



Cypress Avenue Property, Preliminary Plan No. 120180050

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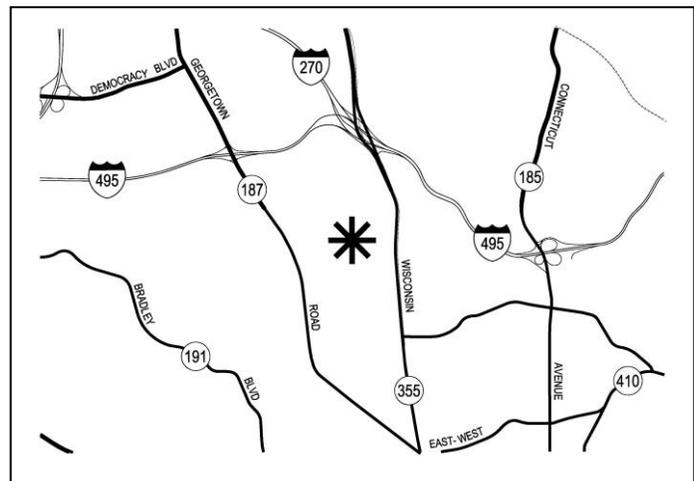
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Completed: 8/31/18

Description

- Subdivision to create seven (7) lots for one-family detaching dwelling units and an outlet;
- Current use: undeveloped land;
- Located on Cypress Avenue, 280 feet north of West Cedar Lane;
- 2.09 acres zoned R-60 in the 1990 *Bethesda-Chevy Chase Master Plan*;
- Applicant: The Foundation for Advanced Education in the Sciences;
- Acceptance date: January 30, 2018.



Summary

- Staff recommends approval of the Preliminary Plan with conditions.
- The Preliminary Plan proposes to subdivide the Property to create seven single-family residential lots and an outlet.
- In accordance with Chapter 50, Subdivision Regulations, Section 50.4.1.E, the Preliminary Plan received a Planning Board extension postponing the hearing date from May 24, 2018, through September 28, 2018.
- Staff received one comment from the public, which was satisfactorily addressed.

SECTION 1: RECOMMENDATION AND CONDITIONS

Staff recommends approval of Preliminary Plan No. 120180050 subject to the following conditions:

1. Approval is limited to seven one-family residential lots and an outlot.
2. The Applicant must comply with the following conditions for Preliminary/Final Forest Conservation Plan No. 120180050, approved as part of this Preliminary Plan, including:
 - a. The Applicant must plant the onsite mitigation trees, prior to issuance of Use and Occupancy Certificate for each associated lot.
 - b. The Applicant must replace the existing street trees identified for removal along the property frontage with a minimum 4" caliper canopy tree(s), subject to approval by MCDOT/MCDPS.
 - c. All trees credited towards variance mitigation must be at least five (5) feet away from any structures, stormwater management facilities, PIEs, PUEs, ROWs, utility lines, and/or their associated easements, as shown on the certified Final Forest Conservation Plan. In addition, the mitigation trees must be also planted at least 10 feet offset from the overhead wires along Acacia Avenue.
 - d. Include native shrubs in forest enhancement plantings, in the Category I Conservation Easement, to be approved by M-NCPPC Staff, to be shown on the Final Forest Conservation Plan.
 - e. Include a maintenance and monitoring program for tree 55, for a minimum of two years after the initial impact to the critical root zone (CRZ) of tree 55, on the Final Forest Conservation Plan, subject to M-NCPPC Staff approval, if permission is granted by the neighboring property owner.
 - f. The Applicant will provide for the on-site control of invasive species and maintenance of the supplemental native species plantings for a minimum of five years.
 - g. An ISA certified arborist must sign the Final Forest Conservation Plan (in addition to the Qualified Professional and/or or Landscape Architect). Additional notes and specifications to be added as needed.
 - h. The Applicant will remove tree 39, located outside of the Limits of Disturbance (LOD) and provide plan notes specifying techniques to minimize impacts to the surrounding area, including, but not limited to flush cutting the tree (rather than digging the stump out) and excluding the use of heavy equipment beyond the LOD.
 - i. Prior to certification of the plans, coordinate with M-NCPPC Staff on minor corrections and clarifications as required.
3. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS), Fire Department Access and Water Supply Section, in its letter dated April 26, 2018, and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter which MCDPS may amend if the amendments do not conflict with other conditions of Preliminary Plan approval.
4. The Planning Board accepts the recommendations of MCDPS – Water Resources Section in its stormwater management concept letter dated July 27, 2018, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan approval. The MCDPS Water Resources Section will review, approve, and inspect all landscaping within the Storm Water Management easements and facilities.

5. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in their letter dated July 19, 2018 and does hereby incorporate them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT, provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.
6. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements which are associated with each plat, as required by MCDOT.
7. Prior to recordation of the plat(s) the Applicant must satisfy MCDPS requirements to ensure the construction of a five-foot wide sidewalk along the property frontage on Cypress Avenue and Acacia Avenue, including the offsite portion extending to West Cedar Lane.
8. The certified Preliminary Plan must contain the following note:
Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of building permit. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board's approval.
9. The record plat must show necessary easements.
10. The record plat must reflect any areas under Homeowner's Association ownership and specifically identify stormwater management parcels.
11. Include all applicable agency letters and the Preliminary Plan resolution on the approval or cover sheet(s) of the Certified Preliminary Plan.
12. The Adequate Public Facility (APF) review for the Preliminary Plan will remain valid for sixty-one (61) months from the date of mailing of the Planning Board resolution.

SECTION 2: SITE DESCRIPTION

Site Vicinity and Analysis

Subject Property

The subject site (Subject Property or Property) is located at 9214 Cypress Avenue and shares street frontage with both Cypress Avenue and Acacia Avenue in the Maplewood neighborhood of Bethesda (Figure 1, Property outlined in red). It is identified as Parcel N326 and represents a portion of former Lot 7 in Record Plat No. 107, which was recorded in the Land Records in 1909. The Property consists of approximately 91,218 sq. ft. (2.09 acres) of land.

