

SEP 19 2011

SEP 19 2011

**OFFICE OF THE GENERAL COUNSEL
MONTGOMERY REGIONAL OFFICE**

10.00
 15.00
 115.00
 47.35
 833
 06.52

75
40
CA

Environmental planning staff or other approving authority approved Grantor's Planting Plan conditioned upon a requirement that restoration occur in strict accordance with an Administrative order restoration/planting plan approved by the Maryland-National Capital Park and Planning Commission's Environmental planning staff after full review of the Planting Plan pursuant to the provisions of Montgomery County Code Chapter 22A (Forest Conservation); and/or

WHEREAS, the Maryland-National Capital Park and Planning Commission's Environmental planning staff approved Grantor's Restoration/Planting Plan conditioned upon Grantor subjecting the property to be remediated ("Property") or a portion of the Property to a conservation easement pursuant to the provisions of Montgomery County Code Chapter 22A (Forest Conservation) and

WHEREAS, the location of this Easement is as shown on Exhibit B attached hereto and incorporated by reference into the terms of this Easement; and

WHEREAS, the purpose of this Easement is to protect existing and future forest cover; individual trees; streams and adjacent buffer areas, wetlands and other sensitive natural features; and to maintain existing natural conditions to protect plant habitats, water quality and wildlife; and

WHEREAS, the purpose includes preservation of the natural beauty of the Property subject to the easement and prevention of any alteration, construction or destruction that will tend to mar or detract from such natural beauty; and

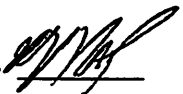
WHEREAS, the purpose also includes the protection and preservation of natural features within the area of the Easement which efforts are consistent with the terms and conditions of the approved Planting Plan and applicable law; and

WHEREAS, the Grantor and Grantee (collectively referred to as the "Parties") intend for the conditions and covenants contained in this Easement to run with the land in perpetuity and to be binding on all subsequent owners and occupants of the Property; and

WHEREAS, the Grantor intends that a servitude be placed upon the Property to create a conservation benefit in favor of the Planning Board.

NOW, THEREFORE, the Grantor has executed this Easement for no monetary consideration but for the purpose of ensuring compliance with the Restoration Planting Plan. The Grantor does hereby grant and convey unto the Planning Board, in perpetuity, an easement on the Property of the size and location described in Exhibit B attached hereto and incorporated by reference into the terms of this Easement. This Easement constitutes a covenant real running with the title of the land, and is granted to preserve, protect and maintain the general topography and natural character of the land. The Grantor does hereby waive any challenge to the validity of

Grantor Initials



this easement whether or not shown on a plat. Grantor, its heirs, successors and assigns covenant to abide by the following restrictions within the Easement:

1. The foregoing recitals are agreed to and incorporated herein and shall be binding upon the Grantor.

2. No living tree or shrubs (of any size or type) shall be cut down, removed or destroyed except:

- a. With prior written consent from the Planning Director; or
- b. Pursuant to a forest management plan prepared by a licensed forester and approved by the Planning Director and a timber harvest plan approved by Montgomery Soil Conservation District of the State of Maryland.

Diseased or hazardous trees or limbs may be removed to prevent personal injury or property damage after reasonable notice to the Planning Board, unless such notice is not practical in an emergency situation or removal of trees is undertaken pursuant to a forest management plan approved by the Planning Director.

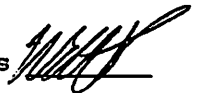
3. No plant materials (including, but not limited to brush, saplings, undergrowth, or non-woody vegetation) shall be mowed or cut down, dug up, removed or destroyed unless removed pursuant to the terms and conditions of an approved forest management plan. Noxious weeds (limited to those weeds defined as "noxious" under Maryland State or Montgomery County laws or regulations and "exotic or invasive plants" in the Montgomery County *Trees Technical Manual*) may be removed as required by law, but the method of removal must be consistent with the limitations contained within this Easement. Vegetation removal shall be limited to noxious weeds only, exotic and invasive weeds only, and protective measures must be taken to protect nearby trees and shrubs.

4. No mowing, agricultural activities, or cultivation shall occur, except forest silvicultural practices performed pursuant to a forest management plan approved by the Planning Director. Grantor may replace dead trees or undergrowth provided that new plantings are characteristic of trees or undergrowth native to Maryland.

