



FREDERICK COUNTY PLANNING COMMISSION

January 13, 2015

TITLE: Urbana North Sewer Outfall/Tabler Run Interceptor FRO Modification Request

FILE NUMBER: S-1161 (FRO #15864)

REQUEST: **FRO Modification Request**
The Applicant is requesting approval of a FRO modification to allow the removal of 2 specimen trees.

PROJECT INFORMATION:

ADDRESS/LOCATION: Along Tabler Run, between Tabler Road and Ball Road

TAX MAP/PARCEL: TM 87; Parcel 110

COMP. PLAN/LAND USE: Natural Resource (NR)

ZONE: Resource Conservation (RC)

REGION: Urbana

WATER/SEWER: No Planned Service

APPLICANT/REPRESENTATIVES:

APPLICANT: Monocacy land Development Company, LLC

OWNER: Genstar Stone Products Company

ENGINEER: Rodgers Consulting

ARCHITECT: N/A

ATTORNEY: N/A

STAFF: Mike Wilkins

RECOMMENDATION: Conditional Approval

ATTACHMENTS:

1 - Combined NRI/FSD and Preliminary/Final Forest Conservation Plan

2 - FRO Modification Request from Applicant

STAFF REPORT

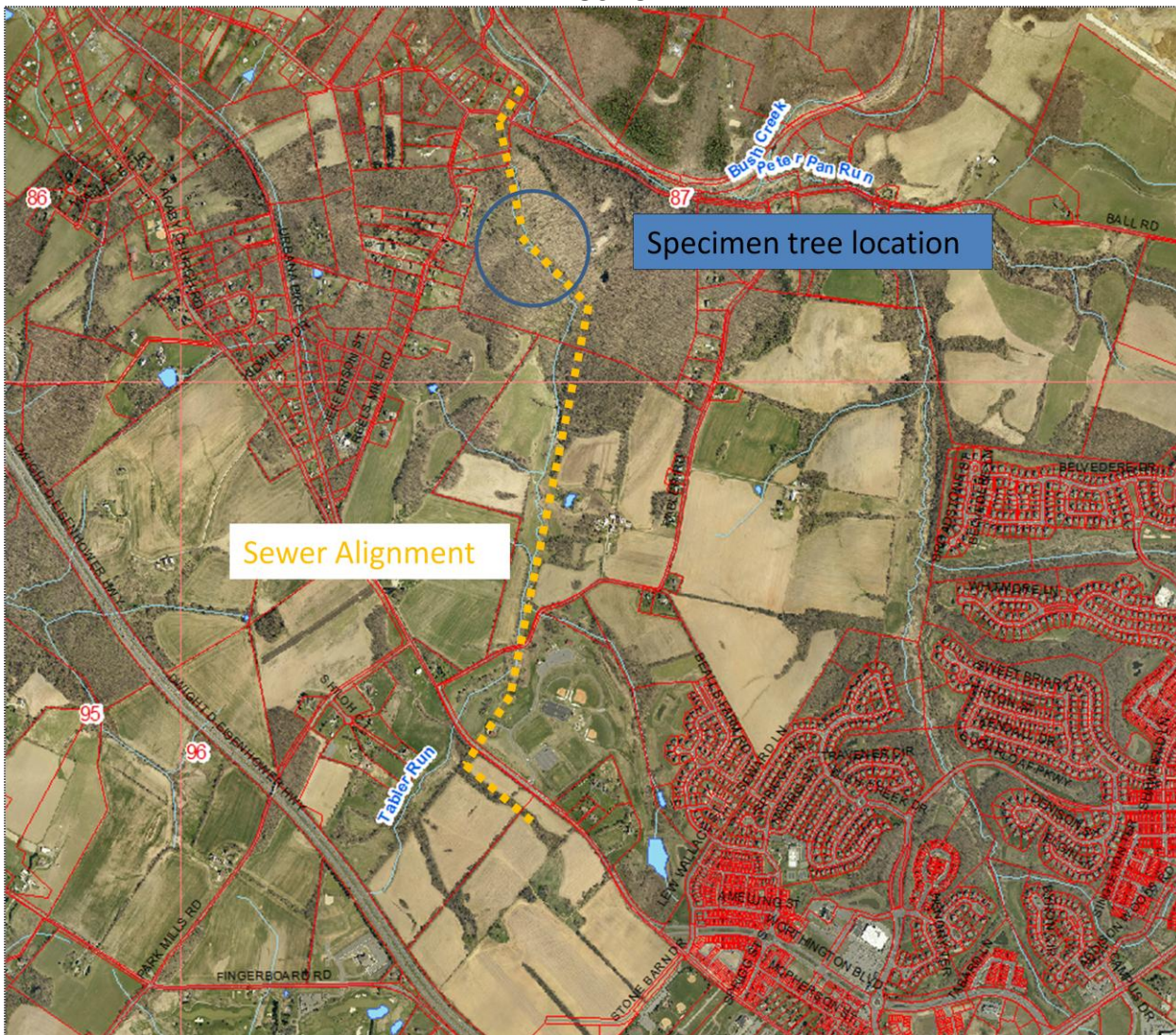
ISSUE

The Applicant is requesting approval for a FRO modification to allow the removal of two specimen trees. Specimen trees are trees measuring 30" or greater in diameter. Per §1-21-40 of the FRO, nonhazardous specimen trees must be retained unless reasonable efforts have been made to protect them, the plan cannot reasonably be altered, and the FCPC finds that the requirements for granting a modification have been met.

