

MONTGOMERY COUNTY HISTORIC PRESERVATION COMMISSION
STAFF REPORT

Address:	4 North St., Brookeville	Meeting Date:	3/22/2017
Resource:	Non-Contributing Resource Brookeville Historic District	Report Date:	3/15/2017
Applicant:	Matt Pollack	Public Notice:	3/8/2017
Review:	HAWP	Tax Credit:	N/A
Case Number:	23/65-17A	Staff:	Michael Kyne
PROPOSAL:	Tree removal		

STAFF RECOMMENDATION:

Staff recommends that the HPC **approve** the HAWP application.

ARCHITECTURAL DESCRIPTION

SIGNIFICANCE: Non-Contributing Resource within the Brookeville Historic District
STYLE: Mid-Atlantic Contextual
DATE: 2012

PROPOSAL:

The applicant proposes to remove four (4) trees from the front of the subject property. The trees to be removed include a 34" dbh Poplar, 36" dbh Poplar, 26" dbh Poplar, and 29" dbh Norway Maple.

APPLICABLE GUIDELINES

When reviewing alterations and new construction within the Brookeville Historic District several documents are to be utilized as guidelines to assist the Commission in developing their decision. These documents include *Montgomery County Code Chapter 24A (Chapter 24A)*, and *the Secretary of the Interior's Standards for Rehabilitation (Standards)*. The pertinent information in these documents is outlined below.

Brookeville Historic District Master Plan Amendment

The *Brookeville Historic District Master Plan Amendment (#23/65)* identifies Primary Resources, Secondary Resources, and Spatial Resources. 4 North Street is a Spatial Resource (Non-Contributing Resource).

Sec. 24A-8. Same-Criteria for issuance.

- (a) The commission shall instruct the director to deny a permit if it finds, based on the evidence and information presented to or before the commission that the alteration for which the permit is sought would be inappropriate, inconsistent with or detrimental to the preservation, enhancement or ultimate protection of the historic site or historic resource within an historic district, and to the purposes of this chapter.
- (b) The commission shall instruct the director to issue a permit, or issue a permit subject to such conditions as are found to be necessary to insure conformity with the purposes and requirements of this chapter, if it finds that:
 - (1) The proposal will not substantially alter the exterior features of an historic site or historic resource within an historic district; or
 - (2) The proposal is compatible in character and nature with the historical, archeological, architectural or cultural features of the historic site or the historic district in which an historic resource is located and would not be detrimental thereto or to the achievement of the purposes of this chapter; or
 - (3) The proposal would enhance or aid in the protection, preservation and public or private utilization of the historic site or historic resource located within an historic district in a manner compatible with the historical, archeological, architectural or cultural value of the historic site or historic district in which an historic resource is located; or
 - (4) The proposal is necessary in order that unsafe conditions or health hazards be remedied; or
 - (5) The proposal is necessary in order that the owner of the subject property not be deprived of reasonable use of the property or suffer undue hardship; [emphasis added] or
 - (6) In balancing the interests of the public in preserving the historic site or historic resource located within an historic district, with the interests of the public from the use and benefit of the alternative proposal, the general public welfare is better served by granting the permit.
- (c) It is not the intent of this chapter to limit new construction, alteration or repairs to any 1 period or architectural style.
- (d) In the case of an application for work on an historic resource located within an historic district, the commission shall be lenient in its judgment of plans for structures of little historical or design significance or for plans involving new construction, unless such plans would seriously impair the historic or architectural value of surrounding historic resources or would impair the character of the historic district. (*Ord. No. 9-4, § 1; Ord. No. 11-59*)

Secretary of Interior's Standards for Rehabilitation

The Secretary of the Interior defines rehabilitation as “the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features, which convey its historical, cultural, or architectural values.” Standards 2, 9, and 10 most directly apply to the application before the commission:

- #2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

STAFF DISCUSSION

The subject property is a non-contributing resource, which was constructed in 2012. While the four (4) trees to be removed are the only trees at the front of the property, the left side and rear of the property is bounded by a forest conservation easement area.