5. Nothing in this Easement precludes activities necessary to implement an afforestation or reforestation efforts pursued pursuant to an approved forest conservation plan or maintenance agreement implemented under Chapters 19 or 22A of the Montgomery County Code.

8. The following activities may not occur at any time within the Easement area:

Grantor Initials

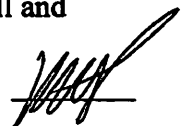


- a. Construction, excavation or grading (except for afforestation and reforestation efforts conducted in compliance with an approved forest conservation plan).
- b. Erection of any building or structural improvements on or above ground, including (but not limited to) sheds, dog pens, play equipment and retaining walls.
- c. Construction of any roadway or private drive.
- d. Activities which in any way could alter or interfere with the natural ground cover or drainage (including alteration of stream channels, stream currents or stream flow).
- e. Industrial or commercial activities.
- f. Timber cutting except as allowed under Paragraph 2 herein, unless conducted pursuant to an approved forest management plan approved by the Planning Director and the Department of Natural Resources for the State of Maryland.
- g. Location of any component of a septic system or wells.
- h. Excavation, dredging, or removal of loam, gravel, soil, rock, sand and other materials.
- i. Diking, dredging, filling or removal of wetlands.
- j. Pasturing of livestock (including horses) and storage of manure or any other effluent.
- k. Alteration of stream.

9. Nothing in this Easement shall prevent construction or maintenance of stormwater structures and/or facilities or other utilities, including, but not limited to water and sewer lines, on, over, or under the easement area, if said structures, facilities or utilities are (i) required to implement the Planting Plan, and (ii) approved by the appropriate governing bodies or agencies in accordance with applicable laws and regulations.

10. No dumping of unsightly or offensive material, including trash, ashes, sawdust or grass clippings shall occur. Natural biodegradable materials may be allowed in a properly located, designed, managed and maintained compost pile, provided the activity does not damage adjacent trees. Upon prior written approval of the Planning Director, suitable heavy fill and

Grantor Initials



other stabilization measures may be placed to control and prevent erosion, provided that the fill is covered by arable soil or humus and properly stabilized.

11. Fences consistent with the purposes of the Easement may be erected within the Easement area if shown on the Planting Plan or only after written approval from the Planning Director.

12. All rights reserved by or not prohibited to Grantor shall be exercised so as to prevent or minimize damage to the forest and trees, streams and water quality, plant and wildlife habitats, and the natural topographic character of the land within the Easement.

13. Grantor authorizes Planning Board representatives to enter the Property and easement area at their own risk and at reasonable hours for the purpose of making periodic inspections to ascertain whether the Grantor, its heirs, successors or assigns have complied with the restrictions, conditions, and easements established herein. This Easement does not convey to the general public the right to enter the Property or easement area for any purpose. This Easement does not restrict or enlarge access to the general public in common open space held under community or homeowner association control beyond any access rights created by applicable community or homeowner association covenants and by-laws.

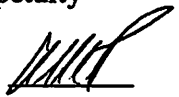
14. The Grantor does hereby waive any challenge to the validity of this Easement in the event it is not shown on a plat, and Grantor agrees to make specific reference to this Easement in a separate paragraph of any subsequent deed, sales contract, mortgage, lease or other legal instrument by which any possessory or equitable interest in the Property is conveyed.

15. No failure on the part of the Planning Board to enforce any covenant or provision herein shall waive the Planning Board's right to enforce any covenant within this Easement.

16. Upon finding a violation of any of the restrictions, conditions, covenants and easements established by this Easement, the Planning Board shall have the right to enforce such provisions in accordance with any statutory authority (including, if applicable, the imposition of civil monetary fines or penalties in amounts and by such means as may be promulgated from time to time). The Planning Board also may seek injunctive or other appropriate relief in any court of competent jurisdiction, including the right to recover damages in an amount sufficient to restore the property to its original natural state, and Grantor agrees to pay for court costs and reasonable attorney fees if the Planning Board successfully seeks judicial relief.

17. All written notices required by this Easement shall be sent to the Planning Director, M-NCPPC, 8787 Georgia Avenue, Silver Spring, Maryland 20910.

TO HAVE AND TO HOLD unto the Planning Board, its successors and assigns forever, this Grant shall be binding upon the heirs, successors and assigns of the Grantor in perpetuity

Grantor Initials 

and shall constitute a covenant real running with the title of the Property.