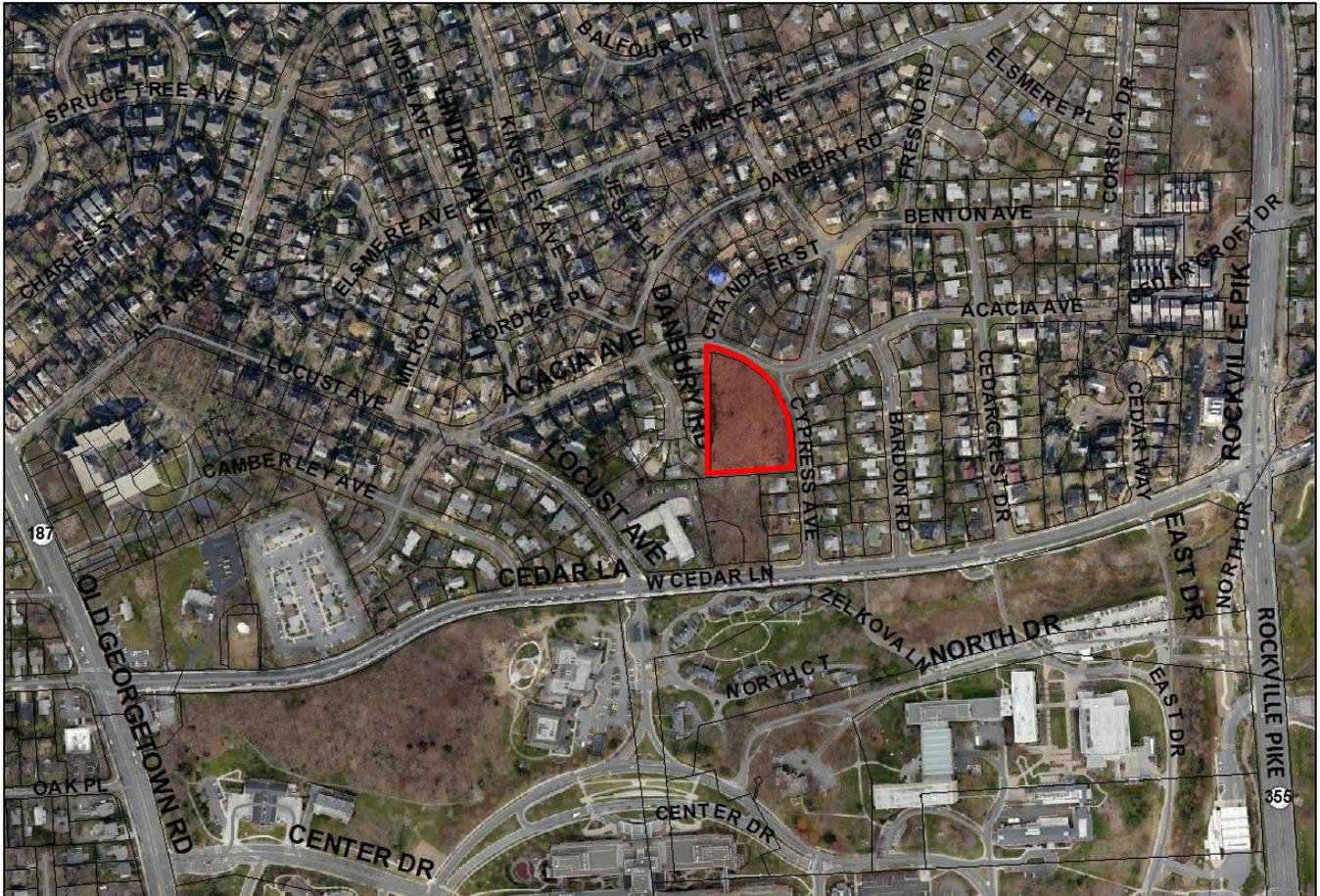


Figure 1-Aerial View

Site Analysis

The Property is zoned R-60 and is in the 1990 *Bethesda – Chevy Chase Master Plan* (Master Plan). The Applicant, the Foundation for Advanced Education in the Sciences (FAES) purchased the Property in 1965. The Property is less than one block from the main National Institutes of Health (NIH) campus. There are no known rare, threatened, or endangered species on site; there are no 100-year floodplains, stream buffers, or wetlands on site. There are no known historic properties on site.

Surrounding Uses

The Property is located within a neighborhood of R-60-zoned properties. The surrounding neighborhood is comprised of mainly single-family residences, with two exceptions: a nursing home located at West Cedar Lane and Locust Avenue; and the NIH campus across West Cedar Lane.

FAES already owns six lots immediately to the south of the Property. Four of these lots are developed with single-family homes.

SECTION 3: PROJECT DESCRIPTION

Proposal

The Preliminary Plan proposes to subdivide the Property to create seven single-family residential lots ranging in size from approximately 7,545 square feet to approximately 8,022 square feet each, along with an outlot of approximately 37,503 square feet. The Preliminary Plan has been designed to accommodate development under the standard method for the R-60 zone. The proposed development will create single-family residential lots similar in size to those in the surrounding neighborhood.