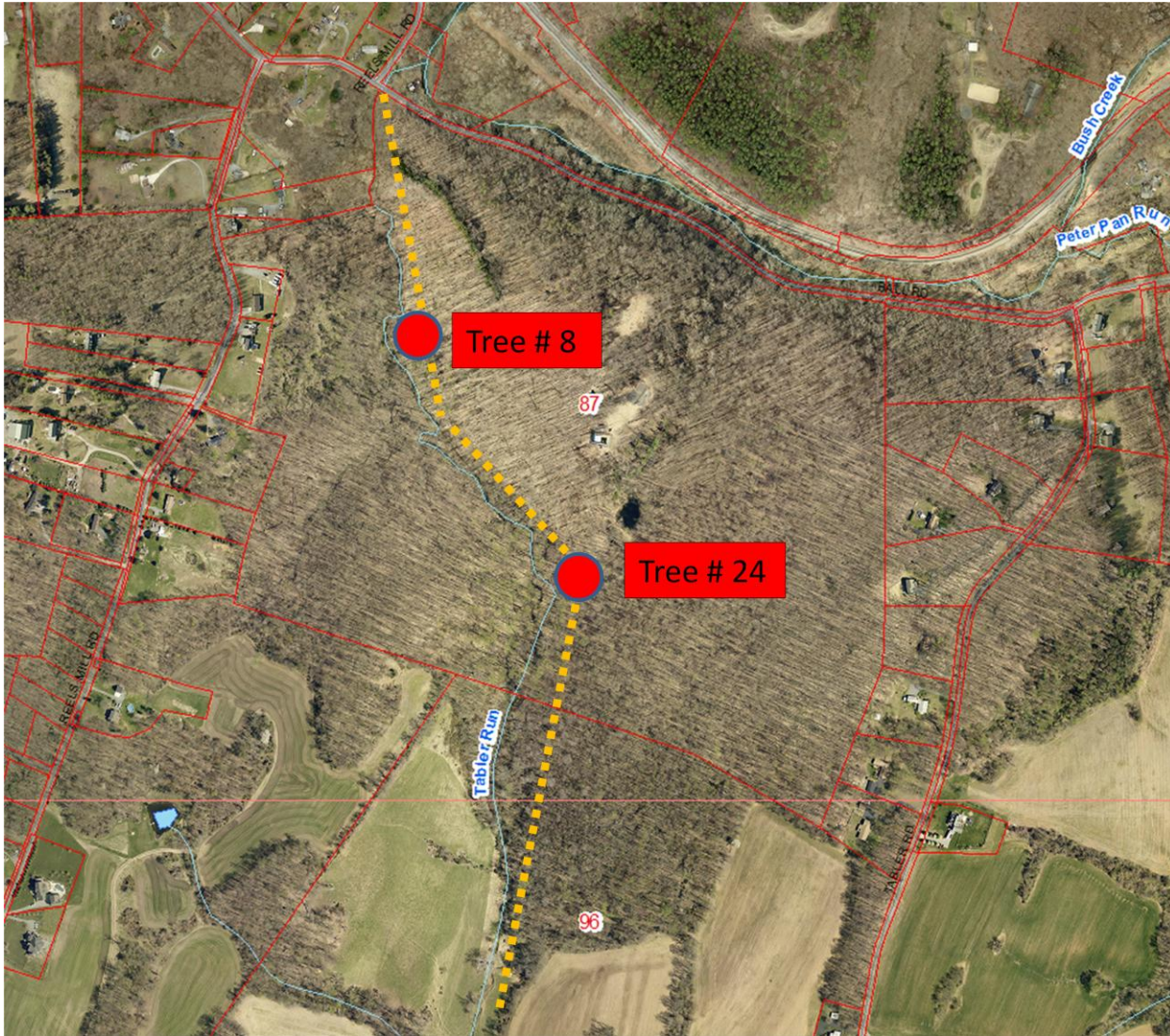
BACKGROUND

The Urbana North Sewer/Tabler Run Interceptor is a 2.08 mile gravity sewer along Tabler Run. The sewer project runs from the intersection of Reel's Mill and Ball Roads cross-country to Tabler Road, then runs southward, crosses MD 355, and enters the recently approved Urbana North development (a.k.a Urbana Town Center Employment District MXD). The sewer project crosses through six parcels. The specimen trees proposed to be removed are located on Parcel 110.

PROJECT AREA



PROJECT AREA- Parcel 110



ANALYSIS

Forest Resource – Chapter 1-21:

The Applicant has submitted a Combined Forest Stand Delineation and Preliminary/Final Forest Conservation Plan.

The 2.08 mile project area contains 61 specimen trees (trees that are 30 inches or greater in diameter). Per §1-21-40 of the FRO, nonhazardous specimen trees must be retained unless reasonable efforts have been made to protect them, the plan cannot reasonably be altered, and the FcPc finds that the requirements for granting a modification have been met.

Two specimen trees are proposed to be removed.

Tree ID #	Size and Species	Condition
8	30" Sycamore	Fair-leaning, poor structure, dead/missing bark
24	31" Tulip Poplar	Poor-branch dieback, insect damage, response growth

The Applicant's FRO Modification Request (Attachment 2) discusses both trees and why their removal is proposed. Staff notes that the current sewer alignment was designed to meet many State and County regulations. Given the number of specimen trees within the area of the alignment, revising the alignment to miss these two trees will likely result in impacting an equal or greater number of other specimen trees.

§ 1-21-21. MODIFICATIONS.

(A) Modification requests. A person may submit a request to the Frederick County Planning Commission (FCPC) for a modification from this chapter or the requirements of Md. Code Ann., Natural Resources Article, §§ 5-1601 through 5-1612, if the person demonstrates that enforcement would result in unwarranted hardship to the person.

(B) Required information. An applicant for a modification shall:

(1) Describe the special conditions peculiar to the property that would cause the unwarranted hardship;

(2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;