[SIGNATURE PAGE FOLLOWS]

Christina Serrento 11/4/11
Approved for legal sufficiency
Office of the General Counsel, MNCPPC

Grantor Initials

W/H

IN WITNESS WHEREOF, Grantor has caused to be executed this Easement to be signed by itself or its duly authorized officer as of this 12 day of September, 2011.

WITNESS:

[Signature]

GRANTOR:

[Signature]
Type: WALTER M. PRICHARD
21710 PEACH TREE RD
DICKERSON MD 20842
301-349-2062

STATE OF MARYLAND

COUNTY OF Montgomery to wit:

I HEREBY CERTIFY that on this 12 day of September 2011, before me, a Notary Public in and for the State and County aforesaid, personally appeared Walter M. Prichard, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing and annexed instrument and acknowledged that said individual executed the same for the purposes therein contained.

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

DEBORAH LYNN HENRY
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires October 30, 2012
My Commission Expires: _____

[NOTARIAL SEAL]

ATTORNEY CERTIFICATION

I certify that this instrument was prepared under the supervision of the undersigned, an attorney admitted to practice before the Court of Appeals of Maryland.

[Signature]

Christina Soriento
Closar, MNCPPC

Return to:

Law Offices of
CLIFFORD, DEBELIUS, BONIFANT,
FITZPATRICK & HYATT, CHTD.
316 E. Diamond Avenue
Gaithersburg, MD 20877-3016

Grantor Initials [Signature]



Exhibit A

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

April 7, 2011

Walter Pritchard
21710 Peachtree Road
Dickerson, MD 20842

Re: Revised Notice of Administrative Order for Forest Clearing Violations
Parcel 440
Near the Intersection of Beallsville Road and Hillrise Lane
(21715 Beallsville Road Boyds, Maryland 20841)

Dear Mr. Pritchard:

This letter is a revised corrective action order being issued to you for grading, disturbance, and forest removal on parcel 440 near the intersection of Beallsville Road and Hillrise Lane that has occurred in violation of the County's Forest Conservation Law.

Our Forest conservation Inspector, Mr. Stephen Peck, conducted an inspection of your property and at that time extensive forest clearing was observed. M-NCPPC estimates that approximately 2.96 acres of forest was cleared based upon field inspection, previously submitted plans, and analysis of air photos and M-NCPPC GIS data. On June 25, 2009 a notice of violation (NOV) was issued for forest clearing without authorization and required a meeting with M-NCPPC staff. The required meeting was held on July 8, 2009 and it was determined that you were to submit forest conservation violation planting plan.

On August 19, 2010 a corrective action order was issued to you outlining certain actions that needed to be performed. On March 3, 2011, a Notice of Hearing was issued to you for failure to perform the necessary corrective actions. Since that time, numerous discussions have ensued and this revised corrective action order codifies the results of those discussions.

Therefore, by this letter, and in light of considerations outlined in §§22A-16(d) and 22A-17 of the County code, I am instituting the following enforcement action on behalf of the Commission:

- A) As the Acting Chief of Development Applications and Regulatory Coordination Division, and the Planning Director's designee, in accordance with §22A-17, I am issuing an administrative order for corrective action for the clearing, grading, and disturbance conducted or

ultimately allowed by you. This order requires that you, as the property owner, undertake corrective action, as detailed in Attachment One to this letter. In determining the extent of this administrative order I have made the following findings:

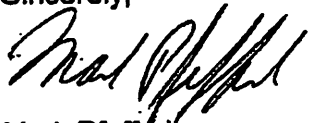
- (A) Approximately 2.96 acres of forest located on your property has been removed.

If you don't fully comply with this administrative order for corrective action by the timelines established in the order, this case will be scheduled for an enforcement hearing in front of the Hearing Examiner designated by the Planning Board. At that hearing you may also be subject to further Administrative Civil Penalties imposed by the Planning Board, in accordance with §22A-16(d)(1) of the County code. The decision as to whether Administrative Civil Penalties are appropriate, as well as the monetary amount of the Penalties if they are, will be contemplated in accordance with the factors noted in §22A-16(d)(2):

- (A) the willfulness of the violations;
- (B) the damage or injury to tree resources;
- (C) the cost of corrective action or restoration;
- (D) any adverse impact on water quality;
- (E) the extent to which the current violation is part of a recurrent pattern of the same or similar type of violation committed by the violator;
- (F) any economic benefit that accrued to the violator or any other person as a result of the violation;
- (G) the violator's ability to pay; and
- (H) other relevant factors.

