road with a 70-foot minimum right-of-way. The property is approximately 116 acres in size and is bounded by Cattail Road to the north and agricultural land on the other sides. The property contains one existing home and an existing farm located at 18101 Cattail Road. (Figure 1 – Vicinity Map). The Property is zoned AR and consists of two parcels, Parcel 412 at 17.1 acres and Parcel 805 at 99.16 acres (“Property” or “Subject Property”).

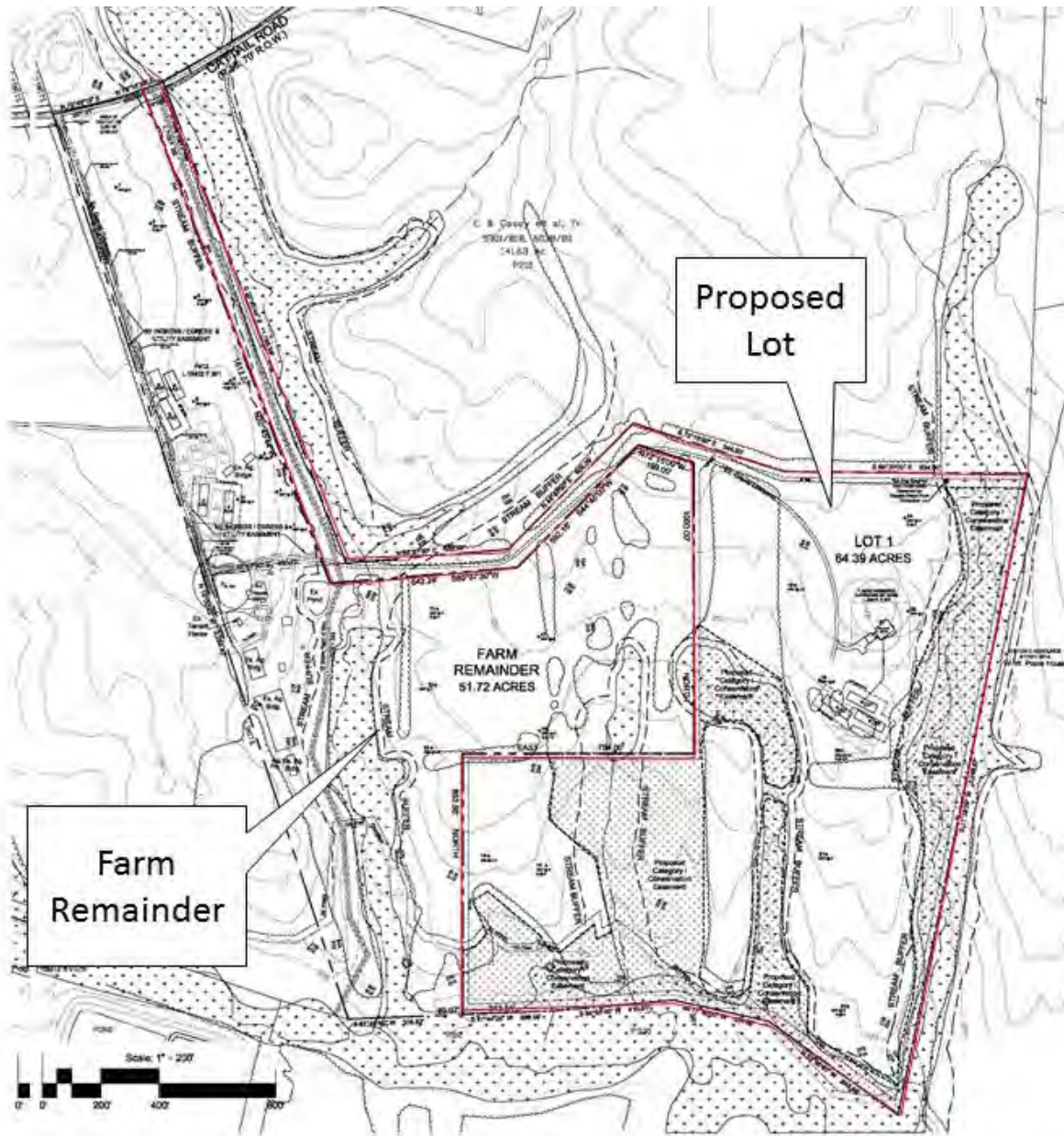
The Property is in the Dry Seneca Creek Watershed (Use I-P) and contains stream buffers, forest stands, a floodplain and prime agricultural soils. The Property has a variety of agricultural activities on it. The Subject Property contains 39.4 acres of forest, 17.2 acres of wetlands, 8.3 acres of 100-year floodplain, 37.9 acres of stream buffer, and multiple streams.



Vicinity Map (Figure 1)



Aerial Map (Figure 2)



Pre-Preliminary Plan (Figure 3)

PROJECT DESCRIPTION

The current plan, designated Pre-Preliminary Plan No. 720100040, Cattail Road Property ("Pre-Preliminary Plan" or "Application") requests approval of one (1) lot at 64.39 acres to accommodate the one-family detached dwelling unit via the minor subdivision process outlined in Section 50-35A(a)(8) of the Subdivision Regulations. This Section permits the creation of up to 5 lots in the AR zone, "if a pre-preliminary plan is submitted and approved by either the Planning Board or Planning Board staff." In this case, because the size of one of the proposed lots exceeds 5 acres, a Planning Board review of the pre-preliminary plan is required.

The proposed lot is located on the easternmost part of the Property (Figure 3). Access for both the lot and the farm remainder will be from Cattail Road. The proposed lot will be served by septic systems and wells. The Applicant only wishes to record the proposed lot and does not propose to record the 51.72-acre farm remainder.

No frontage improvements, apart from right-of-way dedication, are proposed. Stream Valley Buffers (SVB) not currently being farmed on Lot 1 will be protected with Category I Conservation Easements to meet forest conservation and environmental guidelines requirements.

ANALYSIS AND FINDINGS

Compliance with the Subdivision Regulations and Zoning Ordinance

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50 ("Subdivision Regulations") and Chapter 59 ("Zoning Ordinance"). Access and public facilities will be adequate to support the proposed lots and use, and the lot meets the dimensional requirements for area, frontage, width and setbacks in the AR zone.

Section 50-35A(a)(8) (Minor Subdivision) requirements

The proposed lot is to be platted pursuant to Section 50-35A(a)(8) of the Subdivision Regulations. This section establishes the ability to plat up to five (5) lots in the AR zone through the minor subdivision process after Planning Staff or Planning Board approval of a pre-preliminary plan. Applications for minor subdivision under Section 50-35A(a)(8) must meet the following criteria:

- a. Written approval for a proposed septic area must be received from the Montgomery County Department of Permitting Services, Well and Septic Section prior to recordation of the plat;
- b. Any required street dedications along the frontage of the proposed lot(s) must be shown on the record plat;
- c. An easement which meets the necessary requirements, as determined by Staff, must be recorded for the balance of the property noting that density and TDR's have been utilized for the new lots. Reference to this easement must be reflected in the record plat for the lots;
- d. Lots created in the AR zone through the minor subdivision procedure must not exceed an average lot size of five (5) acres unless approved by the Planning Board in the review of a pre-preliminary plan of subdivision; and
- e. Forest conservation requirements must be satisfied prior to recording of the plat.

With regards to provision (a), the well and septic facilities were approved by MCDPS, Well and Septic Section on June 7, 2018. To satisfy provision (b), additional right-of-way dedication is being made for Cattail Road along the property frontage. Item (c) will be satisfied at the time of record plat. Item (d) is the subject of the current staff report and Item (e) for forest conservation is addressed as a condition of approval.

