



Montgomery Planning

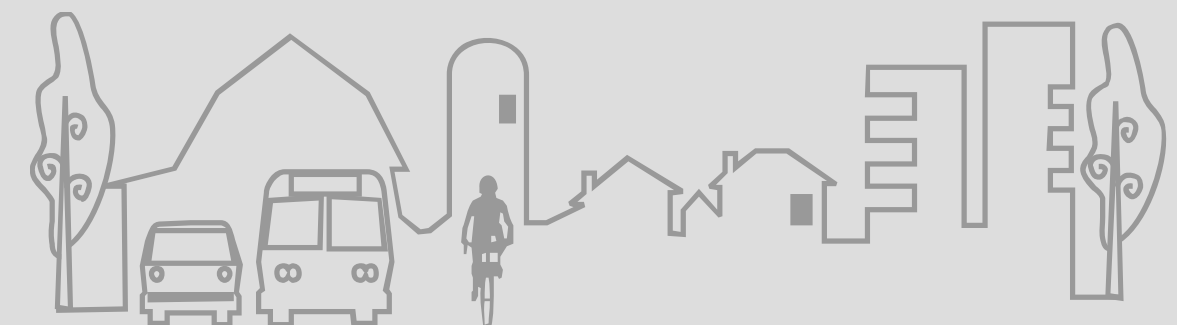
Historic Preservation

9/9/2020

Agenda item II.M

# Historic Area Work Permit

10201 Menlo Ave., Capitol View HD

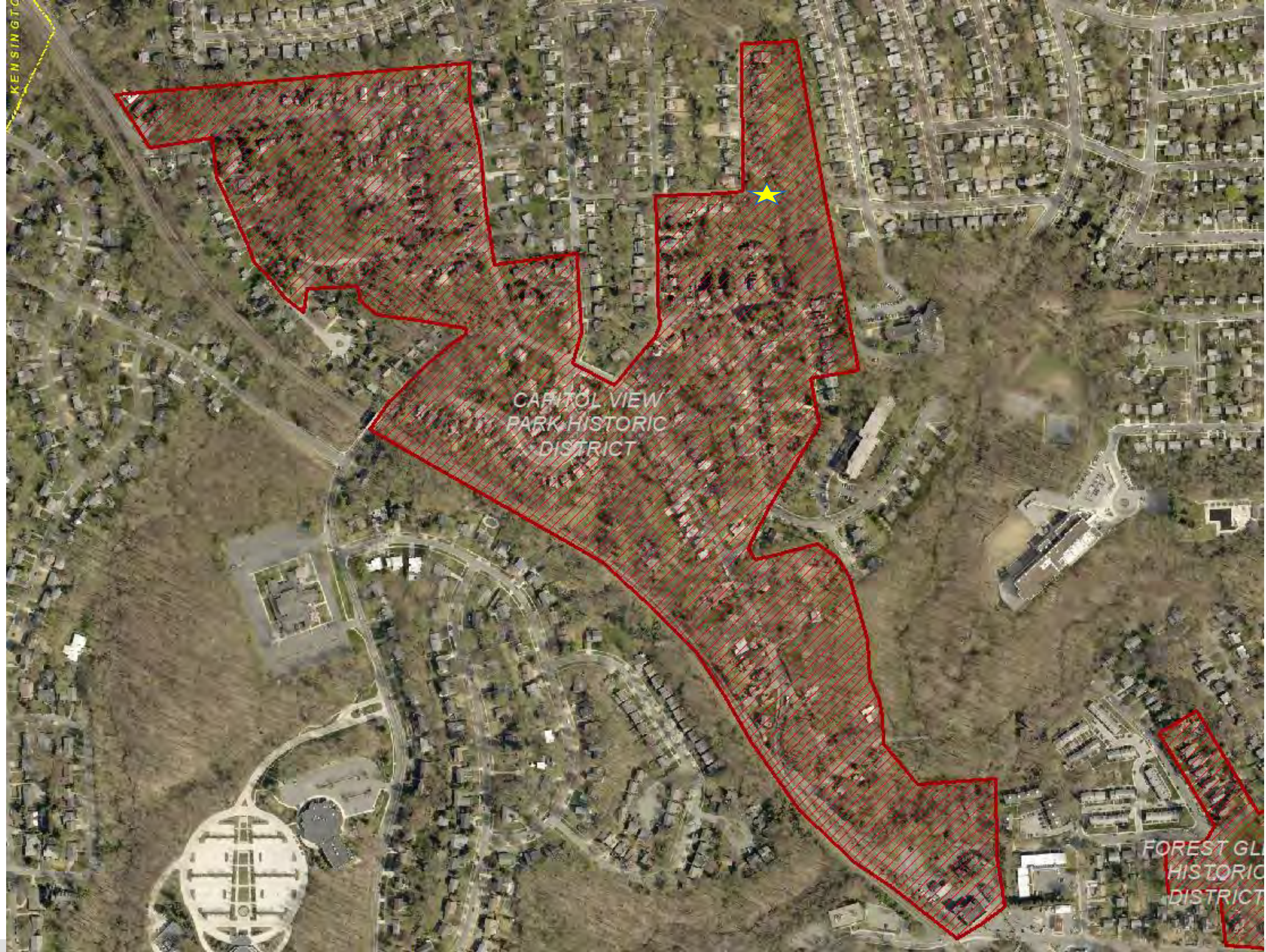




- Associated with the c.1895 Hahn House.
- Land was subdivided in 1986 into 6 lots.
  - The subdivision also created a conservation easement that covers part of 4 parcels
- 10201 Menlo remains the only undeveloped lot of the subdivision.









# Background

- The HPC unanimously approved a HAWP for the construction of a single-family house on April 24, 2019.
  - The approval included the removal of nine (9) trees from the site.
- The proposal was subsequently appealed to the Board of Appeals which agreed with the findings of the HPC.
  - “The Board finds there is no evidence in this case that the proposed house would seriously impair the character of the historic district.”
  - The Board of Appeals also determined “that there is no State or County requirement that the HPC apply environmental site design or consider storm water management law.” – *Case No. A-6624, pg. 21*