Before planting the trees, please contact Mr. Stephen Peck at (301) 495-4564 to schedule a pre-planting meeting. After the trees are planted you will need to schedule a re-inspection of the site work with Mr. Peck

Sincerely,



Mark Pfefferle
Acting Chief
Development Applications and
Regulatory Coordination Division

cc: Stephen Peck
Josh Penn
Jim Clifford
Josh Maisel

Attachment One-Corrective Action

ATTACHMENT ONE
CORRECTIVE ACTION FOR
PARCEL 440 NEAR THE INTERSECTION OF
BEALLSVILLE ROAD AND HILLRISE LANE
BEALLSVILLE, MD 20838

1. Property owner shall submit a restoration-planting plan (hereafter, "Plan"), which will include mitigation for the grading, disturbance, and forest removal that occurred in violation of the Forest Conservation Law. The Plan must include provisions for reforestation of approximately 2.6 acres of forest. The planting plan must be submitted for approval within 7 days from the date of this administrative order. The Plan, as ultimately approved, must be fully implemented by May 15, 2011. Planting size, spacing and locations must comply with standard reforestation rates. The selected plantings must consist of a minimum of five different tree species. The shrubs must be a minimum of 24" in height and be container grown. A minimum of two different shrubs species are required, including Viburnum and Spicebush. The Plan must include planting specifications and adequate provisions for maintenance of the plants after planting, including watering and protection of the planted materials from deer and other pests. Plantings must be under a performance bond and warranty for a minimum of two years.
2. All plantings must be placed into a Category I Conservation easement and recorded in the County Land Records by deed.
3. All conservation easements must be recorded by May 15, 2011.
4. Plantings and associated easement areas are subject to a maintenance and management agreement to be submitted and approved along with the Plan.
5. The Plan must include provisions for re-conditioning the soil of the easement areas that have been compacted, removed or degraded by unauthorized disturbances.
6. The Plan must include provisions for invasive species control throughout the planting areas.
7. All of the planting areas must be fenced with materials that prohibit livestock for entering the easement area. Specific final details will be approved as part of the Plan submission. Permanent boundary monuments must be installed for each of corner of the Easement

Areas. Forest Conservation Area signage must be installed according to the restoration-planting plan. Installation must be completed by May 15, 2011.

8. All mowing and maintenance within all of the planting areas must cease unless the work is performed in accordance with an M-NCPPC approved maintenance and management agreement.
9. Property owner shall implement a Waterways Management Plan with Montgomery County Soil Conservation District for the waterway south of the Town of Barnesville City Limits by October 1, 2011. The waterway management plan should specifically look at the area between Beallsville Road and the eastern most culvert above the pond.
10. Property owner shall implement the Montgomery County Soil Conservation District Conservation Management Plan for forest stand C by October 1, 2011.

EXHIBIT - B**THOMAS A. MADDOX
PROFESSIONAL LAND SURVEYOR**

Registered to Practice:
Maryland
Virginia
District of Columbia

8933 Shady Grove Court
Gaithersburg, MD 20877
(301) 984-5804
(301) 330-0812
FAX(301) 984-6865

Description for a Category 1 Conservation Easement on the land of Walter M. Prichard as described in a deed from Charles E. Boehne, Personal Representative of the Estate of Theodore L. Heitmuller dated March 12, 2002 and recorded in Liber 21874 at Folio 91 among the land records of Montgomery County, Maryland and being more particularly described as follows:

Beginning for the same at a beginning 15th line of the aforementioned description and thence running with said 15th line and part of the 16th or last line thereof

N71° 42' 11"E for 838.43 feet; thence

S18° 22' 51"W for 514.88 feet; thence departing the outlines thereof and running so as to cross and include a part thereof

N75° 53' 30"W for 91.09 feet; thence

N09° 29' 20"E for 137.00 feet; thence

N32° 39' 26"E for 31.54 feet; thence

N57° 07' 56"W for 112.29 feet; thence

N67° 36' 58"W for 112.10 feet; thence

S34° 08' 12"W for 20.66 feet; thence

S65° 28' 14"W for 56.30 feet; thence

S74° 21' 42"W for 82.46 feet; thence

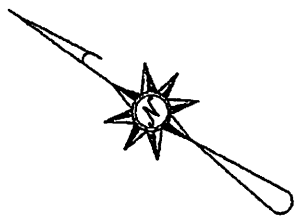
S82° 32' 28"W for 238.36 feet; thence

N14° 58' 13"W for 32.63 feet, to the point of beginning containing 2.62 acres of land more or less.