Density in the AR zone

Per Section 59-C-9.41 of the Zoning Ordinance, only one single-family dwelling unit per 25 acres is permitted in the AR zone. A development right has to be retained for each single family dwelling. The Cattail Road Property is approximately 116.19 acres in size. (Parcel 412 at 17.1 acres and Parcel 805 at 99.16 acres.)

In December of 2002, the Applicant sold three (3) TDRs from parcel 412 (Attachment X) and seventeen (17) TDRs from parcel 805 (Attachment X) to Montgomery County, leaving two (2) buildable TDRs. One of the buildable TDRs will be used for the existing farm house and the second will be used for the newly created lot.

As conditioned, and prior to recordation of a plat, the Applicant must provide verification for Staff approval of the availability of a development right for each lot shown on the plat and the plat must include a note referencing such. An easement must also be recorded for the balance of the Property (farm remainder) noting that density has been used for proposed Lot 1, and the easement must be referenced on the record plat for the lot.

Master Plan Compliance

The *Functional Master Plan for the Preservation of Agriculture and Rural Open Space* (AROS) contains goals and objectives for the preservation of critical masses of farmland and rural open space in the county. The plan contains the following language:

The Foreword, reads, in part: “[t]his plan focuses on the preservation of farmland but it also tries to establish a policy framework that will contribute to the continuation of farming in the County” (emphasis added).

“The critical land use issue in this Plan is the loss of productive farmland; the focus is the identification and application of land use regulations and incentives to help retain agricultural land in farming” (emphasis added). (pg. 8)

“Farmland and open space are irreplaceable and valuable natural resources, and should be protected” (emphasis added). (pg. 25)

“It is in the public interest to preserve farmland. Farmland preservation not only involves the preservation of individual farms, productive soils and a way of life, but it meets a variety of national, regional, state, and local objectives. The need to protect farming in a County that already provides for a balanced series of growth alternatives can be justified in seven broad public purpose areas:

- A. Control of Public Costs and Prevention of Urban Sprawl
- B. Adherence to County Growth Management Systems
- C. Preservation of Regional Food Supplies
- D. Energy Conservation
- E. Protection of the Environment
- F. Maintenance of Open Space
- G. Preservation of Rural Life-Styles” (pg. 27)

“Since farmland preservation serves a series of public purposes, Montgomery County must commit itself to the preservation of farmland...In the absence of a specific preservation effort, farmland will continue to be converted to residential, commercial, and industrial uses.” (pg. 31)

The Property falls within the Agricultural Reserve area described in the AROS plan. The Master Plan describes the Reserve as an area that “includes the majority of the remaining working farms, as well as other land uses that will serve to define and support those working farms” (p. 38), and as areas that “contain a critical mass of productive farmland worthy of protection, as well as other non-farmland uses which serve to support and define the critical mass” (p. 41). The Master Plan recommends AR zoning and transfer of development density to help preserve farmland and agricultural uses in these areas. The purpose clause of the AR zone also speaks to this intent:

“The intent of this zone is to promote agriculture as the primary land use * * *. This is to be accomplished by providing large areas of generally contiguous properties suitable for agricultural and related uses and permitting the transfer of development rights from properties in this zone to designated receiving areas. * * * Agriculture is the preferred use in the Agricultural Reserve zone.”

The proposed lot will not significantly reduce the area available for farming. The Pre-Preliminary Plan is designed to minimize fragmentation of the Property, and maximize the viable farmland. The subdivision will not impinge on any forests, trees, natural features, or scenic views.

The Subject Property is encumbered by an agricultural preservation easement which is overseen by the Agricultural Preservation Advisory Board and Montgomery County. This subdivision is in accordance with the agricultural preservation easement and helps to ensure the land will remain in agriculture.

Since the Pre-Preliminary Plan preserves and promotes agriculture, it substantially conforms to the AROS Master Plan and the purpose of the AR zone.

The proposed lot substantially conforms to the recommendations of the *Functional Master Plan for the Preservation of Agriculture and Rural Open Space*.

Public Facilities

Roads and Transportation Facilities

As currently proposed, the proposed lot and farm remainder would not generate 50 or more peak hour person trips during the morning or evening peak periods. Therefore, the Application is not subject to Local Area Transportation Review. Right-of-way dedication is required for Cattail Road in front of the portions of the Property that will be platted. A sidewalk is not required along the Property frontage because it is in the rural policy area. Access to existing and proposed dwelling units will be from the existing driveways onto Cattail Road. Vehicular and pedestrian access for the subdivision will be adequate.

Other Public Facilities and Services

Other public facilities and services are available and will be adequate to serve the proposed lot. Well and septic systems currently serve the existing dwelling units and will be updated to meet current standards. Electrical and telecommunications services are available to serve the Property. Other public facilities and services, such as schools, police stations, firehouses and health services are currently operating within the standards set by the Subdivision Staging Policy currently in effect.

With a net of one new single family detached dwelling unit, the proposed project falls within the de minimis (three units or less) exemption for school enrollment. Below is additional information about the schools and school cluster that serve the application property.

Cluster Information

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

| School Level | Projected Sept. 2022 Enrollment | 100% Projected MCPS Program Capacity, 2022 | Cluster % Utilization 2022-2023 | Moratorium Enrollment Threshold |
|--------------|---------------------------------|--|---------------------------------|---------------------------------|
| Elementary | 470 | 758 | 62.0% | 910 |
| Middle | 283 | 468 | 60.5% | 562 |
| High | 1,226 | 1,170 | 104.8% | 1,405 |

The Moratorium Enrollment Threshold identified in the table is the enrollment at which the 120% utilization threshold is exceeded, resulting in a cluster-wide residential development moratorium. Current projections for the cluster fall well within the threshold at each level, therefore the cluster service area remains open to new residential development.

Individual School Information

The applicable elementary and middle schools for this project are Poolesville ES and John Poole MS, respectively. Based on the FY18 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

| School | Projected Sept. 2022 Enrollment | 100% Projected MCPS Program Capacity, 2022 | School % Utilization 2022-2023 | Moratorium Enrollment Thresholds | |
|----------------|---------------------------------|--|--------------------------------|----------------------------------|--------------|
| | | | | 120% Utilization | Seat Deficit |
| Poolesville ES | 340 | 539 | 63.1% | 647 | 649 |
| John Poole MS | 283 | 468 | 60.5% | 562 | 648 |

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 the table above are the enrollments at which the 120% utilization threshold and the seat deficit threshold are exceeded. Current projections for both Poolesville ES and John Poole MS fall well within the thresholds, therefore both service areas remain open to new residential development.

Stormwater

Because no construction is proposed with this Application, no stormwater mitigation requirements are necessary under Chapter 19. Any construction on the new lot would be subject to all requirements in effect at that time.

Environmental Guidelines

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) #420130640 (Attachment B) for the Property was approved on March 21, 2013. The NRI/FSD identifies the environmental constraints and forest resources on the Subject Property. There are 39.4 acres of forest, 17.2 acres of wetlands, 8.3 acres of 100-year floodplain, 37.9 acres of stream buffer, and multiple streams. There is no environmental impact associated with this application. However, there is a SVB on Lot 1 which will be placed into a Category I Conservation Easement.

Forest Conservation

The Applicant has demonstrated, in accordance with Section 50-35A(a)(8)(e) of the Subdivision Regulations, forest conservation can be satisfied prior to Record Plat. Forest conservation will be submitted as a Sediment Control Forest Conservation Plan filing and reviewed by Staff and will be reviewed for approval by Staff if the Planning Board approves the minor subdivision. The Forest Conservation Plan will cover 64.39 acres of the tract area; approximately 0.1 acres is being deducted as right-of-way not being developed as part of this project, and approximately 62.79 acres as agriculturally exempt. Leaving a net tract area of approximately 1.5 acres subject to the FCP requirements. The Forest Conservation Plan will retain no existing forest, clear no forest, and generate approximately a 0.3 acre afforestation planting requirement. The Applicant proposes to meet the planting requirement by retaining forest on the agricultural exempt portion of the Subject Property at a ratio 2:1 protecting existing forest. Final forest conservation numbers will be reviewed as part of the sediment control FCP file application.

