MCPB
Item No.
Date: 10-3-19

Waredaca Farm, Administrative Subdivision Plan No. 620190090

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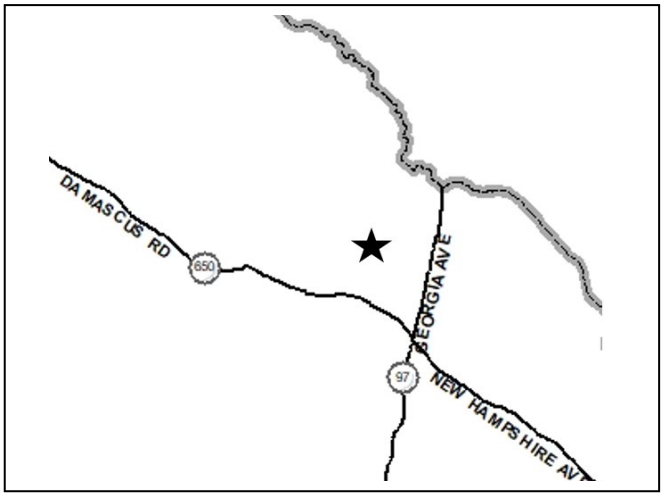
Completed: 9/20/19

Description

Waredaca Farm, Administrative Subdivision Plan No. 620190090: Application to create one, 2.33-acre lot without frontage and a 190.61 acre farm remainder, total 192.94 acres, on Howard Chapel Road, north of Damascus Road, Parcel: 606, Agriculture Reserve (AR) zone, *Olney Master Plan*.

Recommendation – Approval with conditions

Applicant: Waredaca Farm LLC.
Acceptance Date: May 8, 2019
Review Basis: Chapter 50, Chapter 59 & Chapter 22A



Summary

- Staff recommends **Approval with conditions**.
- Although this application is an Administrative Subdivision Plan, typically acted on by the Director, approval of a lot without frontage requires Planning Board action.
- Meets the applicability requirements for Administrative Subdivision Plan to create a lot for a detached house.
- The Application satisfies the requirements of Chapter 22A, Forest Conservation Law.
- Substantially conforms to the 2005 *Olney Master Plan*.
- The Planning Board granted one regulatory review extension, valid until October 3, 2019.
- *Staff has not received any citizen correspondence on the Application.*

Chapter 50, Section 6.1 of the County Code permits subdivision of land by filing an Administrative Subdivision Plan instead of an Preliminary Plan of Subdivision in limited circumstances. The necessary technical requirements of these applications must be reviewed under Section 50.4.3.

Under Section 50.6.3.B, the Planning Director must act upon the application, in writing, or may require that the application be acted upon by the Planning Board. In this particular case, because the lot will have no direct frontage on a public or private street, it is being forwarded to the Planning Board to make the necessary findings

A Pre-submittal Community Meeting with the community/public/parties of record is not required. However, applicants must post signs on the development site and provide public notice that the application has been filed under Section 50.00.01.04 of the Administrative Procedures for Subdivision Plan Review[1].

On May 8, 2019, Waredaca Farm LLC ("Applicant") filed an Administrative Subdivision Plan application designated Administrative Subdivision Plan No. 620190090 ("Administrative Plan" or "Application"). The Application was filed for approval of one 2.33 acre lot on 192.94 acres of land in the AR zone, located on Howard Chapel Road, northeast of Damascus Road (Parcel 606, Tax Map HW41) ("Subject Property"), in the Rural East Policy Area and 2005 *Olney Master Plan* ("Master Plan") area.

A notice of the Application was sent to all required parties by the applicant on May 10, 2019. The notice gave the interested parties 15 days to review and comment on the contents of the Application. Staff did not receive any correspondence regarding the Application.