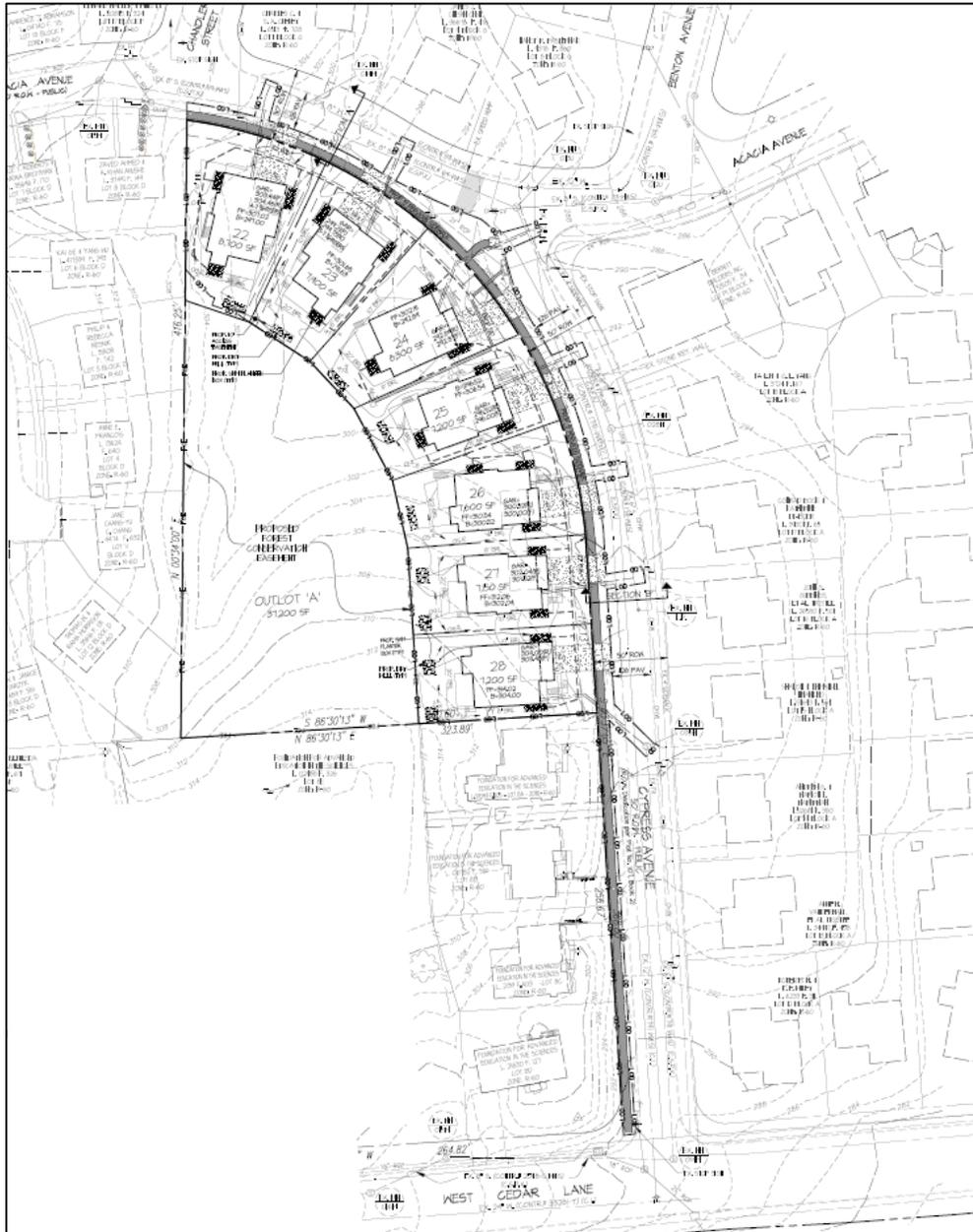


Figure 2-Preliminary Plan

The design of the Preliminary Plan development locates houses along the perimeter of the Property and fronting on existing streets. The outlot will be located behind the new lots and is expected to accommodate the Property's forest conservation requirements. Sufficient off-street parking will be provided in accordance with the Zoning Ordinance requirements.

Environmental Guidelines & Forest Conservation

The proposed development is subject to the Forest Conservation Law. An NRI/FSD was prepared for the Property and approved by M-NCPPC on June 24, 2016 (No. 420161770). As the NRI/FSD demonstrates, there are no streams, floodplains, wetlands, or environmental buffers on the Property. Additionally, the Property does not contain any rare, threatened, or endangered species or critical habitats listed by the Maryland Department of Natural Resources. The site is located within the Lower Rock Creek watershed, which is a Use I watershed¹.

Forest Conservation

A Preliminary/ Final Forest Conservation Plan and Tree Variance request are included with this Preliminary Plan application. The 2.09-acre site is entirely forested, and the Application propose removal of 1.24 acres of forest and the retention of 0.85 acres. The Forest Conservation Plan meets the priorities of the Forest Conservation Law/Regulations by providing a Category I Easement which is large enough to fully addresses the Forest Conservation worksheet requirements through onsite retention and no reforestation plantings. The Tree Variance request includes removals/disturbance of specimen trees in connection with the redevelopment of the Property as described in more detail further below. The locations of variance mitigation trees have been provided along the fronts of the lots within the Property. A copy of the Applicant's variance request is included as Attachment A.

TABLE 1: SUBJECT TREES TO BE REMOVED

<u>Tree #</u>	<u>Tree Type</u>	<u>Dbh (In.)</u>	<u>Condition</u>	<u>Reason</u>
6	Tulip Poplar	35.5"	Good	Grading and Construction for the homes on Lot 22, 23 & 24
<u>Tree #</u>	<u>Tree Type</u>	<u>Dbh (In.)</u>	<u>Condition</u>	<u>Reason</u>
7	Tulip Poplar	49.5"	Fair/ Good-one dead lower branch & trunk damage has healed.	Grading and Construction for the homes on Lots 24, 25 & 26.
8	Tulip Poplar	48"	Good	Grading and Construction for the homes on Lots 25, 26 & 27.
10	Tulip Poplar	35.5"	Good	Grading and Construction for the homes on Lots 23 & 24.
11	Tulip Poplar	50.5"	Good	Grading and Construction for the homes on Lots 24, 25 & 26.
37	Tulip Poplar	45.5"	Good	Grading and Construction for the homes on Lots 27 & 28.
38	Tulip Poplar	50"	Good	Grading and Construction for the homes on Lots 22 and 23.
39	Tulip Poplar	51.5"	Good	Grading and Construction for the homes on Lots 22 & 23.
41	Tulip Poplar	22 & 35" (twin)	Good	Location of PUE, (Public Utility Easement).
44	Tulip Poplar	30"	Good	Grading and Construction for the homes on Lot 22.
45	Tulip Poplar	38"	Good	Grading and Construction for the homes on Lot 22 & 23.
46	Tulip Poplar	36"	Good	Located in public Right-of-Way
47	Tulip Poplar	30"	Good	Grading and Construction for the homes on Lot 25 & 26.

¹ Use I:

WATER CONTACT RECREATION & PROTECTION OF AQUATIC LIFE

Waters that are suitable for: water contact sports: play and leisure time activities where the human body may come in direct contact with the surface water; fishing; the growth and propagation of fish (other than trout); other aquatic life, and wildlife; agricultural water supply and industrial water supply.