Citizen Correspondence and Issues

The Applicant notified adjacent and confronting property owners of the pre-preliminary plan submission, as required. To date, Staff has not received any correspondence.

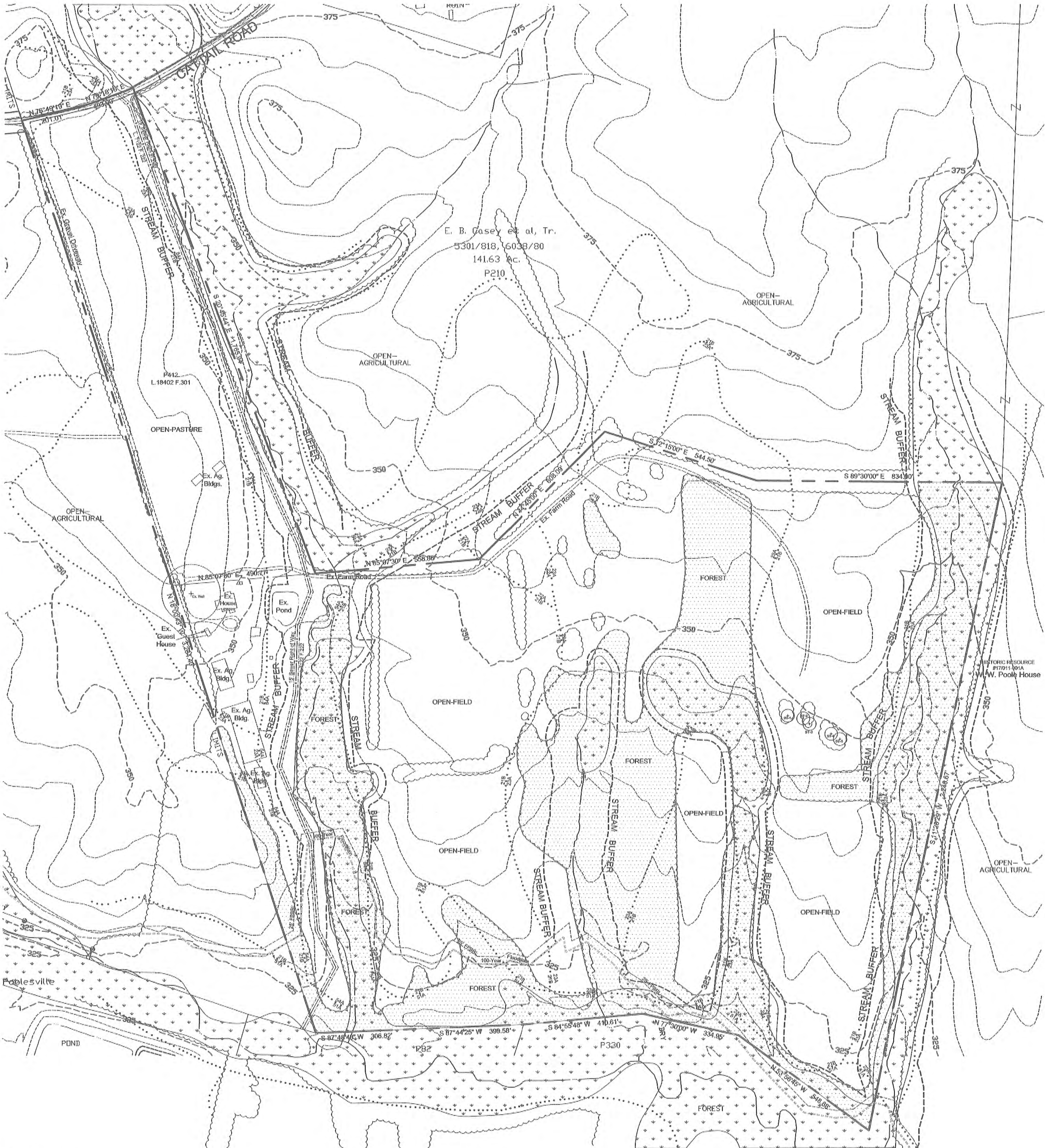
CONCLUSION

Staff recommends that the Planning Board approve this Application for the purposes of allowing it to proceed as a minor subdivision. The lot proposed under this Application meets all of the requirements under Section 50-38A(a)(8) of the Subdivision Regulations regarding the minor subdivision process. The Application complies with the AROS Master Plan and is of the appropriate size, shape, width and orientation to accommodate the residential use. The lot does not conflict with the continuation of agricultural uses on the farm remainder created by the subdivision of the Property. Therefore, approval of the application with the conditions specified above is recommended.

Attachment A – NRI/FSD

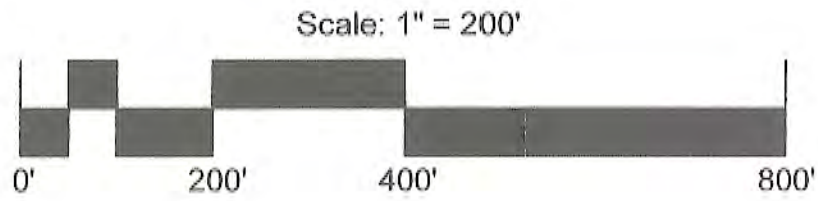
Attachment B – DPS Well & Septic Approval Memo

Attachment C –TDR Documents



LEGEND:

- Ex. Building
- Property Line
- Canopy Line
- On-site Forest
- Soil Series
- Sewer & Sewer Easement
- Stream Buffer
- 100-Year Floodplain & Buffer
- Wetlands
- Perennial / Intermittent Stream



NATURAL RESOURCES INVENTORY: NARRATIVE
The subject property located within the Dry Seneca Creek Watershed (see I-P) consists of approximately 116.19 acres of land. This property is an active farm with agricultural fields, forest, agricultural buildings, and an existing residence. There is approximately 39.4 acres of forest on the property. Numerous significant/specimen trees are located on the property, but only the trees near the proposed home site were located and shown on this plan. The remaining trees which were neither located nor identified are within a portion of the farm remainder that will not be impacted by the proposed development.

The following pertains to the entire property:

- No rare, threatened, or endangered species or their habitats were observed or are known to occur on or near the property
- The site has not been designated as a historic resource
- This site is not located within an SPA or PMA

A site visit was made to this property on 8/28/12 by Joshua O. Maisel representing Benning & Associates to inventory the existing natural resources and to gather the necessary data to complete this plan. A Blue Heron was sighted and signs of White-tailed Deer were observed during the site visit.