RECOMMENDATION AND CONDITIONS

RECOMMENDATION: Approval subject to the following conditions:

1. This Administrative Subdivision Plan is limited to one lot for a single dwelling unit.
2. The Applicant must comply with the following conditions of approval of Final Forest Conservation Plan No. 620190090, approved as part of this Administrative Subdivision Plan:
    a) The Applicant must schedule the required site inspections with M-NCPPC staff per Section 22A.00.01.10 of the Forest Conservation Regulations.
    b) The Applicant must comply with all tree protection and tree save measures shown on the approved Final Forest Conservation Plan. Tree save measures not specified on the Final Forest Conservation Plan may be required by the M-NCPPC forest conservation inspector.
    c) The Final Sediment Control Plan must be consistent with the final limits of disturbance shown on the approved Final Forest Conservation Plan.
    d) Mitigation must be provided for the removal of one (1) trees subject to the variance provision that are not included in the forest clearing calculations. Mitigation must be provided in the form of planting native canopy trees totaling 42.9 caliper inches, with a minimum planting stock size of three (3) caliper inches. The mitigation trees must be planted on the Subject Property, in locations shown on the approved Final Forest Conservation Plan, outside of any

[1] These regulations are currently in draft form, but the draft is consistent with the existing notice requirements of the Development Review Procedures Manual that will be replaced by the Planning Board's adoption of the regulations.

rights-of-way, or utility easements, including stormwater management easements. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC forest conservation inspector.

3. Prior to the approval of a record plat, the Applicant must receive approval of a stormwater concept plan from the Montgomery County Department of Permitting Service ("MCDPS") – Water Resources Section.
4. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation ("MCDOT") in its letter dated August 6, 2019, and hereby incorporates them as conditions of the Administrative Subdivision 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 Administrative Subdivision Plan approval.
5. 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 August 5, 2019, 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 Administrative Subdivision Plan approval.
6. The Planning Board has accepted the recommendations of the Montgomery County Department of Permitting Service ("MCDPS") – Well and Septic Section in its letter dated July 26, 2019, and hereby incorporates them as conditions of the Administrative Subdivision Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDPS – Well and Septic Section provided that the amendments do not conflict with other conditions of the Administrative Subdivision Plan approval.
7. The record plat must show necessary easements.
8. The record plat must reference the ingress/egress and utility easement to serve Lot 1.
9. The Certified Administrative Subdivision Plan must reflect the correct acreage for the farm remainder (190.61 acres).
10. The Applicant must include with the submission of each record plat an affidavit to verify the availability of a TDR for each lot shown on that plat. Include a note referencing the affidavit on record plat.
11. The Applicant must record a covenant for the unplatted balance of the tract noting that density and development rights have been used for the new lot and the covenant must be noted on the record plat for the lot.
12. The record plat(s) must contain the following note:

    Agriculture is the preferred use in the Agricultural Zone. All agricultural operations shall be permitted at any time, including the operation of farm machinery and no agricultural use shall be subject to restriction because it interferes with other uses permitted in the Zone.

13. The Adequate Public Facility ("APF") review for the Administrative Subdivision Plan will remain valid for sixty-one (61) months from the date of mailing of this Planning Board Resolution.
14. The certified Administrative Subdivision 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 Administrative Subdivision Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of issuance of building permit(s). 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.

PROPERTY AND VICINITY DESCRIPTION

Site Description

As depicted in the figures below, the Property is a working farm, know are Waredaca, which includes an equestrian facility, and brewery. Parcel P20 which fronts on Howard Chapel Road and contains an existing horse barn is also owned by the Applicant. The three adjoining lots in the center of the Property, directly to the west of the pond are not part of this Application. The surrounding area is predominately large lot residential detached houses and agricultural land. The Property is within the W-6 and S-6 water and sewer service categories, respectively.