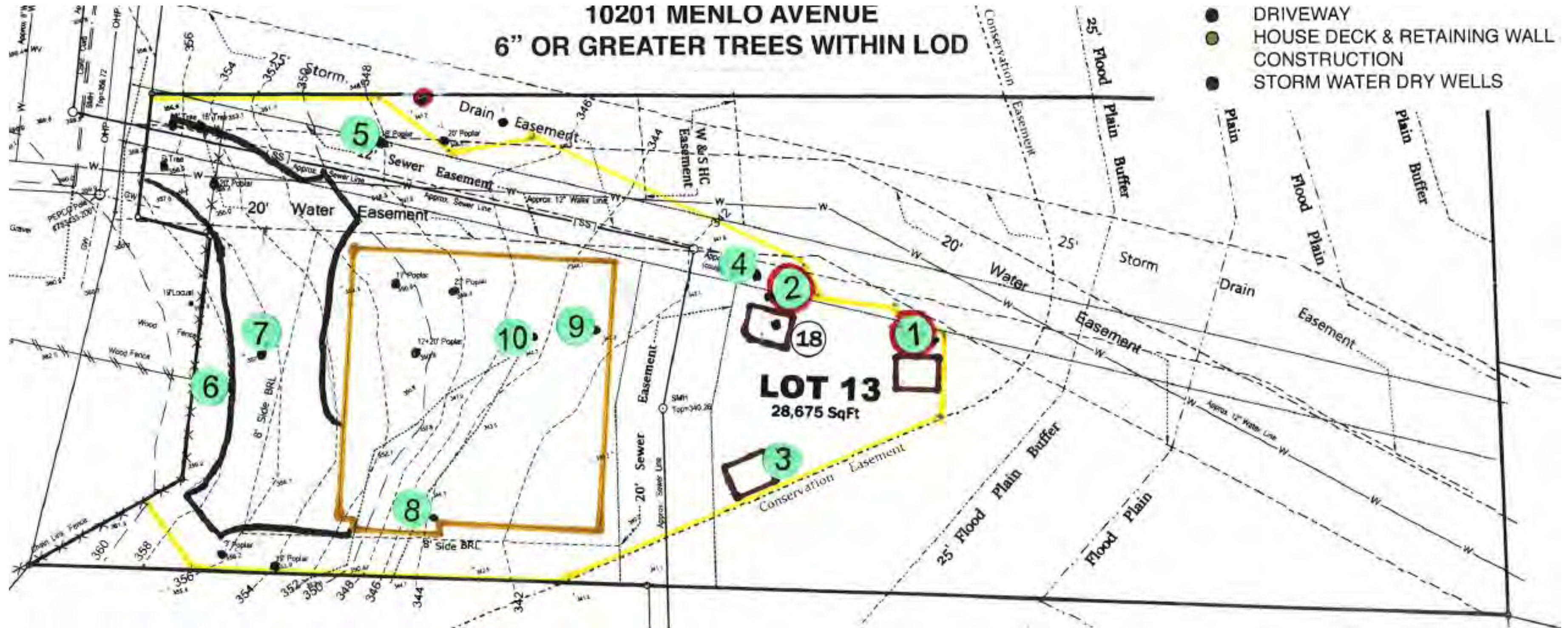
# Background

- In early July 2020, DPS conducted a site visit as part of the sediment control permit review. Several trees on site were marked for removal that were not included in the original HAWP approval.
- DPS issued stop work order until the tree issue was resolved.



# Proposal

The applicant proposes to remove eight (8) trees from the subject property.





# HPC Review Requirements

## Chapter 24A - Regulations

(a) The Commission shall be guided in their review of Historic Area Work Permit applications by:

- (1) The criteria in Section 24A-8.
- (2) The Secretary of the Interior's Standards and Guidelines for Rehabilitation.
- (3) Pertinent guidance in applicable master plans, sector plans, or functional master plans, including categorization of properties in historic districts by level of significance - if applicable. Such categories will be defined and explained clearly in the applicable plans.
- (4) Pertinent guidance in historic site or historic district-specific studies. This includes, but is not limited to, the 1992 Long Range Preservation Plans for Kensington, Clarksburg, Hyattstown, and Boyds.

(b) Where guidance in an applicable master plan, sector plan, or functional master plan is inconsistent with the Secretary of the Interior's Standards and Guidelines for Rehabilitation, the master plan guidance shall take precedence.

# Site Considerations

- As the site is smaller than 40,000 ft<sup>2</sup>, a forest conservation review by the Planning Board is not required.
- When the lot was platted in 1986 (under the 1983 law), it was subject to a 50 ft. stream buffer, which is why there is a conservation easement instead of a larger stream buffer.



