



Glenstone II, Forest Conservation Plan Amendment, SC2020008

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Description

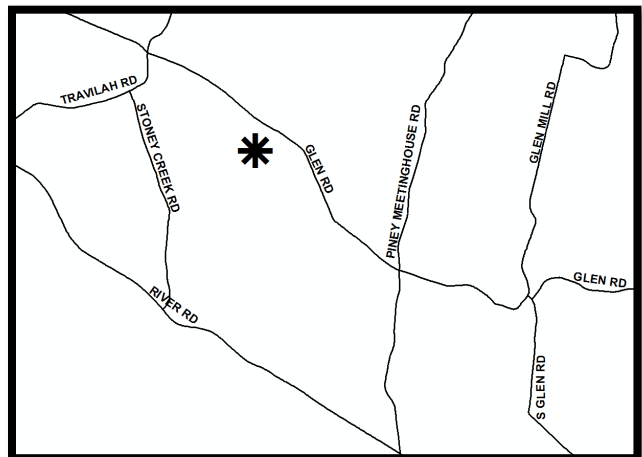
Glenstone II FCP SC2020008

Application to:

- Build an art pavilion
- Add elevated boardwalk
- Adjust building restriction line
- Add a service road
- Reconfigure Category I Conservation Easement
- Partially in response to a violation

Properties are located at 11790 and 11800 Glen Road, Potomac, MD; Zoned RE-2; 2002 Potomac Subregion Master Plan.

Applicant: Glenstone Foundation



Summary

- Staff Recommendation: **Approval with Conditions**
- Proposal to remove approximately 0.38 acres of Category I Conservation Easement from Lot 1 and Parcel 527
- 0.52 acres of Category I Conservation Easement mitigation on Lot 1 (Bell Property)
- Meets requirements of Chapter 22A, Forest Conservation Law.

SECTION 1 – RECOMMENDATIONS AND CONDITIONS

FOREST CONSERVATION PLAN NO. SC2020008: Staff recommends approval of the Forest Conservation Plan with the conditions below.

1. Within sixty (60) days of the mailing date of the Planning Board Resolution approving the amendment to the Final Forest Conservation Plan, the Applicant must record a new Category I Conservation Easement reflecting the entire easement area including the area that is not authorized to be removed. The new easement agreement must be approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed prior to recordation of the deed of abandonment for the existing conservation easement. The entirety of the existing easement remains in full force and effect until the abandonment document and the revised easement have been approved and recorded in the Montgomery County Land Records.
2. Within sixty (60) days of the mailing date of the Planning Board Resolution approving the amendment to the Final Forest Conservation Plan, the Applicant must abandon the entirety of the original Category I Conservation Easements recorded among the County Land Records in Book 54505, Page 149 in a form approved by M-NCPPC. The abandonment document must be recorded in the Montgomery County Land Records by deed.
3. Within ninety (90) days of the mailing date of the Planning Board Resolution approving the amendment to the Final Forest Conservation Plan, the Applicant must submit a complete record plat application that delineates the revised Building Restriction Line.
4. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
5. The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
6. Prior to the start of any demolition, clearing, grading or construction for this development Application, the Applicant must install permanent conservation easement signage along the perimeter of the conservation easements as shown on the FCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
7. The revised Record Plat must be recorded in the Montgomery County Land Records within 365 days of the mailing date of the Planning Board Resolution approving the amendment to the Final Forest Conservation Plan.
8. The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.
9. Correct the Forest Conservation worksheet to include the offsite disturbance in the net tract area.

SECTION 2 – SITE LOCATION AND DESCRIPTION

Site Location

The original Forest Conservation Plan (SC201328008) is located on the south side of Glen Road and includes the Corcoran, Three Sisters, and part of the Thompson Farm Subdivisions in Potomac, MD, with a total area of approximately 200 acres (“Property”). The Property is zoned RE-2 and located in the *Potomac Subregion 2002 Master Plan* area.