TABLE 2: SUBJECT TREES TO BE IMPACTED BUT RETAINED

Tree #	Tree Type	Dbh (In.)	% Disturbed	Condition	Reason
9	Tulip Poplar	44.5"	10.8%	Good	Grading and Construction for the homes on Lot 25, 26 and 27.
58	Red Maple	31"	8.3%	Good	Sidewalk installation

Staff has determined that the Applicant has shown that enforcement of the applicable Forest Conservation Law for the designated trees would result in an unwarranted hardship because the *Bethesda – Chevy Chase Master Plan* (on page 52) specifically recommends development of the Property while acknowledging the presence of mature trees. The site is almost entirely covered by the critical root zones of subject trees. Therefore, not granting the variance would be an unwarranted hardship as it would conflict with the Master Plan.

County Arborist’s Recommendations

In accordance with Montgomery County Code Section 22A-21(c), the Planning Department referred a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection.

Mitigation for Trees Subject to the Variance Provisions

There are 13 trees proposed for removal in association with the Application. There will also be disturbance to CRZs of another two trees that will be retained. Planting mitigation for the removals should be at a rate that approximates the form and function of the trees removed. The subject trees associated with the forest setting are mitigated by FCP worksheet requirements. However, for the trees outside of the forest setting, which otherwise would not be mitigated, replacement should occur at a ratio of approximately 1” caliper for every 4” DBH removed, using trees that are a minimum of 3” caliper. For the 137 diameter inches of trees to be removed outside of the forest setting (trees 7, 39 & 46), the Applicant must provide mitigation of at least 34.25 caliper inches of replacements. Therefore, the mitigation requirements are addressed by the planting of 12 (quantity) 3” caliper trees for a total of 36 caliper inches of onsite mitigation trees.

No mitigation is recommended for trees impacted but retained. As a result of the findings, Staff recommends that the Planning Board approve of the Applicant’s request for a variance from the Forest Conservation Law to remove 13 variance trees and to impact, but retain, two variance trees on the subject site. The variance approval is incorporated into the Planning Board’s approval of the Forest Conservation Plan. Staff is also recommending approval of the Preliminary/Final Forest Conservation Plan with conditions listed at the front of this staff report. The findings for the variance are listed in Section 4 of this report.

Community Outreach

The Applicant held a pre-submittal public meeting at the Social and Academic Center of the Foundation for Advanced Education in the Sciences located at 9101 Old Georgetown Road, Bethesda, Maryland, on October 16, 2017. The Applicant has complied with all submittal and noticing requirements. Staff received one inquiry from a citizen on May 16, 2018, in regard to the comments provided at the Development Review Committee (DRC) meeting and correspondence on May 29, 2018, from an adjacent property owner requesting the Applicant remove Tree #39 on the Forest Conservation Plan (Attachment B). The Applicant has agreed to remove this tree, as conditioned. Staff has not received any additional correspondence from community groups or citizens as of the date of this report.

SECTION 4: ANALYSIS AND FINDINGS

1. *The layout of the subdivision, including size, width, shape, orientation and diversity of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59*

a. *The block design is appropriate for the development or use contemplated*

The length, width, and shape of the block are consistent with Section 50.4.3.B of the Subdivision Code. The proposed subdivision is within an existing residential neighborhood with an established street grid. The Application is not proposing to create any new residential blocks.

b. *The lot design is appropriate for the development or use contemplated*

The lot design, including size, width, shape, and orientation, is consistent with Section 50.4.3.C of the Subdivision Code. This Preliminary Plan proposes seven single-family residential lots. The proposed lots accommodate the anticipated uses and conform to the standards set forth in Section 59.4.4.7 of the Zoning Ordinance. All lots will front on public streets (Cypress and Acacia Avenues) and will be appropriately aligned with them.

c. *The Preliminary Plan provides for required public sites and adequate open areas*

The Site was reviewed for compliance with Section 50.4.3.D, “Public Sites and Adequate Public Facilities,” of the Subdivision Code. There are no Master Plan recommendations for public facilities or local recreation requirements for the Subject Property.

d. *The Lot(s) and Use comply with the basic requirements of Chapter 59*

The lots were reviewed for compliance with the dimensional requirements for the R-60 zone as specified in the Zoning Ordinance. The lots meet all the dimensional requirements for area, frontage, width, and setbacks in that zone. A summary of this review is included in Table 3. The size, width, shape and orientation of the proposed lot is appropriate for the location of the subdivision taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.