THE MARYLAND NATURAL LANDS
PARK AND PLANNING COMMISSION

NRI/RSD PLAN

APPROVED

NRI/RSD No. 42030640

Date Approved: 3/21/13

Expiration Date: 3/21/15

Signature: [Signature] Date: 3/21/13

| SIGNIFICANT TREE CHART | | | | | |
|------------------------|---------------------|--------------|-------------------|----------------|--|
| TREE NUMBER | BOTANICAL NAME | COMMON NAME | SIZE(D.B.H.) | TREE CONDITION | COMMENTS |
| ST-1 | Robinia pseudacacia | Black Locust | 24" (Approximate) | Poor-Dead | Missing 75% of canopy, multiple broken and decaying limbs, no slow meter. Poison ivy on trunk, but high in upper trunk / Tree would be a hazard if a target w as present. |
| ST-2 | Robinia pseudacacia | Black Locust | 28" (Approximate) | Poor-Dead | 60-70" lean, less than 10% canopy remaining, Poison ivy and Grapes on trunk & canopy, broken leaders / Tree would be a hazard if a target w as present. |
| ST-3 | Robinia pseudacacia | Black Locust | 24" (Approximate) | Poor-Dead | Less than 20% canopy remaining, broken leader, Grapes and Poison ivy growth on trunk, snagged leader / Tree would be a hazard if a target w as present. |
| ST-4 | Robinia pseudacacia | Black Locust | 24" (Approximate) | Poor-Dead | Multi-stemmed, all leaders dead and broken, less than 5% canopy remaining, Virginia Creeper growth on trunk, loose bark, nesting cavity, large snag in canopy / Tree would be a hazard if a target w as present. |
| ST-5* | Acer rubrum | Red Maple | 33" | Moderate | Multi-stemmed, cavity in leader, broken limbs, compartmentalized decay, bone damage, water sprouts, snagged leader, thin canopy. |

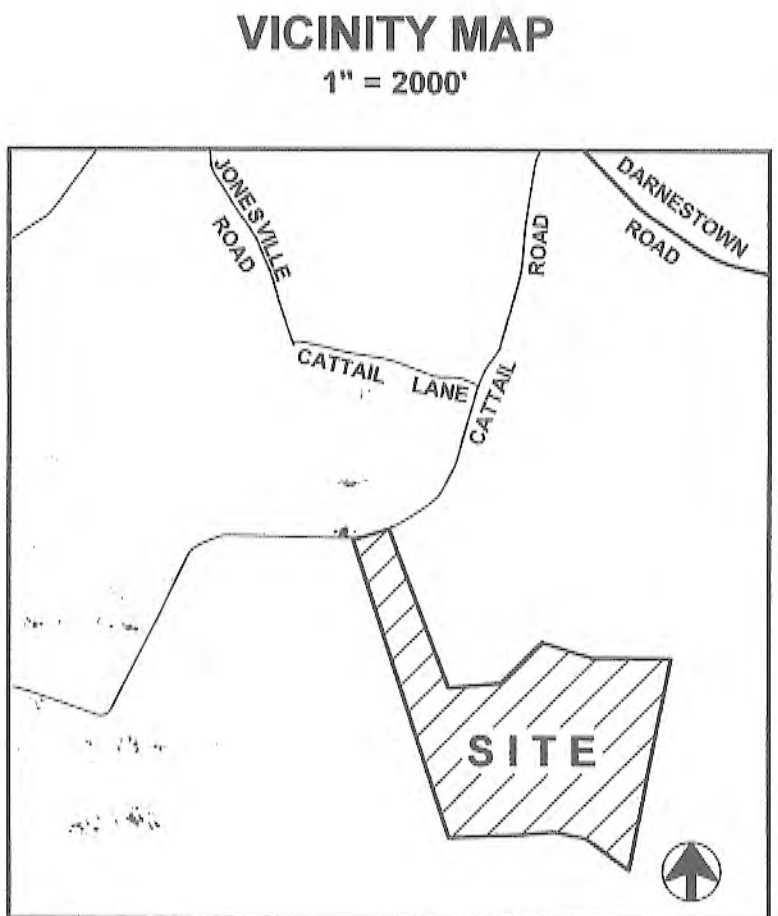
* Indicates Specimen Trees

NOTES:

1. Per Sec. 22A-10.(b) of the Forest Conservation Law, this plan is submitted as a Simplified Natural Resources Inventory/ Forest Stand Delineation Plan because there will not be any disturbance to the on-site forest and all forest areas will be deducted from the proposed subdivision as part of a farm remainder.
2. No trees identified are > 75% of the current County/State Champion for the species.
3. There are no conservation easements on, or directly adjacent to the property.
4. 100-year floodplain shown hereon is per the FEMA Flood Map Panel 24051C0144D for Montgomery County.
5. The wetlands shown hereon are from MNCPPC GIS Wetland Data and the wetlands were field delineated by Joshua Maisel on 2/28/2013.
6. Tree sizes were obtained by measuring the tree's diameter at breast height with a diameter tape. Approximate sizes are a result of vines growing on trunk that prevent accurate measurements.
7. The subject property is zoned RD1.
8. The subject property is located within WSSC grids 224NW18, 224NW19 and Tax Maps CT42 and CT52.
9. Acreage for the 116.9 acre property is per a boundary survey prepared by O'Connell & Laurence, Inc. dated 2/1/2011.

| RESOURCES DATA TABLE | | | | | |
|----------------------|-----------------------|------------------|-----------------------------|--------------------------------|---------------------------|
| AREA IN FOREST | AREA IN STREAM BUFFER | AREA IN WETLANDS | FORESTED AREA IN FLOODPLAIN | FORESTED AREA IN STREAM BUFFER | FORESTED AREA IN WETLANDS |
| 39.4 AC | 37.9 AC | 17.2 AC | 8.3 AC | 25.6 AC | 16.7 AC |
| | | | | | 5.9 AC |

| SOILS CHART | | | | | | | | |
|-------------|-------------------------------|----------|--------|-------|--------------------|--|--------------------|-------------------|
| SYMBOL | NAME | K-Factor | HYDRIC | SLOPE | SEEDLING MORTALITY | COMMENTS | PRIME AGRICULTURAL | SEVERELY ERODIBLE |
| 21B | Penn Silt Loam | 0.32 | No | 3-8% | Slight | moderately deep & well drained | Yes | No |
| 22A | Readington Silt Loam | 0.43 | No | 0-3% | Slight | deep or very deep & moderately well drained | No | No |
| 23A | Croton Silt Loam | 0.43 | Yes | 0-3% | Severe | deep, poorly drained, and slowly permeable | No | No |
| | Bowmansville-Mohin Silt Loams | 0.32 | Yes | 0-2% | Severe | very deep, somewhat poorly drained or poorly drained soils are on flood plains that are dissected by small streams | No | No |
| 51A | | | | | | | | |
| 54A | Hatboro Silt Loam | 0.49 | Yes | 0-3% | Slight | floodplain, deep, poorly drained | No | No |



Prepared for:
Irvin L. Crawford
17201 Whites Store Road
Boys, MD 20841
301-972-7261

| Revisions |
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| 2.20.13 |
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date: 8/14/2012