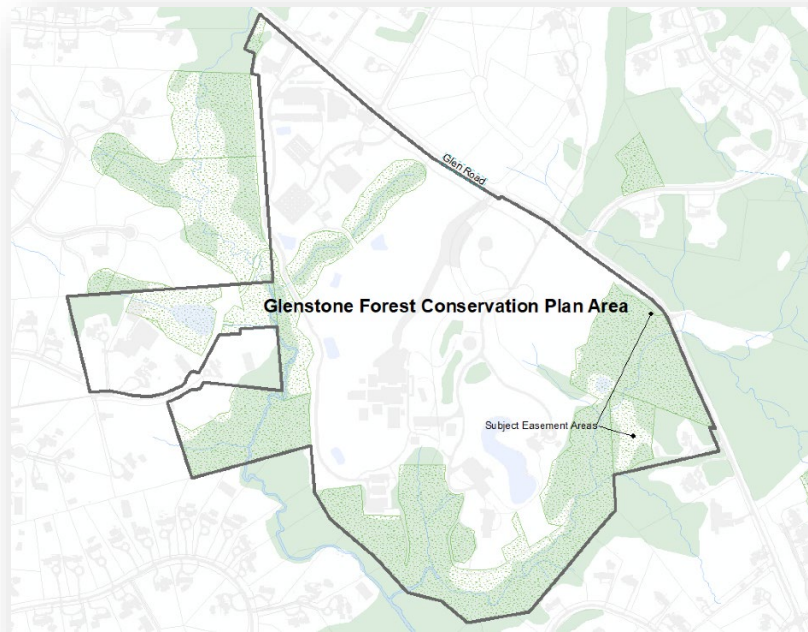


Figure 1 – Existing Conservation Easements

Site Vicinity

Glenstone is located between Glen, Stoney Creek, Travilah and Piney Meeting House Roads. They are primarily accessed from Glen Road. Two properties adjacent to the Glenstone plan are owned by Glenstone and the subject of this revision. Glenstone is a museum and educational center. Two existing homes will remain on the Property. The Property is surrounded by RE-2-zoned residential properties and confronts the South Unit of the Serpentine Barrens Conservation Park. (Figure 2).