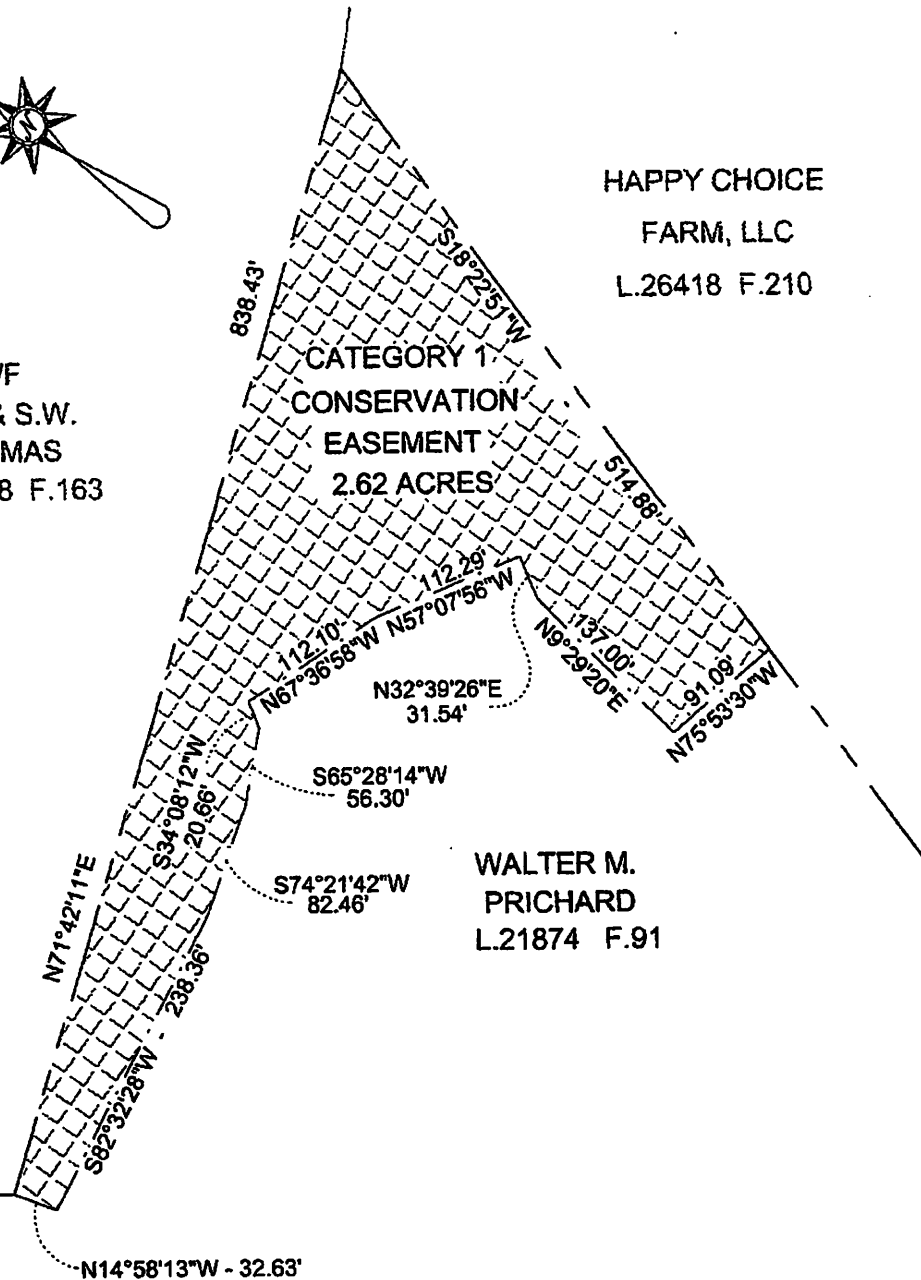
Thomas A. Maddox

EXHIBIT - B



N/F
B.M. & S.W.
THOMAS
L.1108 F.163

HAPPY CHOICE
FARM, LLC
L.26418 F.210



WALTER M.
PRICHARD
L.21874 F.91



Thomas A. Maddox

REFERENCE
LIBER
21874
FOLIO
91

CATEGORY 1
CONSERVATION EASEMENT
ON THE LAND OF
WALTER M. PRICHARD
ELECTION DISTRICT NO.11
MONTGOMERY COUNTY, MARYLAND
SCALE: 1"=100' MARCH 2011