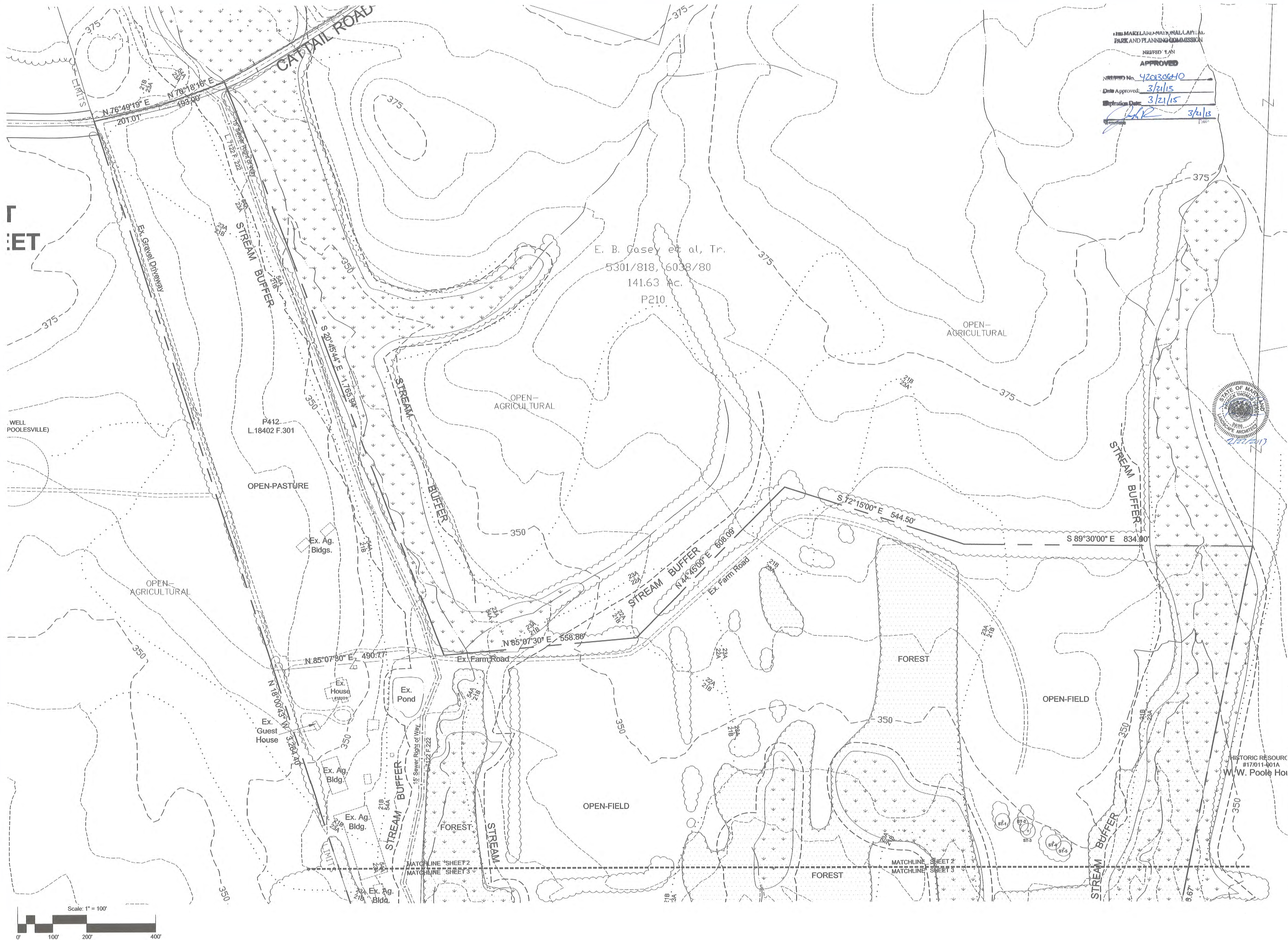
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Benning & Associates, Inc.
Land Planning Consultants
8933 Shady Grove Court
Gaithersburg, MD 20877
(301) 948-0240



NATURAL RESOURCES INVENTORY/
FOREST STAND DELINEATION
CATTAIL ROAD PROPERTY
(Parcels 412 & 805: Tax Maps CT42 & CT52)
Montgomery County, Maryland





Sheet 2 of 3

Revisions

| Revisions |
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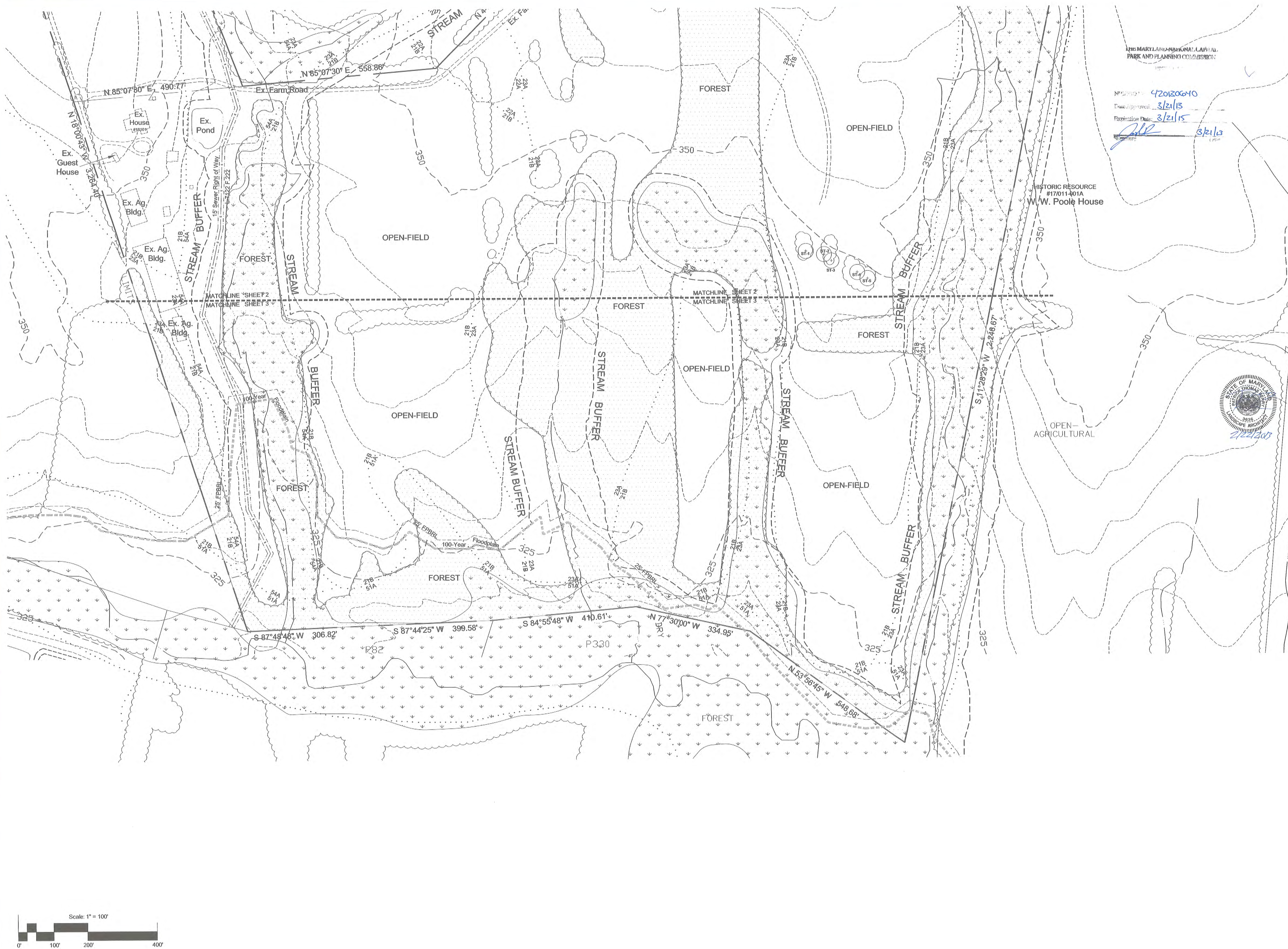
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Benning & Associates, Inc.
10000 Shady Grove Court
Gaithersburg, MD 20877
(301) 948-0240



NATURAL RESOURCES INVENTORY/
FOREST STAND DELINEATION
CATTAIL ROAD PROPERTY
(Parcels 412 & 805: Tax Maps CT42 & CT52)
Montgomery County, Maryland

RECEIVED
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FEB 27 2013
MONTGOMERY COUNTY
PLANNING DEPARTMENT



Sheet 3 of 3

Revisions

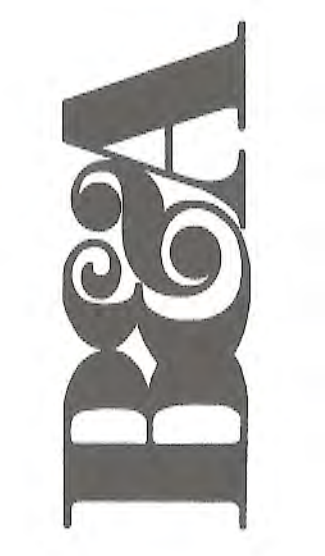
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date: 8/14/2012

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Benning & Associates, Inc.
Land Planning Consultants
10000 Old Orchard Road
Gaithersburg, MD 20877
(301) 944-0240



NATURAL RESOURCES INVENTORY/
FOREST STAND DELINEATION
CATTAIL ROAD PROPERTY
(Parcels 412 & 805; Tax Maps CT42 & CT52)
Montgomery County, Maryland





DEPARTMENT OF PERMITTING SERVICES

Isiah Leggett
County Executive

Diane Schwartz Jones
Director

June 7th, 2018

TO: Joshua Penn, Lead Reviewer
M-NCPPC – Montgomery County Planning Dept.