As documented on Circle 6, the applicant has provided an assessment from a certified arborist, who has stated that, in the event of catastrophic loading, “[t]hese trees could fail and possibly cause severe structural damage to the house.”

Staff finds that the removal of four (4) trees from the front of this non-contributing resource on a heavily forested lot is consistent with the criteria for approval and will not alter the spaces that characterize the historic district, in accordance with the *Standards*.

After full and fair consideration of the applicant’s submission staff finds the proposal as being consistent with the Criteria for Issuance in Chapter 24A-(b) 1 and 2, having found the proposal is consistent with the *Secretary of the Interior’s Standards for Rehabilitation* outlined above.

STAFF RECOMMENDATION

Staff recommends that the Commission **approve** the HAWP application under the Criteria for Issuance in Chapter 24A-8(b), having found that the proposal will not substantially impact the historic resource(s) and is compatible in character with the historic district and the purposes of *Chapter 24A*;

and with the *Secretary of the Interior’s Standards for Rehabilitation*;

and with the general condition that the applicant shall present the **3 permit sets of drawings, if applicable to Historic Preservation Commission (HPC) staff for review and stamping** prior to submission for the Montgomery County Department of Permitting Services (DPS) building permits;

and with the general condition that final project design details, not specifically delineated by the Commission, shall be approved by HPC staff or brought back to the Commission as a revised HAWP application at staff’s discretion;

and with the general condition that the applicant shall notify the Historic Preservation Staff if they propose to make **any alterations** to the approved plans. Once the work is completed the applicant will contact the staff person assigned to this application at 301-563-3400 or michael.kyne@montgomeryplanning.org to schedule a follow-up site visit.



HISTORIC PRESERVATION COMMISSION
301/563-3400

DPS - #8

APPLICATION FOR HISTORIC AREA WORK PERMIT

Contact Email: tmhpollock@hotmail.com Contact Person: Matt Pollock
Daytime Phone No.: 703 928 6533
Tax Account No.: _____
Name of Property Owner: Matt Pollock Daytime Phone No.: 703.928.6533
Address: 4 North St Brookville MD 20833
Street Number City State Zip Code
Contractor: TBD Phone No.: _____
Contractor Registration No.: _____
Agent for Owner: _____ Daytime Phone No.: _____

LOCATION OF BUILDING/PREMISE

House Number: 4 Street: North St
Town/City: Brookville Nearest Cross Street: Market
Lot: 1 Block: _____ Subdivision: Powerwoods
Liber: _____ Folio: _____ Parcel: _____

PART ONE: TYPE OF PERMIT ACTION AND USE

1A. CHECK ALL APPLICABLE:

- ☐ Construct ☐ Extend ☐ Alter/Revolute
☐ Move ☐ Install ☐ Wreck/Raze
☐ Revision ☐ Repair ☐ Revocable

CHECK ALL APPLICABLE:

- ☐ A/C ☐ Slab ☐ Room Addition ☐ Porch ☐ Deck ☐ Shed
☐ Solar ☐ Fireplace ☐ Woodburning Stove ☐ Single Family
☐ Fence/Wall (complete Section 4) ☒ Other: Remove 4 trees

1B. Construction cost estimator: \$ 3700.00

1C. If this is a revision of a previously approved active permit, see Permit # NO

PART TWO: COMPLETE FOR NEW CONSTRUCTION AND EXTEND/ADDITIONS

2A. Type of sewage disposal: 01 ☒ WSSC 02 ☐ Septic 03 ☐ Other: N/A
2B. Type of water supply: 01 ☒ WSSC 02 ☐ Well 03 ☐ Other: N/A

PART THREE: COMPLETE ONLY FOR FENCE/RETAINING WALL

3A. Height _____ feet _____ inches

3B. Indicate whether the fence or retaining wall is to be constructed on one of the following locations:

- ☐ On party line/property line ☐ Entirely on land of owner ☐ On public right of way/easement

I hereby certify that I have the authority to make the foregoing application, that the application is correct, and that the construction will comply with plans approved by all agencies listed and I hereby acknowledge and accept this to be a condition for the issuance of this permit.