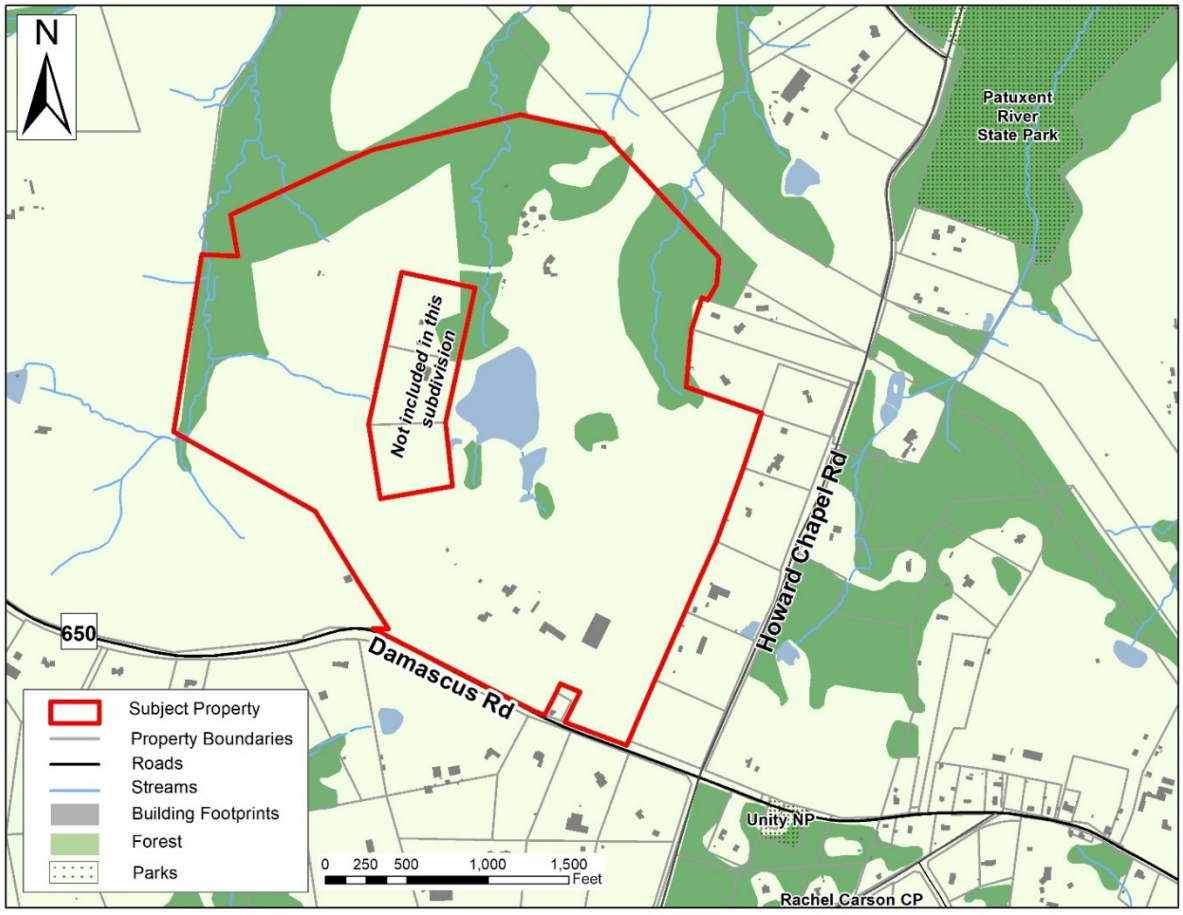


Figure 1 – Vicinity Map

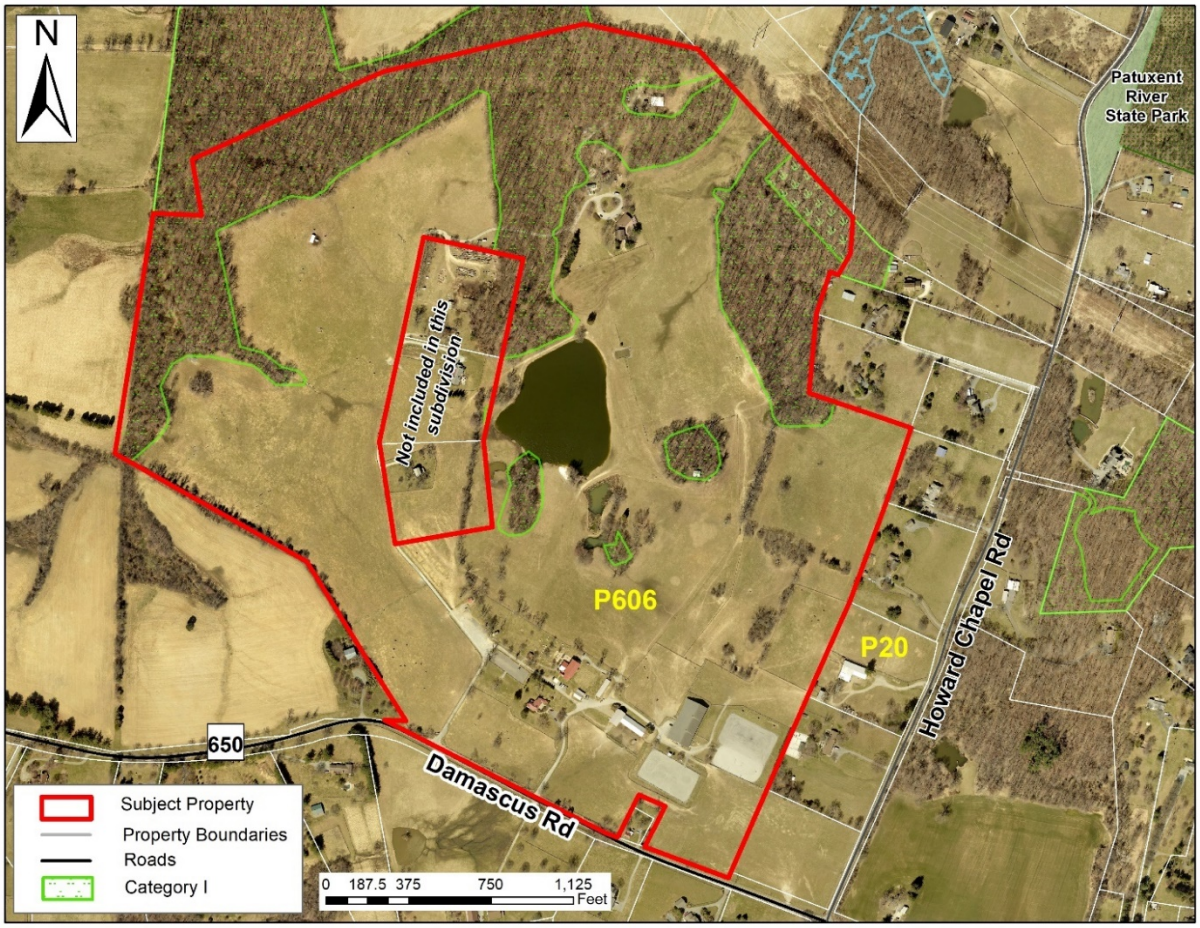


Figure 2 – Existing Property

The Property is located within the Upper Patuxent River and Hawlings River watersheds; this portion of the Upper Patuxent River watershed is classified by the State of Maryland as Use Class III waters. Due to its proximity to tributary streams, a portion of the Property is located within the Primary Management Area ("PMA") which limits uses and restricts impervious area in low-density zones. The Property has rolling topography that slopes down from Damascus Road to the northern Property line. There are multiple forest stands and streams on the Property, none of which are within the boundary of the proposed lot.

PROPOSAL

The Application proposes one 2.33-acre lot to accommodate a single-family detached (Attachment A). The remaining 190.61 of the Property will be left as an agricultural remainder. The Subject Property is subject to a Deed of Agricultural Preservation Easement ("Ag Easement") recorded in the Land Records (Liber 37546/folio 164) between Waredaca Farm, L.L.C. (Grantor) and Montgomery County (Grantee). The easement prohibits subdivision of the Property except for a child of the Grantor "for the sole purpose of constructing a dwelling for that child's personal use" (Attachment B).