FROM: Heidi Benham, Manager
DPS - Well and Septic Section

SUBJECT: Cattail Road Property
Preliminary Plan - 720100040

This memo shall serve as confirmation of the status of the Well and Septic requirements for the subject property.

Per previous DPS requirements, sufficient sand mound testing was completed and a septic reserve area has been established for both the proposed farm remainder parcel (18101 Cattail Rd) and proposed Lot 1. A septic system has been installed and approved for the existing main dwelling and guest house on the proposed farm remainder.

Outstanding DPS violations have not been resolved for the existing main dwelling located at 18101 Cattail Road. These violations must be addressed prior to any further well and septic permit approvals for the subdivision.

Parcel Identifier: 03-00041465

22658 744

TRANSFER OF DEVELOPMENT RIGHTS (TDR) EASEMENT

THIS TRANSFER OF DEVELOPMENT RIGHTS (TDR) EASEMENT, made this 5th day of December 2002 by and between by IRVIN L. CRAWFORD, II., as to a one-third (1/3) undivided interest, and JOHN M. KEAN and M. ELIZABETH REESE, his wife, as to a two thirds (2/3) undivided interest, as tenants in common, having a mailing address of 17201 Whites Store Road, Boyds Maryland 20841 hereinafter individually and jointly referred to as "Grantor", and MONTGOMERY COUNTY, MARYLAND, c/o Department of Economic Development, 101 Monroe Street, Rockville, Maryland 20850, hereinafter "Grantee".

RECITALS

Chapter 59 of the Montgomery County Code defines "Development Right" as: **TOTAL 0.00**
potential for the improvement of a parcel of real property, measured in dwelling units of units **Ref: 999999**
commercial or industrial space, existing because of the zoning classification of the parcel, and sets **FOR FS BK#3035**
forth a procedure for the transfer of Development Rights for the purpose of preserving agricultural **Dec 27, 2002 03:13 PM**
land. Grantor is the owner in fee simple of 99.1666 acres of real property, hereinafter described, in the Rural Density Transfer Zone, located in Poolesville and Vicinity Planning Area 3 Montgomery County, Maryland. The property is now improved with two (2) one-family dwellings.

Chapter 59 of the Montgomery County Code, recognizes the right of an owner of property in the Rural Density Transfer Zone to transfer a certain number of Development Rights; provided that such a conveyance contains an easement restricting the future construction of one-family dwellings on the property. The parties intend that this Easement so restrict the property and that, hereafter, Seventeen (17) Development Rights numbered 3-6950 to 3-6966 may be conveyed from the property by a deed in a recordable form approved by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission without the conveyance of an additional Easement to Grantee.

Grantor represents that it is the owner in fee simple of the property as of the date of execution of this easement.

A current title report for the subject property, identified as Exhibit 1, is attached hereto and made a part hereof

NOW, THEREFORE, to permit the transfer of Development Rights and in consideration of the covenants, terms, conditions and restrictions hereafter set forth and other good and valuable consideration, receipt of which is hereby acknowledged, Grantor does grant and convey to Grantee, its successors and assigns, forever and in perpetuity, an interest and Easement of the nature and character and to the extent hereinafter set forth in respect to all that property situate in Montgomery County, Maryland, described as:

The property conveyed by and described in a deed from David Katcher and Kenneth MacRae, Personal Representatives of the Estate of Gladys Uhl Katcher, a/k/a Gladys B. Uhl, Estate Number W 30671 in the Orphans Court of Montgomery County, Maryland, to Irvin L. Crawford, II., as to a one-third (1/3) undivided interest, and John M. Kean and M. Elizabeth Reese, his wife, as to a two thirds (2/3) undivided interest, as tenants in common dated September 8, 2000 recorded September 18, 2000 among the land and
AGRICULTURE TRANSFER TAX IN THE **NO 303** located in Poolesville & Vicinity Planning Area 3 Montgomery County, Maryland, in Liber 18402, Folio 303 registered
TDR INFORMATION

AMOUNT OF \$ NA
SIGNATURE WJ 12/27/02

TRANSEED CLERK (WJ card) 12/27/02

NO FEE - MONTG. CO. MD.

255 N. WASHINGTON STREET, #500
ROCKVILLE, MD 20850DAVID B. PODOLSKY
MONTGOMERY COUNTY CLERK
ATTORNEY AT LAW
MONTGOMERY COUNTY CLERK COURT (Land Records) MQR 22658, p. 0744, MSA_CE63_22612. Date available 09/16/2005. Printed 05/26/2015.2002 DEC 27 P 3:14 PM
FILED
MONTGOMERY COUNTY CLERK
RECEIVED

The terms, conditions and restrictions, of this Easement are these:

1. This Easement shall be perpetual. It is an easement in gross, and as such, is inheritable and assignable and runs with the land as an incorporeal interest in the property enforceable with respect to the property by the Grantee, and its successors and assigns, against the Grantor and his heirs, successors, and assigns.
2. The term "one-family dwelling" includes mobile, manufactured, or similar dwellings, but excludes farm tenant dwelling permitted by Chapter 59, Montgomery County Code, as amended.
3. A one-family dwelling may not be constructed, occupied, or maintained on the property unless one Development Right is retained with the property for each one-family dwelling constructed, occupied, or maintained.
4. The restrictions imposed by this Development Rights Easement shall operate independently of the restrictions imposed by the zoning of the property.
5. The property contains 99.1666 acres. There are two (2) existing one-family dwellings on the property. As a result of this Easement, the Parties intend that Grantor may convey Seventeen (17) Development Rights numbered 3-6950 to 3-6966. From this date forward, no more than two (2) one-family dwellings may be constructed on the property. This may not be interpreted to permit additional dwellings inconsistent with the zoning of the property or to prevent the reconstruction of existing one-family dwellings which complied with the terms of this Easement in the event such dwellings may be destroyed or damaged.
6. Grantee, its successors and assigns, may, with reasonable notice, enter the property from time to time, for the sole purpose of inspection and enforcement of the terms, conditions and restrictions of this Easement. This right of inspection does not include the interior of dwellings.
7. Nothing herein may be construed to convey to the public a right of access or use of the property, and the Grantor, his heirs, successors and assigns, retain exclusive right to such access and use, subject only to the provisions of this Easement.
8. The parties agree that monetary damages would not be adequate remedy for breach of any of the terms, conditions and restrictions herein contained, and, therefore, in the event that the Grantor, his heirs, successors and assigns, violate or breach any of such terms, conditions and restrictions, herein contained, the Grantee, its successors and assigns, may institute a suit to enjoin by ex parte, preliminary and/or permanent injunction such violation and to require the restoration of the property to its prior conditions. The Grantee, its successors and assigns, by any prior failure to act, does not waive or forfeit the right to take action as may be necessary to insure compliance with the terms, conditions and purposes of this Easement.

IN WITNESS WHEREOF, the Grantor and Grantee have hereunto set their hands and seals in the day and year above written.