T. Matt Pollock
Signature of owner or authorized agent

2-25-17
Date

Approved: _____ For Chairperson, Historic Preservation Commission

Disapproved: _____ Signature: _____ Date: _____

Application/Permit No.: _____ Date Filed: _____ Date Issued: _____

Edit 5/21/99

SEE REVERSE SIDE FOR INSTRUCTIONS

790994

(4)

**THE FOLLOWING ITEMS MUST BE COMPLETED AND THE
REQUIRED DOCUMENTS MUST ACCOMPANY THIS APPLICATION.**

1. WRITTEN DESCRIPTION OF PROJECT

- a. Description of existing structure(s) and environmental setting, including their historical features and significance:

Remove (4) trees located in front of house. One tree is broken in half. Other 3 ~~trunk~~ trees and have a lot of dead wood and growing off main trunk. Main reason is as a contractor and the amount of wind and blk the trees have a slope going down to my house its been determined that if they fall major damage will happen to my house. And my daughters bedroom is right in front. Major hazard and as a contractor major damage could occur.

- b. General description of project and its effect on the historic resource(s), the environmental setting, and, where applicable, the historic district:

Remove 4 trees in front of property

2. SITE PLAN

Site and environmental setting, drawn to scale. You may use your plat. Your site plan must include:

- the scale, north arrow, and date;
- dimensions of all existing and proposed structures; and
- site features such as walkways, driveways, fences, ponds, streams, trash dumpsters, mechanical equipment, and landscaping.

3. PLANS AND ELEVATIONS

You must submit 2 copies of plans and elevations in a format no larger than 11" x 17". Plans on 8 1/2" x 11" paper are preferred.

- Schematic construction plans**, with marked dimensions, indicating location, size and general type of walls, window and door openings, and other fixed features of both the existing resource(s) and the proposed work.
- Elevations (facades)**, with marked dimensions, clearly indicating proposed work in relation to existing construction and, when appropriate, context. All materials and fixtures proposed for the exterior must be noted on the elevations drawings. An existing and a proposed elevation drawing of each facade affected by the proposed work is required.

4. MATERIALS SPECIFICATIONS

General description of materials and manufactured items proposed for incorporation in the work of the project. This information may be included on your design drawings.

5. PHOTOGRAPHS

- Clearly labeled photographic prints of each facade of existing resource, including details of the affected portions. All labels should be placed on the front of photographs.
- Clearly label photographic prints of the resource as viewed from the public right-of-way and of the adjoining properties. All labels should be placed on the front of photographs.

6. TREE SURVEY

If you are proposing construction adjacent to or within the dripline of any tree 6" or larger in diameter (at approximately 4 feet above the ground), you must file an accurate tree survey identifying the size, location, and species of each tree of at least that dimension.

7. ADDRESSES OF ADJACENT AND CONFRONTING PROPERTY OWNERS

For ALL projects, provide an accurate list of adjacent and confronting property owners (not tenants), including names, addresses, and zip codes. This list should include the owners of all lots or parcels which adjoin the parcel in question, as well as the owner(s) of lot(s) or parcel(s) which lie directly across the street/highway from the parcel in question.

Olney Gardens Inc. T/A

17328 Georgia Ave
Olney, MD 20832
301-774-2968
Fax: 301-540-9630
pogotreeexperts@verizon.net

pogo
TREE EXPERTS

Maryland Tree
Expert License # 520
ISA Certified
Arborist #MA0151

Quote

Date: 2/23/2017

For: Matt Pollock
4 North Street
Brookeville MD 20833

By: **Pogo**

Phone: 703-928-6533

Fax/Email: tmattpollock@hotmail.com

Below is the program we recommend for the trees and shrubs on your grounds. Please review this information and the terms and conditions on the reverse side. Sign and return authorizing this program. Please retain a copy for your records. This is not an invoice.