# Conservation Easement Boundaries







Site Entrance 2019























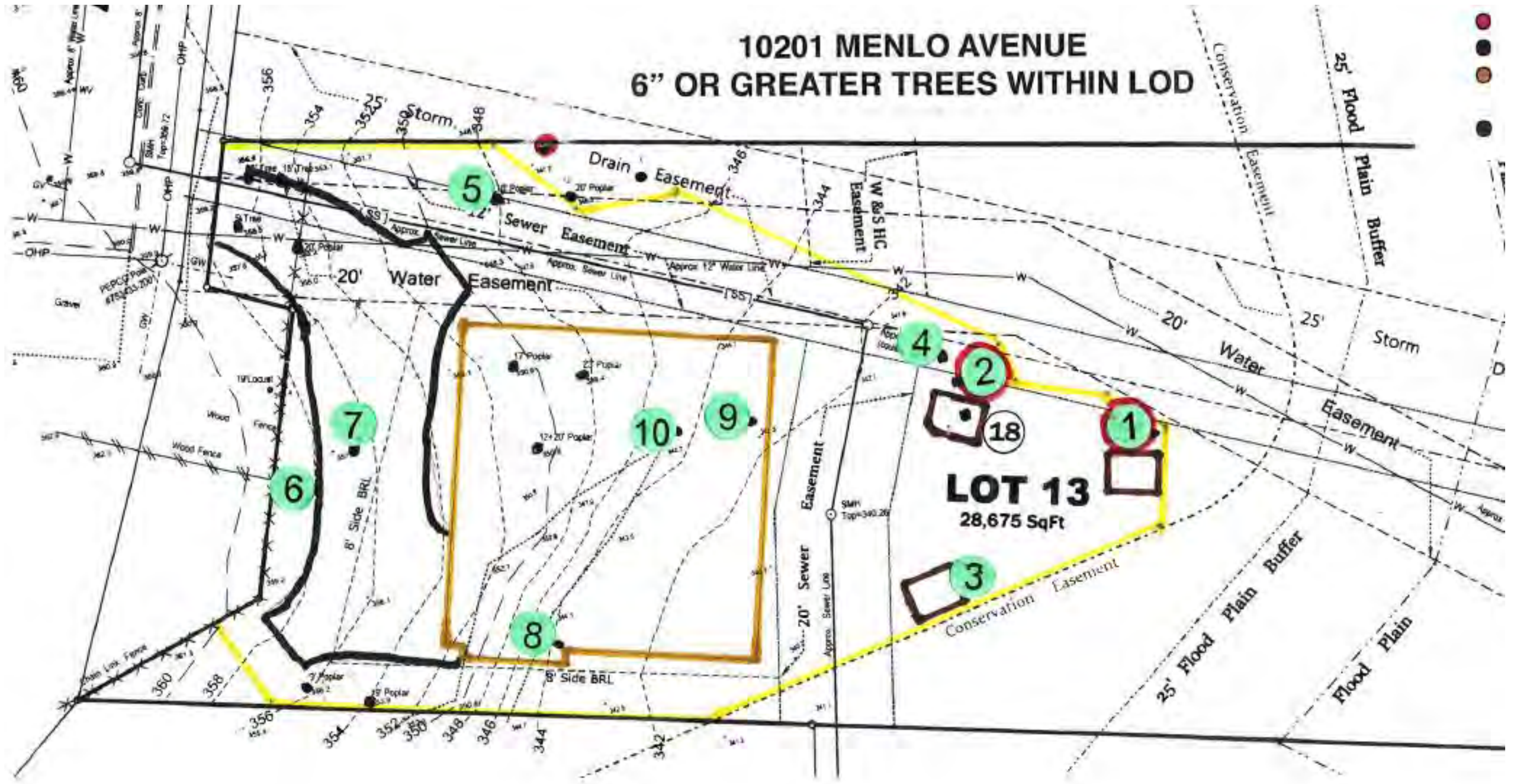








# 10201 MENLO AVENUE 6" OR GREATER TREES WITHIN LOD





Tree #	Proposal (remove/retain)	Size (in d.b.h)	Species	Notes
1	Retain	12.5"	Boxelder	Not visible from ROW
2	Retain	12"	Black Locust	Not visible from ROW
3	Remove	6.25"	Tulip Poplar	Not visible from ROW
4	Remove	10"	Spruce	Needle cast/spider mite infection
5	Remove	8.5"	Tulip Poplar	Adjacent to driveway
6	Remove	8"	Maple	In driveway and poor health
7	Remove	7"	Maple	In driveway
8	Remove	8"	Maple	In house footprint
9	Remove	10.5"	Black Locust	In house footprint
10	Remove	8"	Oak	In house footprint