GRANTORS


 IRWIN L. CRAWFORD, II.


 JOHN M. KEAN


 M. ELIZABETH REESE

GRANTEE


 DOUGLAS M. DUNCAN,
 COUNTY EXECUTIVE
 MONTGOMERY COUNTY, MARYLAND

STATE OF MARYLAND

*

*

COUNTY OF MONTGOMERY *Frederick* *

ON THIS 27th day of October 2002, before me, the undersigned officer, personally appeared IRWIN L. CRAWFORD, II., known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same as his act for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.


 Notary Public (Please Print Name After Signature)
My Commission Expires: 10/1/06

STATE OF MARYLAND

*

*

COUNTY OF ~~MONTGOMERY~~
Frederick

*

ON THIS 27th day of October 2002, before me, the undersigned officer, personally appeared JOHN M. KEAN, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same as his act for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Jenny Leigh Bainhouse (Fowler)
Notary Public (Please Print Name After Signature)

My Commission Expires: 10/1/06

STATE OF MARYLAND

*

*

COUNTY OF ~~MONTGOMERY~~
Frederick

*

ON THIS 27th day of October 2002, before me, the undersigned officer, personally appeared M. ELIZABETH REESE, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same as her act for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Jenny Leigh Bainhouse (Fowler)
Notary Public (Please Print Name After Signature)

My Commission Expires: 10/1/06

STATE OF MARYLAND

*
*
*

22658

748

COUNTY OF MONTGOMERY

ON THIS 5th day of December 2002, before me, a Notary Public in and for the jurisdiction aforesaid, personally appeared **DOUGLAS M. DUNCAN**, known to me (or satisfactory proven), to be the person whose name is subscribed to the foregoing Transfer of Development Rights Easement, and acknowledged that he is the County Executive of Montgomery County, Maryland and the execution of this Transfer of Development Rights Easement is his free act as County Executive.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Jo Anne Poore
Notary Public (Please Print Name After Signature)

My Commission Expires: June 1, 2006

THE UNDERSIGNED, a member of the Bar of the Court of Appeals of Maryland, hereby certifies that the foregoing instrument was prepared by or under the supervision of the undersigned.

Virker L Paul

Approved as to form and legality this 25th day of November 2002.

Office of the County Attorney

By: Virker L Paul
Associate County Attorney

Date: 11/25/02

FOR RECORDING PURPOSES ONLY:

22658

749

Grantor's Address:

Irvin L. Crawford, II et al.
John M. Kean
M. Elizabeth Reese
17201 Whites Store Road
Boys, Maryland 20841

Grantee's Address:

Montgomery County, Maryland
Department of Economic Development
101 Monroe Street, Suite 1500
Rockville, Maryland 20850
240-777-2000

Title Insurer: N/A

Parcel Identifier: 03-00041465

a:tdreaserlp (rip boiler)



22658 750

OFFICE OF THE COUNTY ATTORNEY

Douglas M. Duncan
County Executive

Charles W. Thompson, Jr.
County Attorney

December 17, 2002

Molly Q. Ruhl, Clerk
Circuit Court for Montgomery County, Maryland
Courthouse
Rockville, Maryland 20850

Dear Ms. Ruhl:

Please record the attached document on behalf of Montgomery County, Maryland, and waive the usual recording fee.

Thank you for your attention to this matter.

Sincerely,

CHARLES W. THOMPSON, JR.
COUNTY ATTORNEY

Vickie L. Gaul
Associate County Attorney

I:\KQ\Potis\Land Use-Real Estate\recording letter.wpd

DEED OF TRANSFER OF DEVELOPMENT RIGHTS (TDR)

THIS DEED, made this 5th day of December, 2002 by and between IRVIN L. CRAWFORD, II., as to a one-third (1/3) undivided interest, and JOHN M. KEAN and M. ELIZABETH REESE, his wife, as to a two thirds (2/3) undivided interest, as tenants in common, having a mailing address of 17201 Whites Store Road, Boyds Maryland 20841 hereinafter individually and jointly referred to as "Grantor", and MONTGOMERY COUNTY, MARYLAND, c/o Department of Economic Development, 101 Monroe Street, Rockville, Maryland 20850, hereinafter "Grantee".

RECITALS

Chapter 59 of the Montgomery County Code defines "Development Right" as: "The potential for the improvement of a parcel of real property, measured in dwelling units or units of commercial or industrial space, existing because of the zoning classification of the parcel," and sets forth a procedure for the transfer of Development Rights for the purpose of preserving agricultural land. An Easement granted to Montgomery County, Maryland, pursuant to Chapter 59 of the Montgomery County Code and recorded immediately prior hereto among the land records of Montgomery County, Maryland, restricts the number of one-family dwellings that may be constructed, occupied or maintained on property hereinafter described situate in the Rural Density Transfer Zone, Poolesville and Vicinity Planning Area 3 Montgomery County, Maryland, and thereby authorizes the conveyance of Development Rights.

NOW, THEREFORE, in accordance with the Montgomery County Rural Legacy Program and conveyance by Grantor of a Deed of Conservation Easement to Grantee, recorded immediately prior hereto, and other good and valuable considerations, the receipt of which is hereby acknowledged, Grantor does grant and convey to Grantee and the State of Maryland Rural Legacy Board, their successors and assigns, Three (3) Development Rights, numbered 3-6947 to 3-6949 originally attached to property situate in the Rural Density Transfer Zone, Poolesville and Vicinity Planning Area 3 Montgomery County, Maryland, described as:

The property conveyed by and described in a deed from David Katcher and Kenneth MacRae, Personal Representatives of the Estate of Gladys Uhl Katcher, a/k/a Gladys B. Uhl, Estate Number W 30671 in the Orphans Court of Montgomery County, Maryland, to Irvin L. Crawford, II., as to a one-third (1/3) undivided interest, and John M. Kean and M. Elizabeth Reese, his wife, as to a two thirds (2/3) undivided interest, as tenants in common dated September 8, 2000 recorded September 18, 2000 among the Land Records of Montgomery County, Maryland, in Liber 18402, Folio 303 located in Poolesville & Vicinity Planning Area 3 with street address of 18101 Cattail Road, Poolesville, Maryland 20837 consisting of 17.0260 acres

AND, Grantor covenants that it will warrant specially the property hereby conveyed, that it will execute such further assurances of said property as may be requisite and that it has the right to convey the property.

TOTAL 0.00
Res#M008 Rct#999999
MOR FS B1k#9115
DEC 27, 2002 03:36 PM

2002 DEC 27 P 3:36 PM

mail To:

DAVID R. PODOLSKY
ATTORNEY AT LAW
255 N. WASHINGTON STREET, #500
ROCKVILLE, MD 20850

AGRICULTURE TRANSFER TAX IN THE

AMOUNT OF \$ N/A

SIGNATURE

Irvin L. Crawford, II.

HEREBY CERTIFY THIS PROPERTY HAS BEEN REGISTERED ON THE MONTGOMERY COUNTY ASSESSMENT BOARD TDR INFORMATION.

TRANSFER CLERK, ASSESSMENT DEPARTMENT

Mya (No Carl) 12/27/02

22659 035
IN WITNESS WHEREOF, their hand and seals in the day and year above written.

GRANTORS


IRWIN L. CRAWFORD, II.


JOHN M. KEAN


M. ELIZABETH REESE

STATE OF MARYLAND

*

*

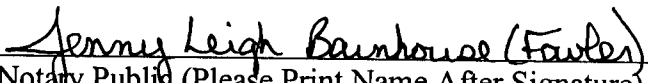
COUNTY OF ~~MONTGOMERY~~

*

Frederick

ON THIS 27th day of October 2002, before me, the undersigned officer, personally appeared IRWIN L. CRAWFORD, II., known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same as his act for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.