Take down 1 Norway Maple and 3 Poplar tree in front of house

grind stump and leave stump grindings

In the event castastrophic loading (wind,snow, ice, etc). These trees
could fail and possibley cause severe structural damage to house .

\$ 3,600.00

34" Poplar *MM*

36" Poplar

26" Poplar

29" Norway Maple

(see attached)

(Please sign)

(Date)

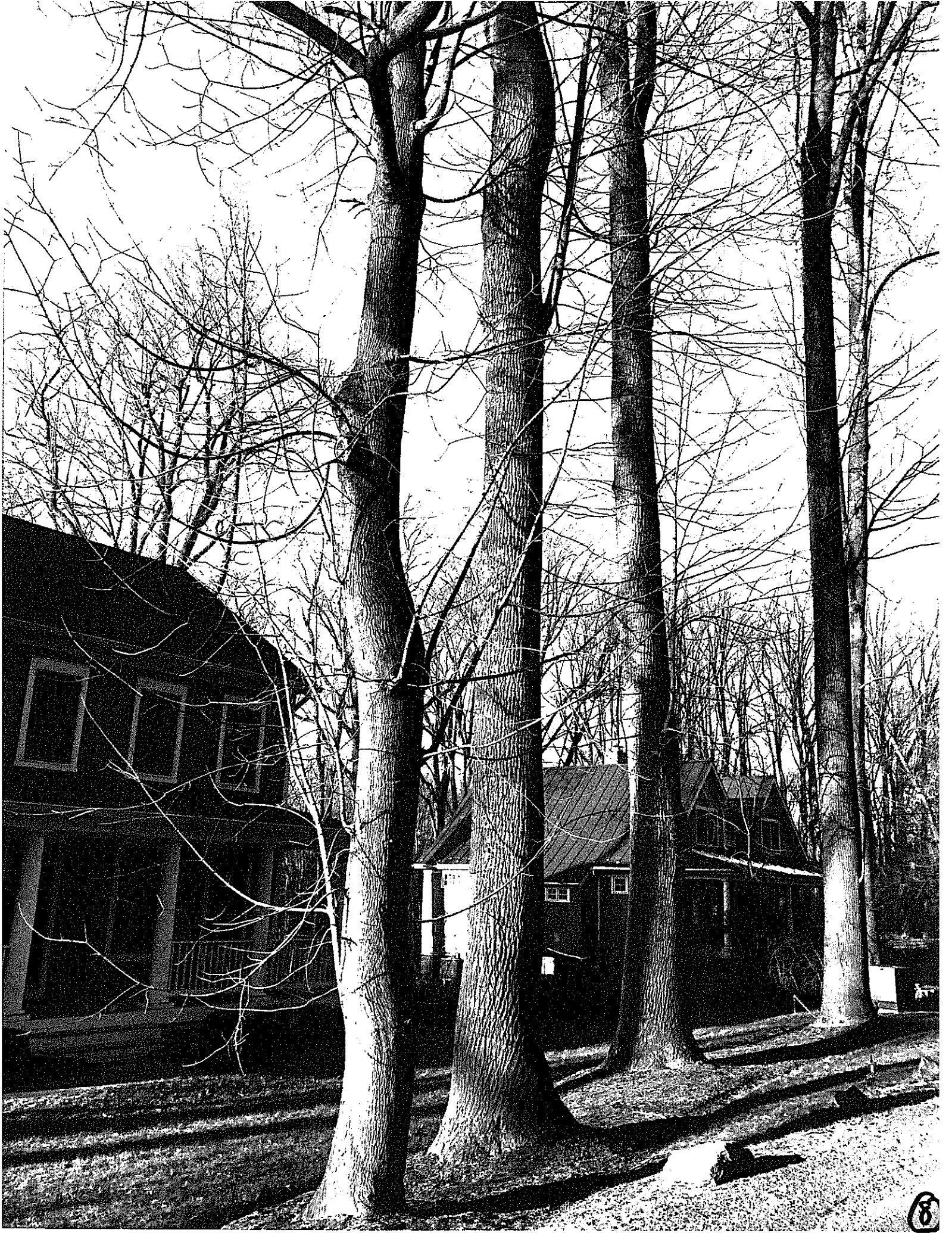
PLEASE SIGN AND RETURN

Prices quoted are valid for 30 days. All accts
days. All accounts are net payable upon receipt of invoice.