Table 3: Development Standards in the R-60 Zone

R-60	Required by the Zone	Proposed for Approval
Minimum Lot Area	6,000 sq. ft.	6,000 sq. ft.
Minimum Lot Width at B.R.L.	60 feet	60 feet
Minimum Lot Width at Front Lot Line	25 feet	25 feet
Maximum Lot Coverage	35%	35%
Front Setbacks (min.)	25 feet or Established Building Line	25 feet or Established Building Line
Side Setbacks, abutting Residential (min.)	8 feet min./ 18 feet total	8 feet min./ 18 feet total

R-60	Required by the Zone	Proposed for Approval
Maximum Building Height	30' Mean / 35' Peak	30' Mean / 35' Peak
Parking (on-site)	2 spaces per dwelling unit	2 spaces per dwelling unit (min)
Site Plan Required	No	No

2. *The Preliminary Plan substantially conforms to the Master Plan*

a. Land Use

The Property is located within the “Mid-Bethesda – Northern B-CC” section of the 1990 *Bethesda – Chevy Chase Master Plan* area. The Preliminary Plan substantially conforms with its objectives. The Subject Property is identified as M2 on page 52 of the Master Plan and has specific land use and zoning recommendations for the Property. The Master Plan provides that the Property, zoned R-60, has the development potential for up to eight single-family units. The Master Plan calls for providing housing near NIH and the Bethesda CBD and that single-family homes would conform to the nearby housing type. The Preliminary Plan achieves these objectives by creating seven lots for single-family detached homes in close proximity to NIH. The addition of single-family homes to this Property is consistent with the established residential character of the neighborhood.

b. Environment

Development of the site, according to the Master Plan, should seek to preserve trees around the perimeter. The Forest Conservation Plan provides for a total of 0.85 acres of forest retention within a perpetual Category I Easement along the rear perimeter of each proposed lot. The Applicant will provide for the control of invasive species and the plantings of supplemental native species within the conservation easement area. In keeping with the Master Plan’s recommendation to preserve perimeter trees, the Applicant has agreed to provide a maintenance and monitoring program for tree 55, assuming permission is granted by the neighboring property owner. Tree 55 is an approximately 27” DBH Tulip tree which is located just west of the property line and will be impacted by the proposed development activity. The recommended condition of approval to provide and implement the maintenance and monitoring program will help ensure that the tree perimeter is appropriately preserved. The Applicant has also pledged to preserve street trees along Cypress and Acacia Avenues where possible, in coordination with Planning Staff and MCDOT. New street trees will be provided in place of any street trees that are not able to be saved. Additionally, as shown on the plans, large caliper trees (4”) and soil profile rebuilding will be specified in the street tree landscape panels (subject to MCDOT/MCDPS approval) which will help to effectively reestablish the perimeter tree canopy along the site frontage. Furthermore, the variance mitigation plantings and other trees will be planted in the front yards of the new lots (within the Subject Property) in a manner that will complement the street trees, which will further strengthen the perimeter tree canopy.

c. Transportation

Neither Cypress Avenue nor Acacia Avenue are discussed in the 1990 *Bethesda-Chevy Chase Master Plan* because the Master Plan only discusses roadways that are classified as “primary” or higher. Vehicular access to the Property is proposed via seven new driveways, one for each of the proposed lots, directly from Cypress Avenue and Acacia Avenue. The Project will construct a new 5-foot wide concrete sidewalk, along the Site frontage, from the Chandler Street intersection to the West Cedar Lane intersection. This sidewalk will connect the proposed development with existing transit service on West Cedar Lane and will improve pedestrian safety and accessibility throughout the neighborhood. Transportation access is adequate to serve the proposed development by this Preliminary Plan.

The Preliminary Plan substantially conforms with the recommendations of the Master Plan.

3. *Public Facilities will be adequate to support and service the area of the subdivision*

a. Roads and Other Transportation Facilities

Transportation access is adequate to serve the proposed development by this Preliminary Plan.

i. *Existing Facilities*

Cypress Avenue and Acacia Avenue function as secondary residential roadways based on their original right-of-way width, 50 feet, and serve less than 200 residential dwelling units. There are no master-planned bicycle facilities on either Acacia Avenue or Cypress Avenue.