In accordance with the provisions of the Ag Easement, the lot is being created to allow the construction a single-family residence for the child[2] of the Grantor(s). There were multiple contributing factors for the placement of the lot, one of the primary reasons its proximity to the horse barn on Parcel P20, which is managed by the Applicant. According to the Applicant's Statement of Justification (SOJ) (Attachment C) "the new lot has been carefully placed to avoid disruption to farming and other activities which occur on the farm parcel and also near adjacent P20 which contains a horse barn managed by the applicant. The subject area is one of the least used areas of the farm according to the applicant. There is some pasturing of fields in the area (not the homesite area which is currently in trees) and cross-country events occur nearby. But, overall the area is generally not used for farming activities at this time".

While the lot does not have frontage on a public road, the rational for the proposed location is consistent with Division 4.2.1.C of the Zoning Ordinance, which states that in the Agricultural Reserve Zone "residential uses must be located and arranged to support agriculture as the primary use and to support the rural character of the area". The Property will be accessible from Howard Chapel Road via a new 35-foot-wide Ingress/Egress and Utility easement across Parcel P20, south of its common boundary line with Lot 3 to the north. The Planning Board findings for a lot without frontage are detailed in the ANALYSIS AND FINDINGS – Chapter 50, Section 4.3 – Technical Review in this report.

A new well and septic system will be installed to serve the house. As conditioned, the Applicant must receive approval of a stormwater management concept from MCDPS Water Resources Section prior to record plat. As proposed stormwater management goals will be met via drywells and a micro-infiltration trench. This Application also includes an amendment to Final Forest Conservation Plan (FFCP) No. 620190090[3] and a tree variance request to remove one specimen tree.

[2] The proposed lot is identified as lot for a child because of the language used in the Ag Easement, but the lot is not a Child Lot as defined in Section 4.2.1.E of the Zoning Ordinance.

[3] As discussed in the Environment Section of this Staff Report, during the application process the FFCP was assigned a new application number instead of an amendment to the original application number.