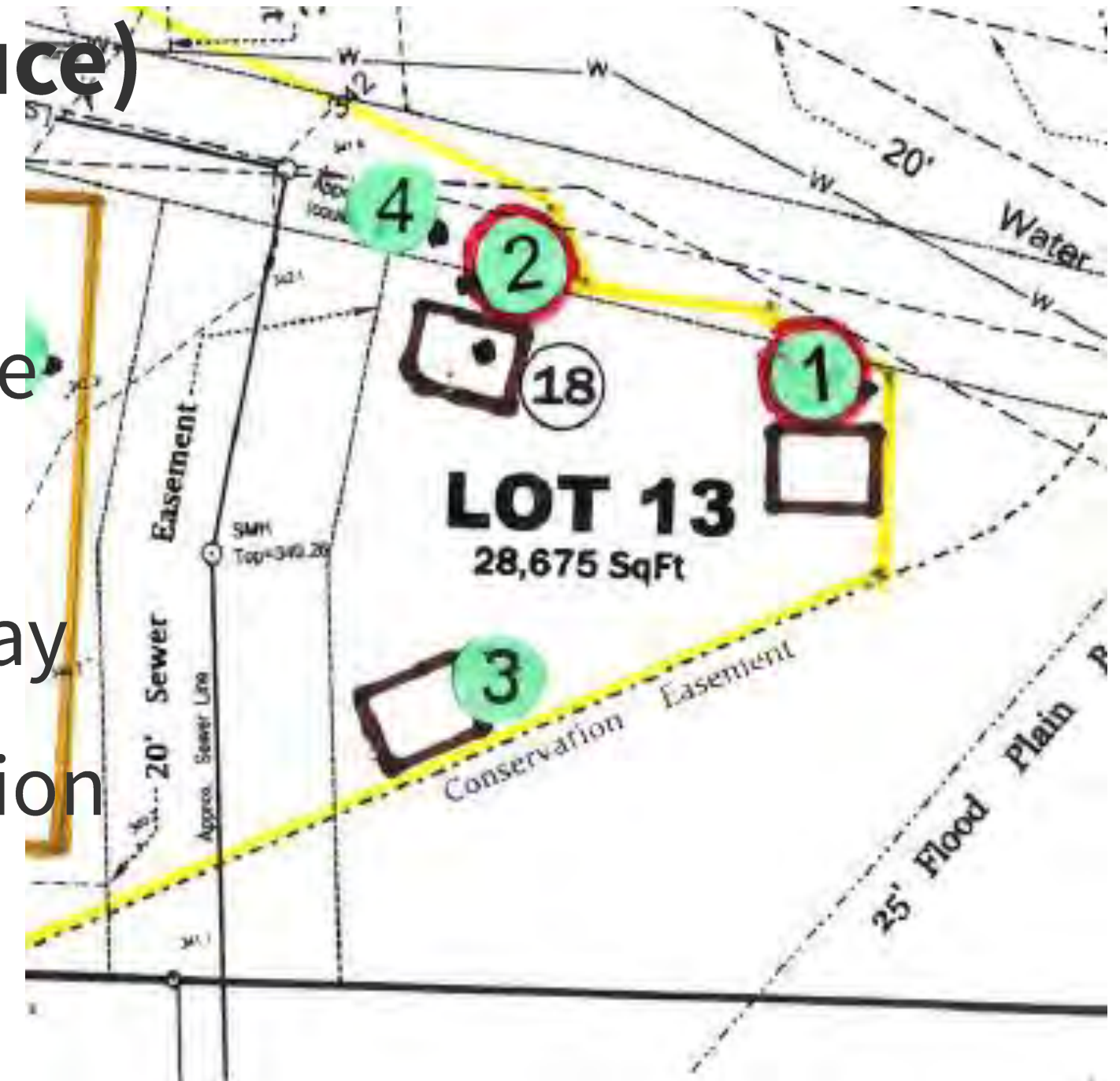


# Proposed Tree Removal

**Trees 1 & 2 at the rear of the property will be retained.**

## **Trees 3 (6.25" Tulip Poplar & 4 (10" Spruce)**

- Located in the proposed drywell location
- Drywell relocation would require expanding the limits of disturbance
- Trees are not visible from the public right-of-way
- Tree 4 only has needles at its crown, an indication of poor health.