THOMAS A. MADDOX
PROFESSIONAL LAND SURVEYOR
8933 SHADY GROVE COURT
GAITHERSBURG, MARYLAND 20877
(301) 984-5804

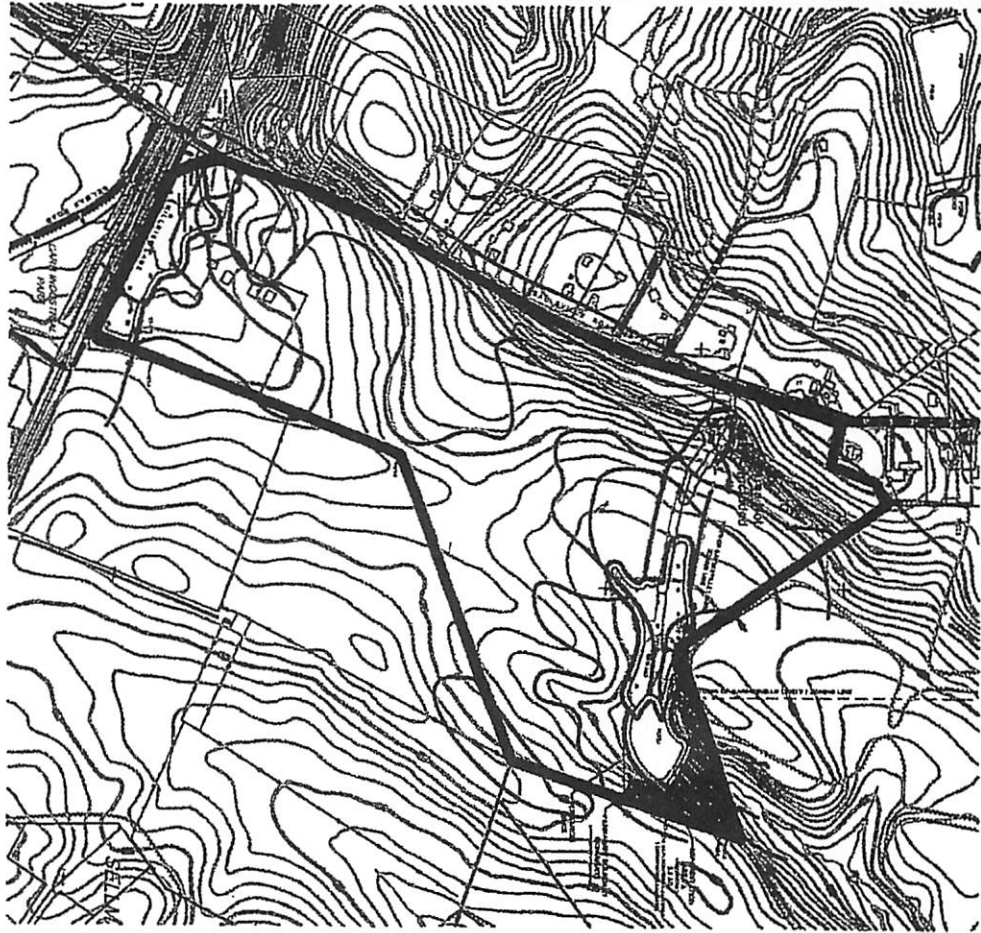
80012-500

Exhibit C

42770

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NOTE:
THIS MAP WAS PREPARED BY THE MONTGOMERY COUNTY
DEPARTMENT OF PLANNING AND ZONING
AND DOES NOT CONSTITUTE A GUARANTEE OF
THE ACCURACY OF THE INFORMATION SHOWN
HEREON.