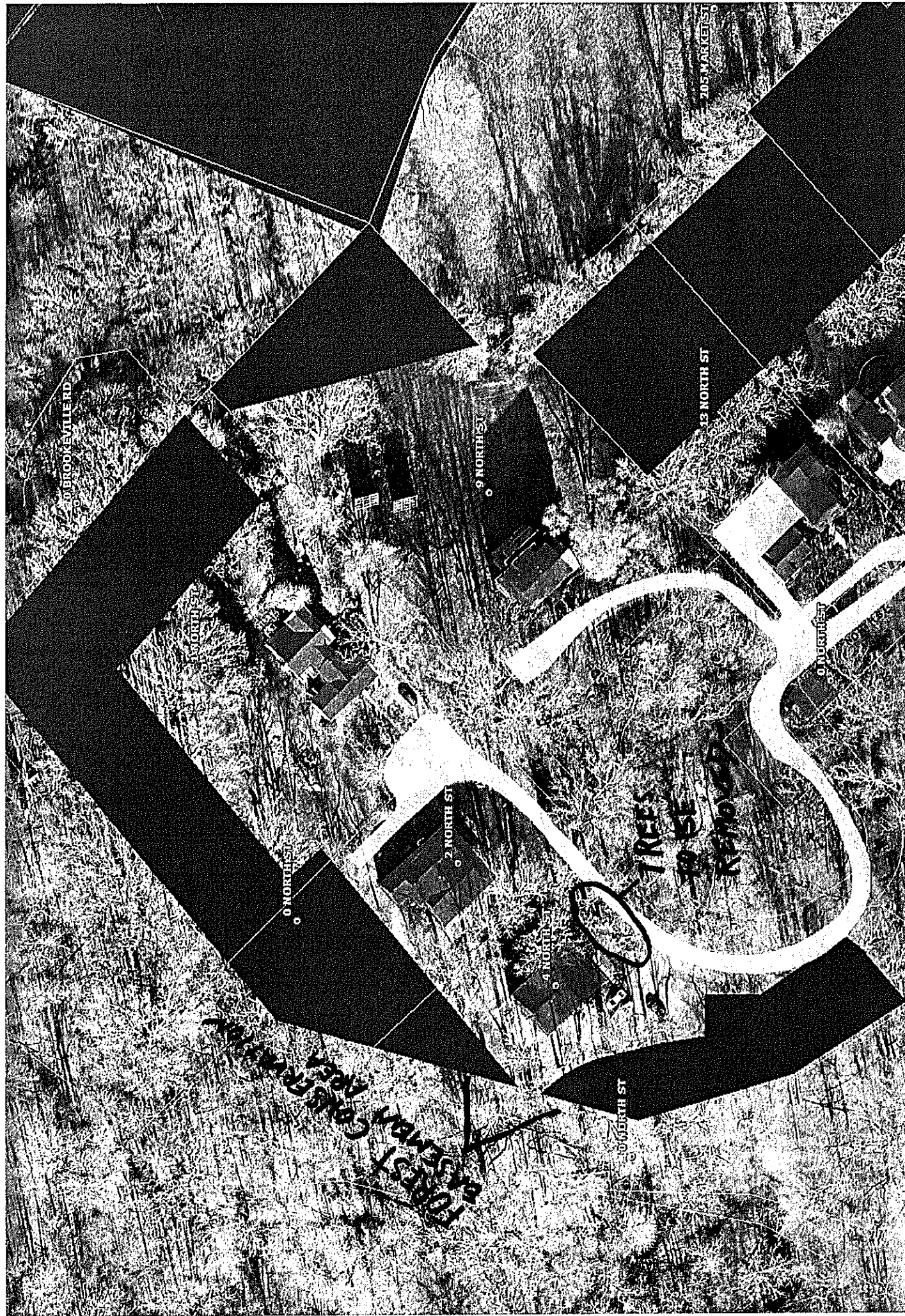
TOTAL



(7)