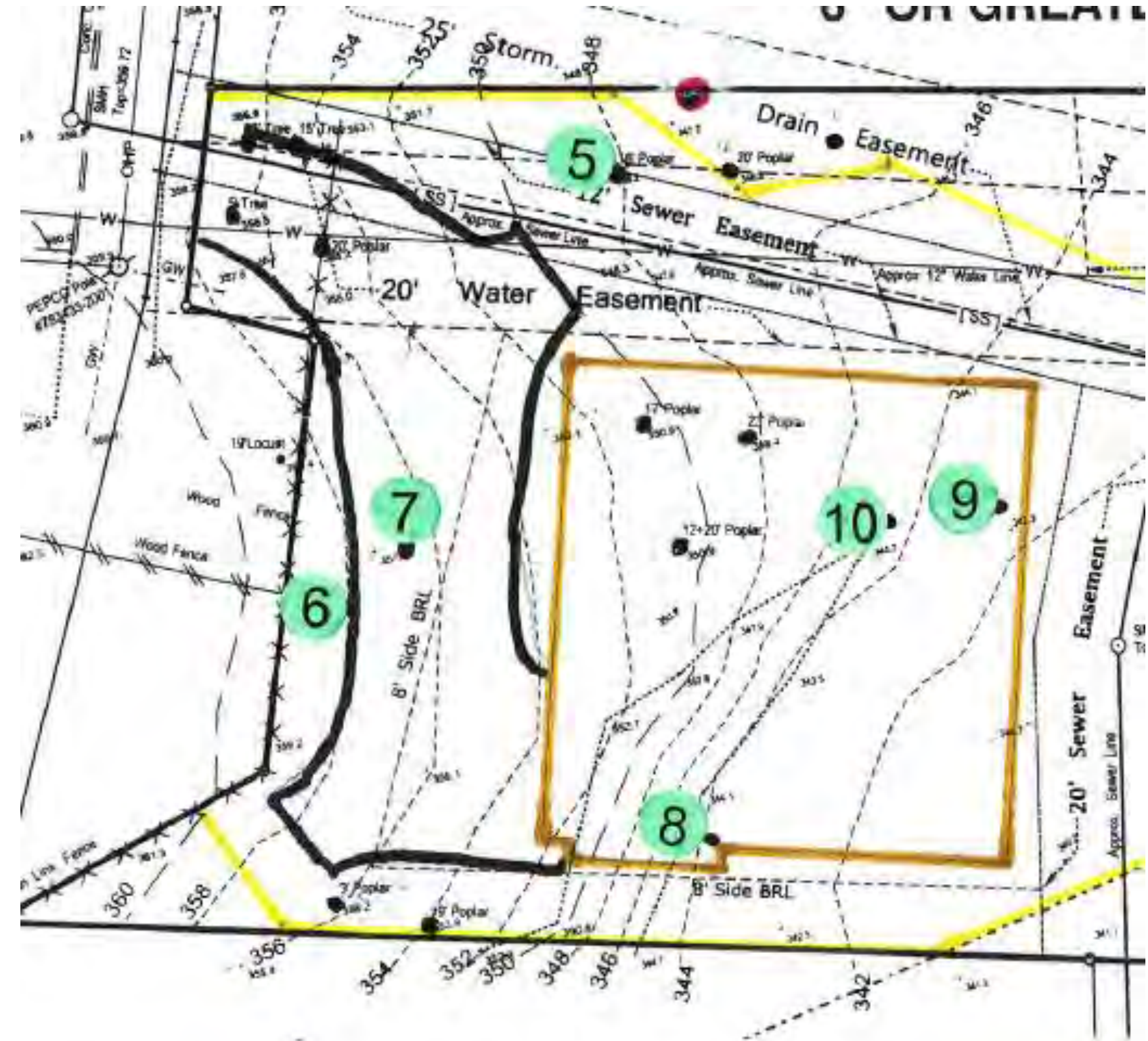




# Proposed Tree Removal

Trees 8 (9" Maple), 9 (10.5" Black Locust), and 10 (8" Oak) are in the footprint of the approved building.

- These three trees are within the footprint of the previously approved house
- Based on the site limitations, there is no other location to place a house on this site
- Denying the removal of these trees would frustrate the purpose of the HAWP and deprive the applicant reasonable use of the property.