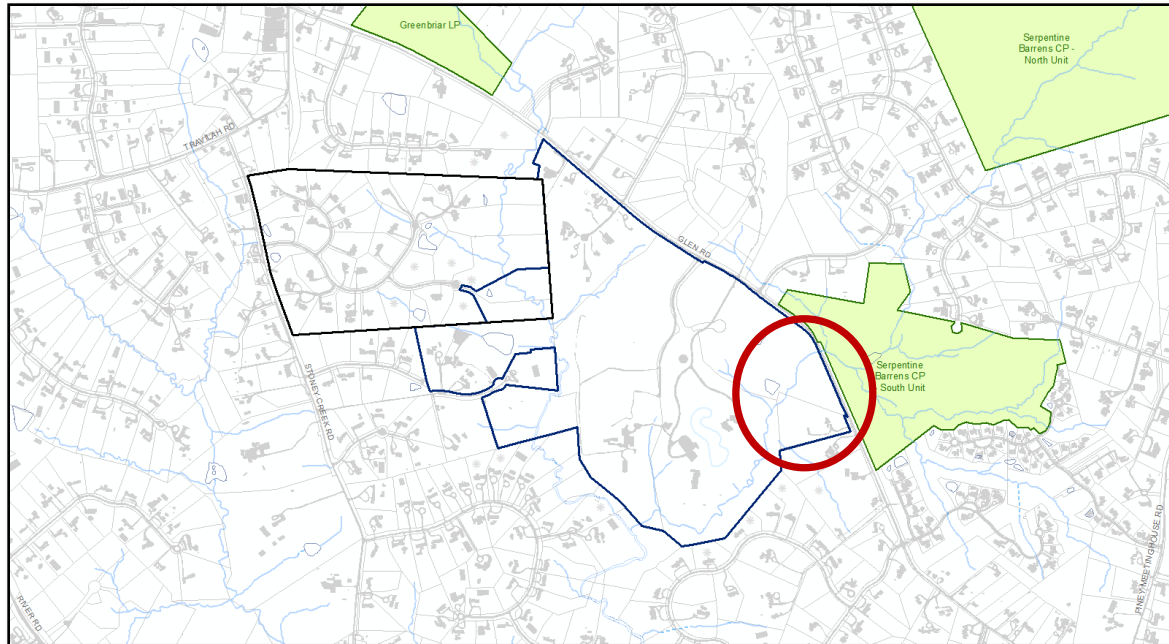


Figure 2 – Site Vicinity

SECTION 3 – APPLICATION AND PROPOSAL

Previous Approvals

The Montgomery County Planning Board approved a Glenstone FCP revision in February of 2018. The original plan (2013) and several subsequent revisions were approved by the Planning Director. FCPs associated with sediment control permits do not normally require Planning Board action. The original plan, and amendments have generated approximately 64.2 acres of Conservation Easement along the Greenbriar Branch and Sandy Branch stream valleys, both on and off the Glenstone site. Much of this conservation easement area is existing forest, but there are also planting areas totaling approximately 3.64 acres. A more recent amendment allowed a natural surface bridle trail and an amendment to the easement language to allow on-going maintenance.

Current Application

The Applicant requests the Planning Board amend the Final Forest Conservation Plans to remove two sections of the Category I Conservation Easement. The first area is 0.2 acres on the Bell property. The easement was first placed on the Bell property when it became part of the Glenstone property and the existing house and barn were demolished.

0.01 acres of the easement to be removed is within the stream valley buffer of Greenbriar Branch. This easement area is the former location of the demolished barn building where the Four Rounds Pavilion art installation will be built. The barn was an accessory structure to the house that formerly stood on this property. See Figure 4.

Adding the Four Rounds Pavilion requires extinguishing the existing rear building restriction line (BRL) shown on the existing record plat and realigning it with the existing floodplain location. A minor subdivision subsequent to this plan approval will allow that plat adjustment.



Figure 3 – 2019 Aerial Photograph of Site

The second area requiring adjustment to the forest easement is 0.16 acres in size along an informal roadway leading down to the Greenbriar Branch bridle path. Prior to the Glenstone ownership of this property, the bridle path along Greenbriar Branch had a formal driveway entrance to Glen Road. This entrance location has been close due to poor sight distance and to discourage road traffic on the bridle path. Formalizing this roadway on the Glenstone property that more or less parallels Glen Road replaces emergency vehicle access to the bridle path that formally existed off Glen Road. 0.08 acres of this area leading down to the bridle path is within the stream valley buffer of Greenbriar Branch. See Figure 5.

The application also proposes to add a raised boardwalk within the existing easement area to access the Pavilion. See Figure 4. This boardwalk is similar to, and connects with, the boardwalk approved by the Planning Board with the previous plan amendment.