(3) Verify that the granting of the modification will not confer on the landowner a special privilege that would be denied to other applicants;

(4) Verify that the modification request is not based on conditions or circumstances that are the result of actions by the applicant;

(5) Verify that the request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and

(6) Verify that the granting of a modification will not adversely affect water quality.

(C) Modification approval. The FCPC must make a finding that the applicant has met the requirements in subsection (B) of this section and that enforcement would cause the applicant unwarranted hardship before the FCPC may approve any modification.

In order for the FcPc to grant a modification to allow the removal of specimen trees, the FcPc must find;

- that reasonable efforts have been made to protect the specimen trees and that the plan cannot reasonably be altered (in accordance with § 1-21-40 (B)(1), and;
- that the Applicant meets the six criteria outlined under §1-21-21 (B).

Findings/Conclusions

Based upon the review and analysis as provided above and the Applicant's Justification Letter, Staff finds that the proposed removal of 2 specimen trees is necessary for the completion of this sewer project. Efforts to change the alignment of the sewer will likely result in the removal of other specimen trees and impact the alignment's approval status with State and County agencies.

RECOMMENDATION

Staff has no objection to conditional approval of the FRO modification request to allow the removal of specimen trees # 8 and #24.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable FRO modification requirements if the modification request is granted by the Planning Commission and the following conditions are met:

1. Comply with all agency comments as the plan proceeds through to completion.
2. The FRO plan must be approved and the required FRO mitigation must be provided prior to applying for grading permits or building permits, whichever is applied for first.

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission **APPROVE WITH CONDITIONS** as listed in the staff report, the **FRO Modification Request S-1161 (FRO #15864)** for the proposed removal of two specimen trees within **the Urbana North/Tabler Run Interceptor** sewer project, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.