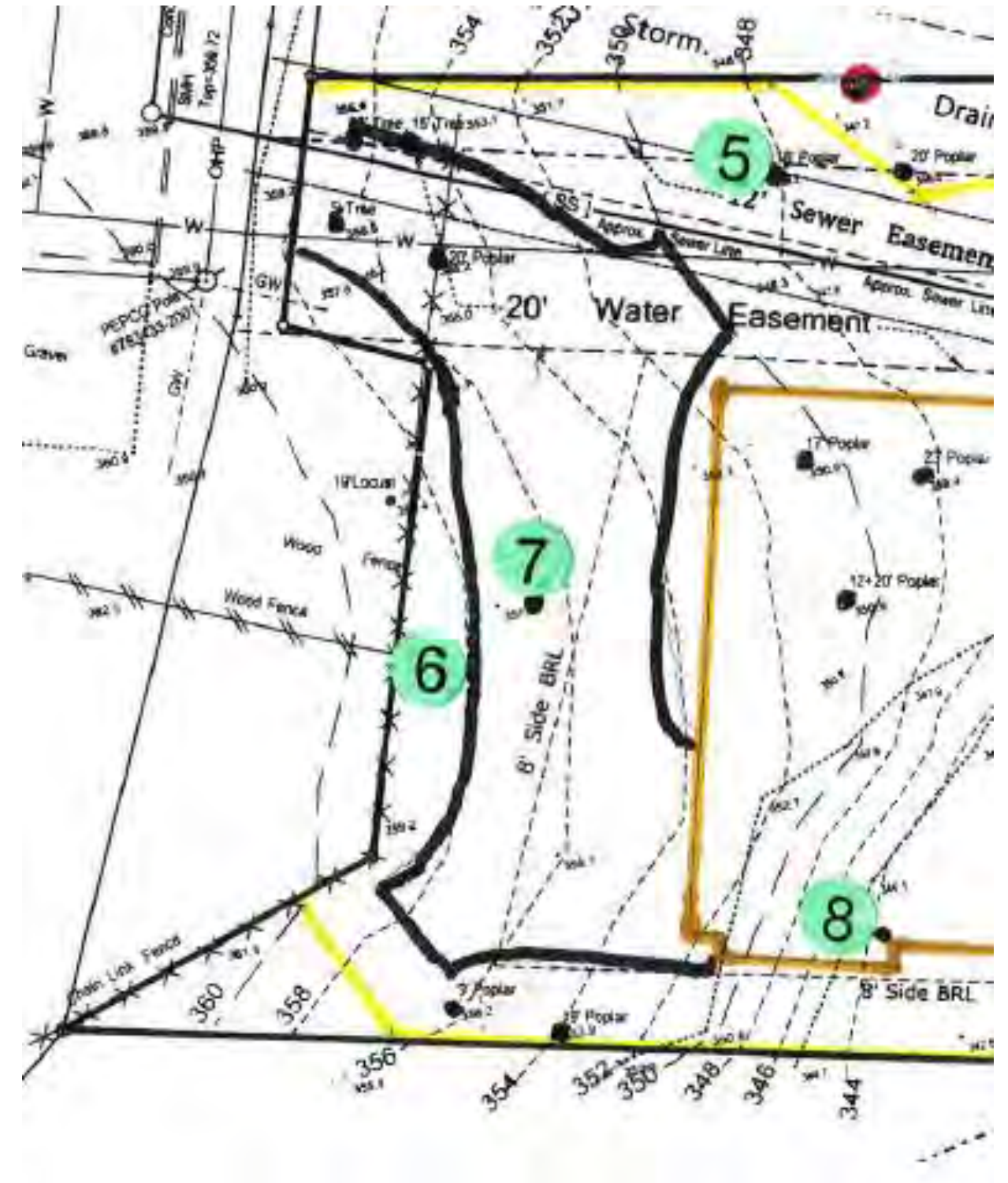


# Proposed Tree Removal

Trees 6 (8" Maple) and 7 (7" Maple) are in the footprint of the approved driveway

- Both trees are to the south of the right-of-way
- Without these trees, there would be no access to the previously approved one-bay garage
- Denying the removal of these trees would frustrate the purpose of the approved HAWP

Tree 5 (8.5" Tulip Poplar) is adjacent to the driveway and the area around the tree will be re-graded to improve drainage and limit erosion





# Staff Findings and Recommendation

- Staff finds that removing the identified trees will not have a substantial impact on the historical or architectural character of the site – 24A-8(b)(1).
- Staff finds that there are no the historical, archaeological, architectural, or cultural features on site and the work proposed is compatible in character with the site – 24A-8(b)(2).
- The tree removal will remove trees that appear to be in declining health – 24A-8(b)(4).
- If the tree removal is denied, the applicant is deprived of the reasonable use of the property – 24A-8(b)(5)



# Staff Findings and Recommendation

- The approved development proposal for the site is to construct a single-family house. The HPC shall be lenient in its judgment – 24A-8(d).
- The site lacks a significant historic character, the removal of the trees does not contravene *Standard 2*.

Staff recommends the HPC approve the HAWP under the identified provisions of 24A and *Standard 2*.



# Questions for Staff?