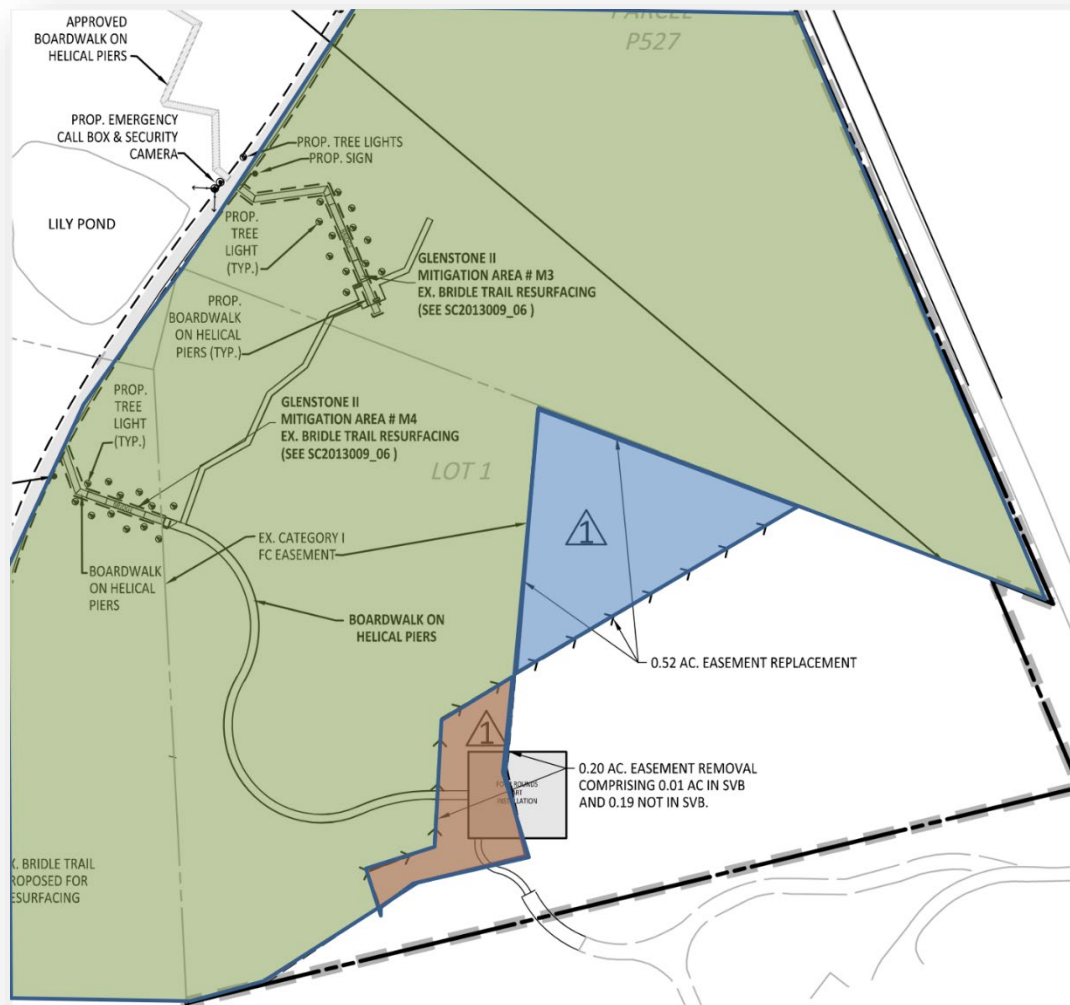


Figure 4 – Proposed Easement Removal and Replacement on the Bell Property

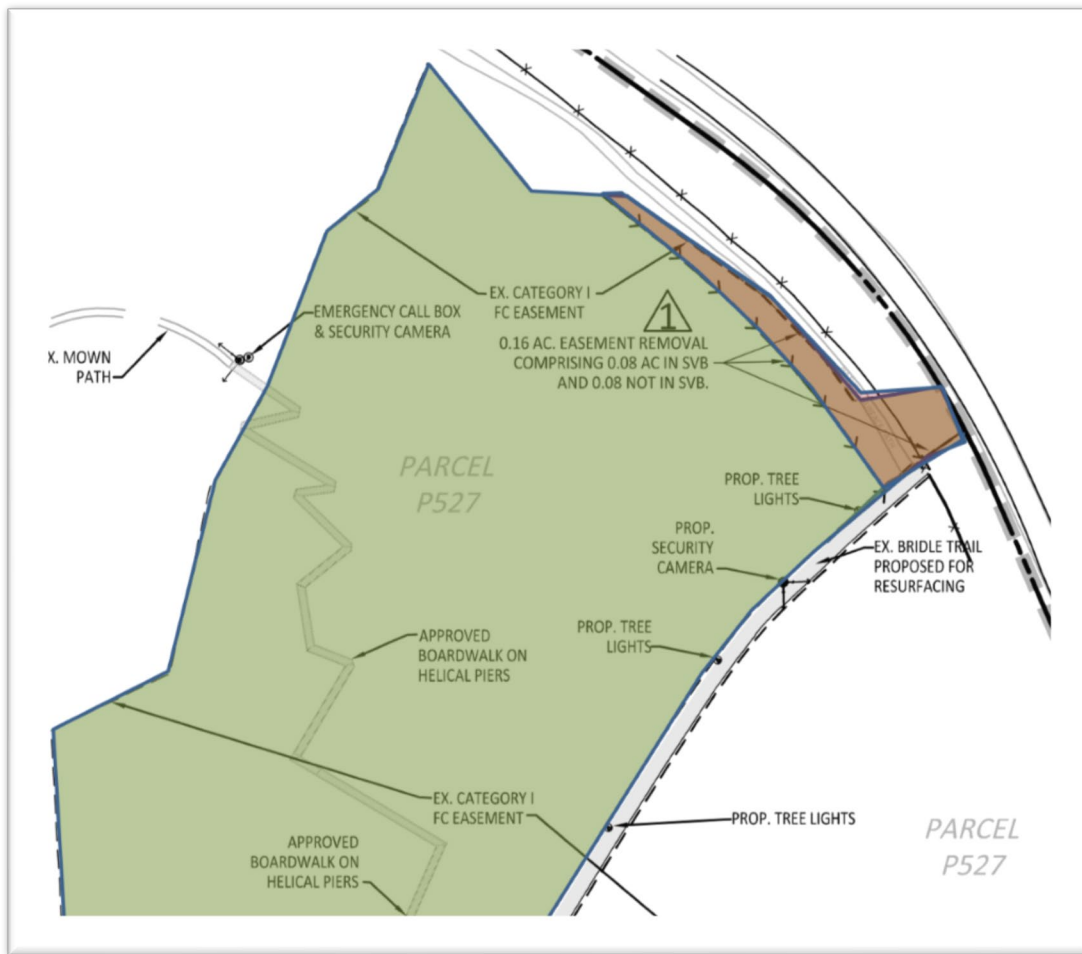


Figure 5 – Proposed Category I Easement Removal for Access Road

SC2020008 EASEMENT SWAP SUMMARY				
<u>EASEMENT REMOVED</u>				
	STREAM VALLEY BUFFER		NON-STREAM VALLEY BUFFER	
LOT 1	0.01 AC		0.19 AC	
PARCEL N527	0.08 AC		0.08 AC	
	.11 AC		0.27 AC	
REPLACEMENT RATIO	2:1		1:1	
REPLACEMENT EASEMENT REQ'D	0.22 AC	+	0.27 AC	= 0.49 ac
<u>EASEMENT ADDED</u>				
LOT 1	--		0.52 AC	

Figure 6

SECTION 4 – ANALYSIS AND FINDINGS

PLANNING BOARD REVIEW AUTHORITY

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

Major amendments which entail more than a total of 5000 square feet of additional forest clearing must be approved by the Planning Board or the Planning Director (depending on who approved the original plan).

In addition, all plan revisions that include the removal of conservation easements are required to have Planning Board approval.

FOREST CONSERVATION PLAN

The Glenstone museum and environmental educational center is largely complete and has been receiving visitors since October of 2018. The Applicant is also undertaking stream restoration plans for both Sandy Branch and Greenbriar Branch.

The current plan revision is to construct a pavilion for an art installation on the Bell property, now owned by Glenstone and part of the overall Forest Conservation Plan. This installation also includes extending the existing raised boardwalk that has been completed on the opposite side of Greenbriar Branch to this new pavilion. This revision also completes the access road to the existing bridle path. See Figure 5

The 0.49 acres of easement removal from both of these areas will be mitigated 1:1 for non-buffer easement removal and 2:1 for buffer easement removal on Lot 1 (Bell Property). See Figure 6. An additional 1.16 acres of forest will remain on the Bell Property, but it will not be permanently protected by an easement.

0.26 acres of onsite forest clearing, and 0.46 acres of offsite forest clearing will take place as part of this plan. The offsite clearing is located just south of the Bell property with permission of the owner. This area was added to the net tract area due to disturbance associated with construction on the Bell Property prior to a pre-construction meeting having taken place. A Notice of Violation was issued to the applicant during the review cycle of this plan. See attachment 2. This disturbed area was subsequently added to the forest conservation plan area.