CONSERVATION EASEMENT AGREEMENT

Category II

DEFINITIONS

Grantor: Fee simple owner of real property subject to a:
 (i) Plan approval conditioned on compliance with a FCP; or
 (ii) Plan approval conditioned on compliance with a conservation easement agreement (issued pursuant to Chapter 50 or 59, Montgomery County Code).

Grantee: Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission ("Commission").

Planning Board: Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission.

Planning Director: Director of the Montgomery County Planning Department of the Maryland-National Capital Park and Planning Commission, Montgomery County, or the Director's designee.

Plan: Sediment control permit approved pursuant to Montgomery County Code Chapter 19; preliminary plan approved under Montgomery County Code Chapter 50; site plan, development plan, planned unit development or special exception application approved under Montgomery County Code Chapter 59; mandatory referral reviewed pursuant to Article 28 of Maryland State Code Annotated; approved for utility construction (as defined by Washington Suburban Sanitary Commission's regulations).

Forest Conservation Plan ("FCP"): Forest Conservation Plan approved by the Planning Board or Planning Director pursuant to Chapter 22A, Montgomery County Code.

Exhibit A:

- (i) FCP approved as a condition of receiving any of the Plan approval noted above; or
- (ii) Approved and signed Plan referencing this Agreement.

IMP FD SURE \$ 0.00
 RECORDING FEE 0.00
 TOTAL 0.00
 Res: M067 Rpt: 99999
 MQR J01 B1k49
 Dec 30, 1994 12:25 PM

WITNESSETH

This Agreement reflects a grant of easement by Grantor to the Grantee.

WHEREAS Grantor (or Grantor's agent) has obtained authority to develop pursuant to a Plan in accordance with Montgomery County, Maryland laws; and

WHEREAS, the Planning Board or other approving authority approved Grantor's Plan conditioned upon a requirement that development occur in strict accordance with a FCP approved by the Planning Board after full review of the FCP pursuant to the

94 DEC 30 P 12:27.6

FILED
 MOLLY D. RUHL
 CLERK OF CIRCUIT COURT
 MONTGOMERY COUNTY, MARYLAND

provisions of Montgomery County Code Chapter 22A (Forest Conservation); Chapter 50 (Subdivision Regulations); and/or Chapter 59 (Zoning Ordinance); and/or

the Planning Board approved Grantor's Plan conditioned upon Grantor subjecting the property to be developed ("Property") or a portion of the property to be developed to a conservation easement pursuant to the provisions of Montgomery County Code Chapter 50 (Subdivision Regulations), and/or Chapter 59 (Zoning Ordinance) for the purposes set forth below running in favor of Grantee; and

WHEREAS, the location of this easement ("Easement") is as shown on Exhibit A (incorporated by reference into the terms of this Agreement); and

WHEREAS, the purpose includes preservation of trees and maintenance of tree cover, and 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 may include screening the approved new development from the sight of adjacent and abutting property owners to ensure maximum compatibility between existing and proposed new developments; and

WHEREAS, the Parties intend for the conditions and covenants contained in this agreement to run with the land in perpetuity and to be binding on all subsequent owners and occupants of the Property; and

WHEREAS, the Parties intend 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 agreement for no monetary consideration but for the purpose of ensuring compliance with development standards imposed by Montgomery County law as a condition of development approval. 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 A, and further described on the applicable record plat(s), of the nature and character described herein. 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. 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 parties.

2. No tree with a diameter greater than six inches (at a height of four feet from the ground) or more than thirty feet in

height (measured from the ground) ("Trees") or any tree planted as part of an afforestation or reforestation plan may be cut down, removed or destroyed without prior written consent from the Planning Board staff. Diseased or hazardous Trees or Tree limbs may be removed to prevent personal injury or property damage after a minimum of ten business days notice to the Planning Director, unless such notice is not practical in an emergency situation.