- LEGEND:**
- FOREST / TREE COVER
 - REFORESTATION AREA
 - SIGNIFICANT TREE
 - SLOPES 15-25% ON HIGHLY
ERODIBLE SOILS
 - SLOPES >25%
 - SOIL TYPES
 - STREAM BUFFER
 - TREE PROTECTION SIGN
 - WETLAND AREA

WALTER M. PIRCHARD
2115 PIRCHARD ROAD
BETHESDA, MARYLAND 20814
(301) 462-2222



FOREST CONSERVATION VIOLATION

PLANTING PLAN
HEITMULLER PROPERTY
Montgomery County, Maryland



Engineering & Associates, Inc.
Land Planning Consultants
8075 Sandy Green Circle
Columbia, MD 21047
(410) 271-1100

date: January 20, 2010

scale: 1" = 200'



Sheet 1 of 3



One of

State of Maryland Land Instrument Intake Sheet

☐ Baltimore City ☒ County, Montgomery
 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)

Space Reserved for Circuit Court Recording Validation

1	Type(s) of Instruments	☐ Check Box if addendum Intake Form is Attached. ☐ Deed ☐ Deed of Trust ☐ Mortgage Lease ☒ Other Easement ☐ Other _____					
2	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]		
3	Tax Exemptions (if applicable)	Recordation _____ State Transfer _____ Cite or Explain Authority _____ County Transfer _____					
4	Consideration and Tax Calculations	Consideration Amount		Finance Office Use Only Transfer and Recordation Tax Consideration			
Purchase Price/Consideration		\$ 0.00		Transfer Tax Consideration	\$		
Any New Mortgage		\$ 0.00		X () % =	\$		
Balance of Existing Mortgage		\$ 0.00		Less Exemption Amount	\$		
Other:		\$		Total Transfer Tax	\$		
		Other:	\$		Recordation Tax Consideration	\$	
		Full Cash Value:	\$		X () per \$500 =	\$	
					TOTAL DUE	\$	
5	Fees	Amount of Fees		Doc. 1	Doc. 2		
Recording Charge		\$ 75.00		\$	Agent:		
Surcharge		\$ 40.00		\$	Tax Bill:		
State Recordation Tax		\$		\$	C.B. Credit:		
State Transfer Tax		\$		\$	Ag. Tax/Other:		
County Transfer Tax		\$		\$			
Other		\$		\$			
Other		\$		\$			
6	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
11		00916437	21874 @ 00091				(5)
Subdivision Name		Lot (3a)	Block (3b)	Sect/AR (3c)	Plat Ref.	SqFt/Acreage (4)	
Location/Address of Property Being Conveyed (2)							
21715 Beallsville Road, Boyds, MD 20841							
Other Property Identifiers (if applicable)					Water Meter Account No.		
Residential ☐ or Non-Residential ☒ Fee Simple ☐ or Ground Rent ☐ Amount: _____							
Partial Conveyance? ☐ Yes ☒ No Description/Amt. of SqFt/Acreage Transferred: _____							
If Partial Conveyance, List Improvements Conveyed: _____							
7	Transferred From	Doc. 1 – Grantor(s) Name(s)			Doc. 2 – Grantor(s) Name(s)		
		Walter M. Prichard					
		Doc. 1 – Owner(s) of Record, if Different from Grantor(s)			Doc. 2 – Owner(s) of Record, if Different from Grantor(s)		
8	Transferred To	Doc. 1 – Grantee(s) Name(s)			Doc. 2 – Grantee(s) Name(s)		
		Maryland National Capital Park and Planning Commission					
		New Owner's (Grantee) Mailing Address					
9	Other Names to Be Indexed	Doc. 1 – Additional Names to be Indexed (Optional)			Doc. 2 – Additional Names to be Indexed (Optional)		
10	Contact/Mail Information	Instrument Submitted By or Contact Person				☒ Return to Contact Person	
		Name: James R. Clifford, Sr., Esq.				☐ Hold for Pickup	
		Firm Clifford, Debelius et al				☐ Return Address Provided	
		Address: 316 East Diamond Avenue, Gaithersburg, MD 20877 Phone: (301) 840-2232					
11	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							
Terminal Verification		Agricultural Verification		Whole		Part	
Transfer Number		Date Received:		Deed Reference:		Assigned Property No.:	
Year	20	20		Geo.	Map	Sub	Block
Land				Zoning	Grid	Plat	Lot
Buildings				Use	Parcel	Section	Occ. Cd.
Total				Town Cd.	Ex. St.	Ex. Cd.	
REMARKS:							

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) LEK 42770, p. 0016, MSA_CE63_42722, Date available 12/08/2011, Printed 12/01/2016.

Space Reserved for County Validation