The overall Glenstone plan, including this revision, results in forest clearing of 5.54 acres and the protection of 38.88 acres of forest total, on the Glenstone site. The easement losses are being mitigated, but forest planting is required.

Forest Conservation Variance

Section 22A-12(b) (3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection. Any impact to these trees, including removal of the subject tree or disturbance within the tree's critical root zone (CRZ) requires a variance. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that: measure 30 inches or greater DBH; are part of an historic site or designated with an historic structure; are designated as national, State, or County champion trees; are at least 75 percent of

the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

Variance Request - The Applicant submitted a variance request in a letter dated April 23, 2020 (Attachment B). The Applicant proposes to remove one (1) tree that is 30 inches or greater DBH and to impact two (2) trees, that are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law.

Trees to be impacted:

Tree Number	Species	DBH Inches	Impact Area	Condition
2845	Northern Red Oak	34"	100%	This tree is located at the southwest corner of the proposed Four Rounds Pavilion. The pavilion was sited in conjunction with M-NCPPC staff and determined that moving the pavilion away from the tree would result in additional clearing and land disturbance. This tree cannot be preserved and will be removed to allow for the placement of the new Pavilion.
6873	American Sycamore	33"	24%	This tree is located approximately 85' SW of the proposed pavilion. The impacts to the CRZ are for the storm water discharge from the building. An alternative discharge point is infeasible, and impacts have been reduced to the maximum extent practicable.
6903	American Sycamore	31.5	3%	This tree is located approximately 100' WSW of the proposed pavilion. The impacts to the CRZ are for the storm water discharge from the building. An alternative discharge point is infeasible, and the impacts have been reduced to the maximum extent practicable.

Unwarranted Hardship Basis

Per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship, denying the Applicant reasonable and significant use of its property. The Four Rounds Pavilion was strategically sited in coordination with MNCPPC staff. The location of the Pavilion in the woods is in a preexisting sizable clearing, on the old footprint of a barn. Numerous studies were made to evaluate orientation, elevation and exact placement of the pavilion within that footprint, avoiding impact to the stream floodplain and keeping grading to the minimum necessary. The intended design of the project is nesting the pavilion in the woods, integrated and screened by existing large canopy trees, and therefore preserving as many trees as possible. Moving

the Pavilion further from the existing tree proposed to be removed would have necessitated the removal of another large existing tree located north of the pavilion and over six additional medium sized trees. A second consideration was creating a comfortable access to the pavilion for visitors, including ADA requirements. The boardwalk that leads to the entrance has gentle slope, making it an easy reach, and minimizing its impact by avoiding tree critical root zones and allowing visitors to enjoy and appreciate the existing trees.

Therefore, Staff concurs that the Applicant has a sufficient unwarranted hardship to justify granting 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.

Variance Findings - Staff has made the following determinations based on the required findings that granting the requested variance:

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

Granting the variance will not confer a special privilege on the Applicant as the removal and impact to the tree is necessary to develop the site on the old barn foundation. 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 on existing site conditions.

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. This is a very minimal building and entrance road and will include a stormwater management plan. The trail will be raised above the floodplain and allow natural flow during flood conditions. Therefore, Staff concurs that the Project will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provision -Mitigation for the removal of Variance trees is not required as the existing tree is within a forested area that is currently within the easement that is proposed for removal.

Variance Recommendation - Staff recommends approval of the variance request.

SECTION 5 – CITIZEN CORRESPONDENCE AND ISSUES

As of the date of this report, Staff has not received any citizen correspondence and is not aware of any outstanding issues associated with this project.

The Applicant has met all noticing and submittal requirements.

SECTION 6 – CONCLUSION

The proposed amendment meets all requirements established in Chapter 22A, Forest Conservation Law. Therefore, approval of the Application with the conditions specified herein is recommended.

ATTACHMENTS

Attachment A – FCP SC2020008

Attachment B – 11790 Glen Road Notice of Violation