Transit service within ¼ mile of the site, a walk time of approximately 5 minutes, is located at the intersection of West Cedar Lane and Zelkova Lane and the intersection of West Cedar Lane and Cedarcrest Drive:

- The bus stop located at Zelkova Lane is served by the Ride-On 70 Route (Germantown – Bethesda Metrorail Station; Monday – Friday peak hour service); and
- The bus stop located at Cedarcrest Drive is served by the WMATA Metrobus J2/ J3 Route (Westfield Montgomery Mall – Silver Spring Transit Station).

ii. *Proposed public transportation infrastructure*

Vehicular access to the Property is proposed via seven new driveways, one for each of the proposed lots, directly from Cypress Avenue and Acacia Avenue. As shown on the submitted Preliminary Plan, the Project will construct a new 5-foot wide concrete sidewalk, along the Site frontage, from the Chandler Street intersection to the West Cedar Lane intersection. This sidewalk will connect the proposed development with existing transit service on West Cedar Lane and will improve pedestrian safety and accessibility throughout the neighborhood.

b. Local Area Transportation Review (LATR)

A transportation statement, dated October 30, 2017, was submitted with the Project, indicating that the proposed development will generate 16 new morning peak-hour person trips and twelve new evening peak-hour person trips. Because the estimated transportation impact of the Project is less than 50 net new vehicle trips, the Project satisfies the Local Area Transportation Review requirement without further analysis.

c. Other Public Facilities and Services

Public facilities and services are available and will be adequate to serve the proposed development. The property will be served by public water and sewer systems. Water and sewer and other utilities are located in Cypress Avenue and Acacia Avenue. Connections from these roads adjoining the Property will service the Property. Electrical and telecommunications services are also available to serve the subject property. The application has been reviewed by MCFRS, and emergency vehicle access has been deemed adequate. Local health clinics, police stations and fire stations are all operating within acceptable levels as established by the Subdivision Staging Policy. The Project will be served by Wyngate Elementary School, North Bethesda Middle School, and Walter Johnson High School.

Applicable School Test

Preliminary Plan No. 120180050 for Cypress Avenue Property is scheduled for Planning Board review in FY19, therefore the applicable annual school test is the FY19 Annual School Test, approved by the Planning Board on June 21, 2018, and effective July 1, 2018.

Calculation of Student Generation

To calculate the number of students generated by the proposed development, the number of dwelling units is multiplied by the applicable regional student generation rate for each school level. Dwelling units are categorized by structure type: single family detached, single family attached (townhouse), low-to mid-rise multifamily unit, or high-rise multifamily unit. The Subject Property is located in the southwest region of the County.

Per Unit Student Generation Rates – Southwest Region

	Elementary School	Middle School	High School
SF Detached	0.193	0.111	0.147
SF Attached	0.191	0.094	0.124
MF Low- to Mid-Rise	0.146	0.063	0.083
MF High-Rise	0.055	0.022	0.031

With a net of seven new single family detached dwelling units, the proposed project is estimated to generate the following number of students:

Type of Unit	Net Number of Units	ES Generation Rates	ES Students Generated	MS Generation Rates	MS Students Generated	HS Generation Rates	HS Students Generated
SF Detached	7	0.193	1.351	0.111	0.777	0.147	1.029
TOTAL	7		1		0		1

This project is estimated to generate one new elementary school student, no new middle school students, and one new high school student.

Cluster Adequacy Test

The project is located in the Walter Johnson High School (WJ) Cluster. The student enrollment and capacity projections from the FY19 Annual School Test for the WJ Cluster are noted in the following table:

School Level	Projected Cluster Totals, September 2023			Moratorium Enrollment Threshold	Projected Enrollment + Application Impact
	Enrollment	Program Capacity	% Utilization		
Elementary	4,586	4,541	101.0%	5,450	4,587
Middle	2,333	2,429	96.0%	2,915	2,333
High	2,718 ¹	2,330	116.7%	2,797	2,719

The Moratorium Enrollment Threshold identified in the table is the enrollment at which the 120% utilization threshold is exceeded, resulting in a cluster-wide residential development moratorium. As indicated in the last column, the projected enrollment plus the estimated impact of this application fall below the moratorium thresholds at all three school levels. Therefore, there is sufficient capacity at the elementary, middle and high school cluster levels to accommodate the estimated number of students generated by this project.

¹ The projected cluster high school enrollment of 3,118 has been modified to reflect the estimated impact of a future boundary change that will reassign students from Walter Johnson HS to a reopened Charles W. Woodward HS prior to September 2023.

Individual School Adequacy Test

The applicable elementary and middle schools for this project are Wyngate ES and North Bethesda MS, respectively. Based on the FY19 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

School	Projected School Totals, September 2023				Moratorium Enrollment Thresholds		Projected Enrollment + Application Impact
	Enrollment	Program Capacity	% Utilization	Surplus/ Deficit	120% Utilization	Surplus/ Deficit	
Wyngate ES	705	777	90.7%	+72	933	887	706
N. Bethesda MS	1,188	1,229	96.7%	+41	1,475	1,409	1,188

Under the individual school adequacy test, a school is deemed inadequate if the projected school utilization rate exceeds 120% and if the school seat deficit meets or exceeds 110 seats for the elementary school or 180 seats for the middle school. If a school’s projected enrollment exceeds *both* thresholds, then the school service area is placed in a residential development moratorium.