3. Understory plant materials including, but not limited to brush, shrubs, saplings, seedlings, undergrowth and vines may be cut down, removed or destroyed without prior written consent of the Planning Director, provided their removal does not damage, injure or kill Trees or create erosion or slope stability problems and provided that they were not planted as part of an afforestation or reforestation plan.

4. Fences are permitted within the Easement provided their construction and maintenance can be executed in compliance with the restrictions of this agreement.

5. Mowing may occur, provided it does not damage, injure or kill Trees. Grantor may supplement existing or replace dead Trees or undergrowth with new plantings provided that new plantings are characteristic of trees or undergrowth materials native to Maryland.

6. The following activities may not occur without prior written consent from the Planning Director:

- a. Construction (including roadways, private drives, paths and trails), excavation, grading or retaining walls.
- b. Erection of any buildings or structural improvements on or above ground, including (but not limited to) sheds, dog pens, play equipment and retaining walls.
- c. Activities which in any way could alter or interfere with soil or slope stability or drainage (including alteration of stream channels, stream currents or stream flow).

The Planning Director may approve these activities upon a finding that the proposed activity will not interfere with the purposes stated above, and in particular with tree preservation; screening existing and proposed development from adjacent and abutting landowners; maintenance of tree cover; and preservation of open space. This approval exception shall be narrowly interpreted, and the Director is under no obligation to authorize any of these activities when approval is requested.

7. Timber cutting or any other industrial or commercial activities shall not occur.

8. No posting of any advertising, including signs or

billboards, shall occur.

9. 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 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.

10. The Easement shall not be used as a site for any major public utility installations such as, but not limited to, electric generating plants, electric transmission lines, gas generating plants, gas storage tanks, radio or microwave relay stations, and telephone exchanges except upon prior written consent from the Planning Director. Nothing in this paragraph prevents the construction or maintenance of (on, over or under the property) facilities normally needed to serve a residential neighborhood and which have been approved by the appropriate reviewing agencies. These facilities should be located to prevent or minimize any loss of trees.

11. 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.

12. Grantor authorizes Planning Board representatives to enter the Property and Easement 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 for any purpose. The 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.

13. Upon finding a violation of any of the restrictions, conditions, covenants and easements established by this Agreement, 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.

14. Grantor further 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 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 agreement.

16. All written notices required by this Agreement 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 and shall constitute a covenant real running with the title of the Property.

* * * * *

This is to certify that the within instrument has been prepared under the supervision of the undersigned, an attorney duly admitted to practice before the Court of Appeals of Maryland.

Michele Rosenfeld

Michele Rosenfeld
Associate General Counsel
M-NCPPC

75

LF 13178.426



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Department of Parks, Montgomery County, Maryland
9500 Brunett Avenue • Silver Spring, Maryland 20901

December 30, 1994

Clerk of the Circuit Court
Judicial Center
50 Courthouse Square
Rockville, Maryland 20850

Dear Clerk:

Please record among the Land Records of Montgomery County, Maryland the attached conservation easement on behalf of The Maryland-National Capital Park and Planning Commission. The Commission is a state-created agency authorized to buy, sell and otherwise dispose of real property interests pursuant to Article 28 of the Annotated Code of Maryland and therefore is exempt from transfer and recording fees.

Your cooperation in this regard is appreciated.

Sincerely,

William E. Gries
Land Acquisition Specialist

WG/kb
/clerk.ltr/

HAWP APPLICATION: MAILING ADDRESSES FOR NOTIFYING
[Owner, Owner's Agent, Adjacent and Confronting Property Owners]

Owner's mailing address

4 North St
Brookville Md 20833

Owner's Agent's mailing address

Adjacent and confronting Property Owners mailing addresses

1 North St
Brookville Md 20833

2 North St
Brookville Md 20833