Notary Public (Please Print Name After Signature)

My Commission Expires: 10/1/06

STATE OF MARYLAND

*

*

COUNTY OF ~~MONTGOMERY~~

*

Frederick

ON THIS 27th day of October 2002, before me, the undersigned officer, personally appeared JOHN M. KEAN, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same as his act for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.


Notary Public (Please Print Name After Signature)

My Commission Expires: 10/1/06

STATE OF MARYLAND

*

COUNTY OF ~~MONTGOMERY~~
Frederick

*

*

ON THIS 27th day of October 2002, before me, the undersigned officer, personally appeared M. ELIZABETH REESE, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same as her act for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Jenny Leigh Bainhouse (Fowler)
Notary Public (Please Print Name After Signature)
My Commission Expires: 10/1/04

THE UNDERSIGNED, a member of the Bar of the Court of Appeals of Maryland, hereby certifies that the foregoing instrument was prepared by or under the supervision of the undersigned.

William L. Paul

Approved as to form and legality this 27th, day of November 2002.

Office of the County Attorney

By: William L. Paul

Associate County Attorney

Date: 11/25/02

FOR RECORDING PURPOSES ONLY: 22659 037

Grantor's Address:

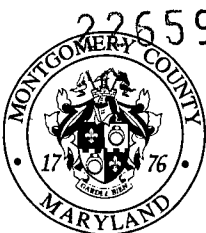
Irvin L. Crawford, II et al.
John M. Kean
M. Elizabeth Reese
17201 Whites Store Road
Boys, Maryland 20841

Grantee's Address:

Montgomery County, Maryland
Department of Economic Development
101 Monroe Street, Suite 1500
Rockville, Maryland 20850
240-777-2000

Title Insurer: N/A

Parcel Identifier: 03-00041476



22659

038

OFFICE OF THE COUNTY ATTORNEY

Douglas M. Duncan
County Executive

Charles W. Thompson, Jr.
County Attorney

December 17, 2002

Molly Q. Ruhl, Clerk
Circuit Court for Montgomery County, Maryland
Courthouse
Rockville, Maryland 20850

Dear Ms. Ruhl:

Please record the attached document on behalf of Montgomery County, Maryland, and
waive the usual recording fee.

Thank you for your attention to this matter.

Sincerely,

CHARLES W. THOMPSON, JR.
COUNTY ATTORNEY

Vickie L. Gaul
Associate County Attorney

I:\KQ\Potisd\Land Use-Real Estate\recording letter.wpd

☐ Baltimore City ☒ County: Mont. Co

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office only.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

| | | | | | | | | |
|---|--|--|--------------------------------|---|---|-----------------------------|----------|-----|
| Type(s) of Instruments | | () Check Box if Addendum Intake Form is Attached.) Deed <input type="checkbox"/> Deed of Trust Mortgage <input type="checkbox"/> Lease Other <input checked="" type="checkbox"/> TDR EASE. | | Other <input checked="" type="checkbox"/> DEED TDR | | | | |
| Conveyance Type Check Box | | Improved Sale Arms-Length [1] Unimproved Sale Arms-Length [2] | | Multiple Accounts Arms-Length [3] Not an Arms- Length Sale [9] | | | | |
| Tax Exemptions (if Applicable) Cite or Explain Authority | | Recordation State Transfer County Transfer | | | | | | |
| Consideration and Tax Calculations | | Consideration Amount | | Finance Office Use Only | | | | |
| | | Purchase Price/Consideration | \$ | Transfer and Recordation Tax Consideration | | | | |
| | | Any New Mortgage | \$ | X () % = \$ | | | | |
| | | Balance of Existing Mortgage | \$ | Less Exemption Amount — \$ | | | | |
| | | Other: | \$ | Total Transfer Tax = \$ | | | | |
| | | Other: | \$ | Recordation Tax Consideration \$ | | | | |
| | | Full Cash Value | \$ | X () per \$500 = \$ | | | | |
| | | | | TOTAL DUE \$ | | | | |
| Fees | | Amount of Fees | | Doc. 1 Doc. 2 Agent: | | | | |
| | | Recording Charge | \$ | \$ | | | | |
| | | Surcharge | \$ | \$ | | | | |
| | | State Recordation Tax | \$ | \$ | | | | |
| | | State Transfer Tax | \$ | \$ | | | | |
| | | County Transfer Tax | \$ | \$ | | | | |
| | | Other | \$ | \$ | | | | |
| | | Other | \$ | \$ | | | | |
| Description of Property SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i). | | District | Property Tax ID No. (1) | Grantor Liber/Folio | Map | Parcel No. | Var. LOG | |
| | | 03 | 0004146S | | | | | (5) |
| | | Subdivision Name Lot (3a) Block (3b) Sect/AR(3c) Plat Ref. SqFt/Acreage (4) | | | | | | |
| | | Location/Address of Property Being Conveyed (2) | | | | | | |
| | | 18101 Cattail Road, Poolesville, MD | | | | | | |
| | | Other Property Identifiers (if applicable) Water Meter Account No. | | | | | | |
| | | Residential <input type="checkbox"/> or Non-Residential <input type="checkbox"/> Fee Simple <input type="checkbox"/> or Grount Rent <input type="checkbox"/> Amount: | | | | | | |
| | | Partial Conveyance? <input type="checkbox"/> Yes <input type="checkbox"/> No Description/Amt. of SqFt/Acreage Transferred: | | | | | | |
| | | If Partial Conveyance, List Improvements Conveyed: | | | | | | |
| | | Transferred From | | Doc. 1 - Grantor(s) Name(s) | | Doc. 2 - Grantor(s) Name(s) | | |
| Irvin L. Crawford II, John M. Keen & M. Elizabeth Reese | | | | Irvin L. Crawford II, John M. Keen & M. Elizabeth Reese | | | | |
| Transferred To | | Doc. 1 - Owner(s) of Record, if Different from Grantor(s) | | Doc. 2 - Owner(s) of Record, if Different from Grantor(s) | | | | |
| | | Montgomery County, MD | | Montgomery County, MD | | | | |
| | | New Owner's (Grantee) Mailing Address | | | | | | |
| Other Names to Be Indexed | | Doc. 1 - Additional Names to be Indexed (Optional) | | Doc. 2 - Additional Names to be Indexed (Optional) | | | | |
| | | | | | | | | |
| Contact/Mail Information | | Instrument Submitted By or Contact Person | | | <input type="checkbox"/> Return to Contact Person | | | |
| | | Name: David R. Podolsky, Esquire | | | <input type="checkbox"/> Hold for Pickup | | | |
| | | Firm: | | | <input type="checkbox"/> Return Address Provided | | | |
| | | Address: 255 N. Washington St. #500 Rockville, MD 20850 Phone: (301) 424-5300 | | | | | | |
| | | IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER | | | | | | |
| Assessment Information | | Yes No Will the property being conveyed be the grantee's principal residence? | | | | | | |
| | | Yes No Does transfer include personal property? If yes, identify: | | | | | | |
| | | Yes No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required). | | | | | | |
| | | Assessment Use Only - Do Not Write Below This Line | | | | | | |
| | | <input type="checkbox"/> Terminal Verification <input type="checkbox"/> Agricultural Verification <input type="checkbox"/> Whole <input type="checkbox"/> Part <input type="checkbox"/> Tran. Process Verification | | | | | | |
| | | Transfer Number: Date Received: | | Deed Reference: | | Assigned Property No.: | | |
| | | Year Land Buildings Total | 19 19 Geo. Zoning Use Town Cd. | Map Grid Parcel Ex. St. | Sub Plat Section Ex. Cd. | Block Lot Occ. Cd. | | |
| | | REMARKS: | | | | | | |