The Moratorium Enrollment Thresholds identified in the table above are the enrollments at which the 120% utilization threshold and the seat deficit threshold are exceeded. As indicated in the last column, the projected enrollment plus the estimated impact of this application falls below both applicable moratorium thresholds for both Wyngate ES and North Bethesda MS. Therefore, there is sufficient anticipated school capacity to accommodate the estimated number of students generated by this project.

Analysis Conclusion

Based on the school cluster and individual school capacity analysis performed, using the FY2019 Annual School Test, there is adequate school capacity for the amount and type of development proposed by this application.

4. *All Forest Conservation Law, Chapter 22A requirements are satisfied*

Forest Conservation Plan

The Forest Conservation Plan provides for a total of 0.85 acres of forest retention within a perpetual Category I Easement. In keeping with the priorities of the Forest Conservation Law and regulations, the amount of forest retention exceeds the break-even point of the forest conservation worksheet and no reforestation or offsite mitigation is required.

The clean-up of existing debris, control of invasive species and the plantings of supplemental native species will occur within the conservation easement area to enhance the forest setting. The Applicant has also pledged to preserve street trees along Cypress and Acacia Avenues where possible, in coordination with Planning Staff and MCDOT/MCDPS. New street trees will be provided in place of any street trees that are not able to be saved. Additionally, large caliper trees (4”) and soil profile rebuilding will be specified in the street tree landscape panels (subject to MCDOT/MCDPS approval) which will help to effectively reestablish the perimeter tree canopy along the site frontage. Furthermore, the variance mitigation plantings and other trees will be planted in the front yards of the new lots (within the subject property) in a manner that will complement the street trees, which will further strengthen the perimeter tree canopy.

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 under Section 22A-21 of the Law. An Applicant for a variance must show that enforcement would result in unwarranted hardship and provide certain written information in support of the required findings. The law requires no impact to trees that measure 30 inches DBH or greater; are part of a historic site or designated with a 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 to trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

The proposed project includes removals and impacts of trees measuring 30 inches DBH or greater and are therefore subject to a variance. The Applicant submitted a variance request to remove thirteen specimen trees and disturb two specimen trees in connection with the redevelopment of the Property affecting a total of 15 subject trees.

Variance Findings

The following determination is based on the required findings that granting of the requested variance:

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

The *Bethesda – Chevy Chase Master Plan* (on page 52) specifically acknowledges the presence of the mature trees while recommending development of the property. Therefore, the variance request would be granted to any applicant in a similar situation, assuming all other criteria are met, particularly since reasonable preservation measures and other environmental enhancements have been incorporated into the application.

2. *Is not based on conditions or circumstances which are the result of actions by the Applicant;*

The requested variance is based on proposed development allowed under the existing zoning and recommended by the applicable Master Plan, along with the need to provide the required utility and sidewalk connections. As conditioned, the application avoids or minimizes impacts to the extent practicable and provides necessary mitigation.

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 current application on the subject property and is not related to land or building use on a neighboring property.

4. *Will not violate State water quality standards or cause measurable degradation in water quality.*

The Department of Permitting Services (DPS) staff approved the storm water management (SWM) concept for the project on July 27, 2018. The SWM concept proposes to meet required storm water management goals by the use of use of micro-bioretenion planter boxes and drywells. Although a waiver of stormwater requirements for the work in the right of way was granted, the soil restoration techniques and tree plantings specified would help maximize the permeability of the soil, helping to further reduce runoff. The sizable forest conservation easement and the replanting of mitigation trees will also help water quality goals by providing shading and water retention and uptake.

Therefore, the project will not violate State water quality standards or cause measurable degradation in water quality.

5. *All stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied*

A Stormwater Concept Plan was approved by the Montgomery County Department of Permitting Services on July 27, 2018. The plan proposes to meet stormwater management goals via ESD to the MEP with the use of micro-bioretenention planter boxes and drywells. Due to site constraints, full stormwater management treatment cannot be provided, so a partial waiver (for the work in the right of way) was also granted.

6. *Any other applicable provision specific to the property and necessary for approval of the subdivision is satisfied*

There are no other applicable provisions specific to this Property necessary for approval of the subdivision.

CONCLUSION

The Preliminary Plan satisfies the findings of the Subdivision Regulations and is consistent with the goals and recommendations of the 1990 *Bethesda – Chevy Chase Master Plan*. Therefore, Staff recommends approval of the Preliminary Plan with the conditions specified at the beginning of this report.

ATTACHMENTS

- A. Variance Request
- B. Citizen Correspondence
- C. Preliminary Plan
- D. Agency Letters