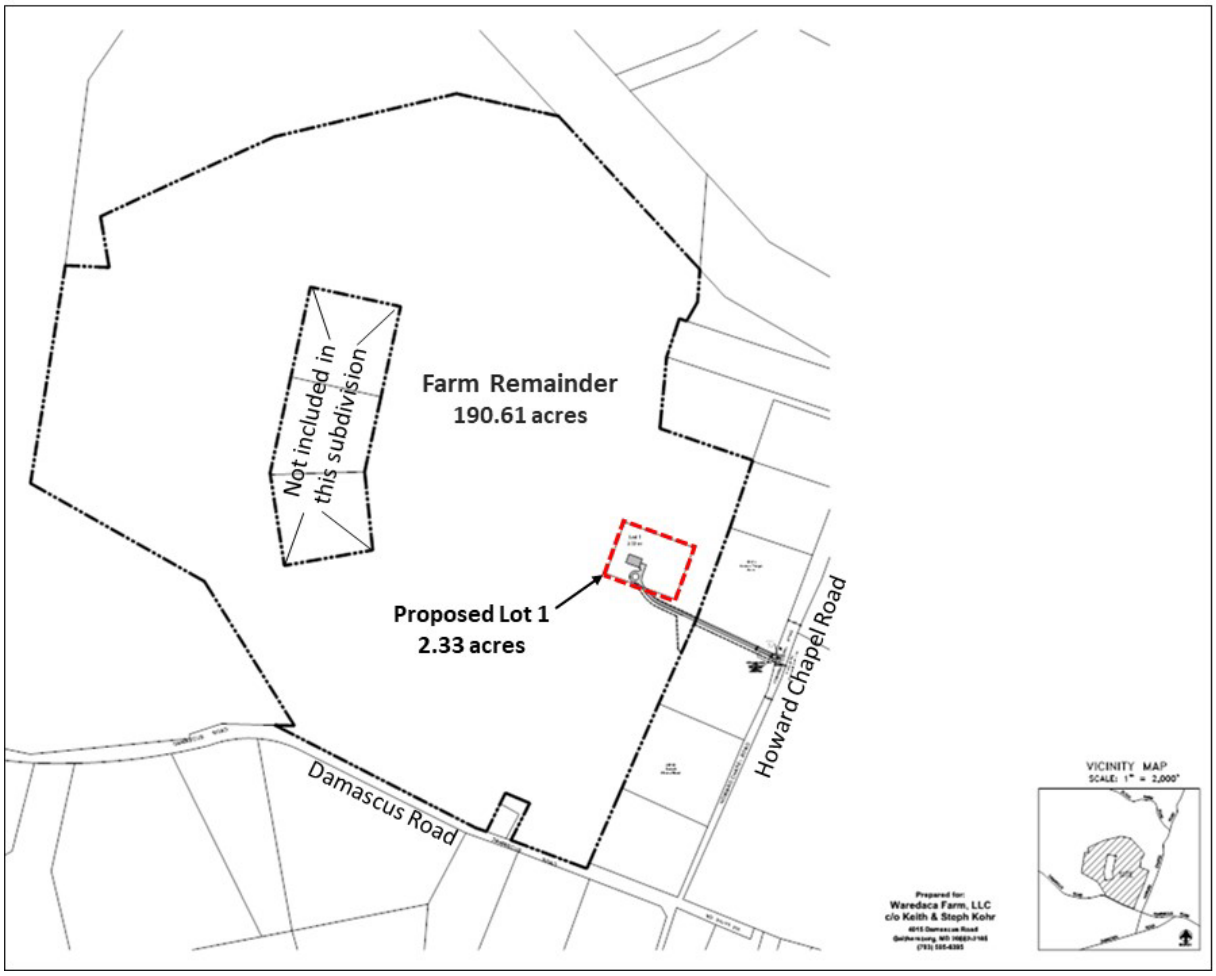


Figure 3 – Administrative Subdivision Plan (Simplified)

ANALYSIS AND FINDINGS FOR CHAPTER 50, SECTION 6.1.B - Applicability

Subdivision for creation of certain residential lots located in the Agricultural Reserve zone. Up to 5 lots for detached houses are permitted under these procedures in the AR zone if:

1. *Written approval for a proposed well and septic area is received from the Department of Permitting Services before approval of the plat;*

   The Application has been reviewed by MCDPS – Well and Septic Section, which determined the proposed well and septic location is acceptable as shown on the approved well and septic plan dated July 26, 2019 (Attachment D).

2. *Any required road dedications and public utility easements along the frontage of the proposed lots are shown on the record plat, and the applicant provides any required improvements;*

As described below, the proposed lot does not have frontage on a public road and instead, will access Howard Chapel Road via an ingress/egress and utility easement. No public improvements are required at this time because Howard Chapel Road is designated as a Rustic Road.

3. *The requirements for adequate public facilities under Section 4.3.J are satisfied before approval of the plat;*

   As discussed below, public facilities area adequate to serve the proposed lot.

4. *A covenant is recorded for the unplatted balance of the tract noting that density and development rights have been used for the new lots and noted on the record plat for the lots;*

   As conditioned, the Applicant will record a covenant for the unplatted balance of the tract noting that density and development rights have been used for the new lot and include a note on the record plat for the lot.

5. *Lots created in the AR zone through this procedure are 5 acres or less, unless approved by the Board; and*

   The proposed 2.33 acre lot is below the maximum 5 acre size limit.

6. *Forest conservation and environmental protection requirements are satisfied before approval of the plat.*

   As discussed below, a Final Forest Conservation Plan has been submitted with the Administrative Subdivision Plan. The Applicant has submitted a stormwater concept plan to MCDPS – Water Resources Section for their review. As conditioned, the Applicant must have an approved stormwater concept plan prior to approval of a record plat.

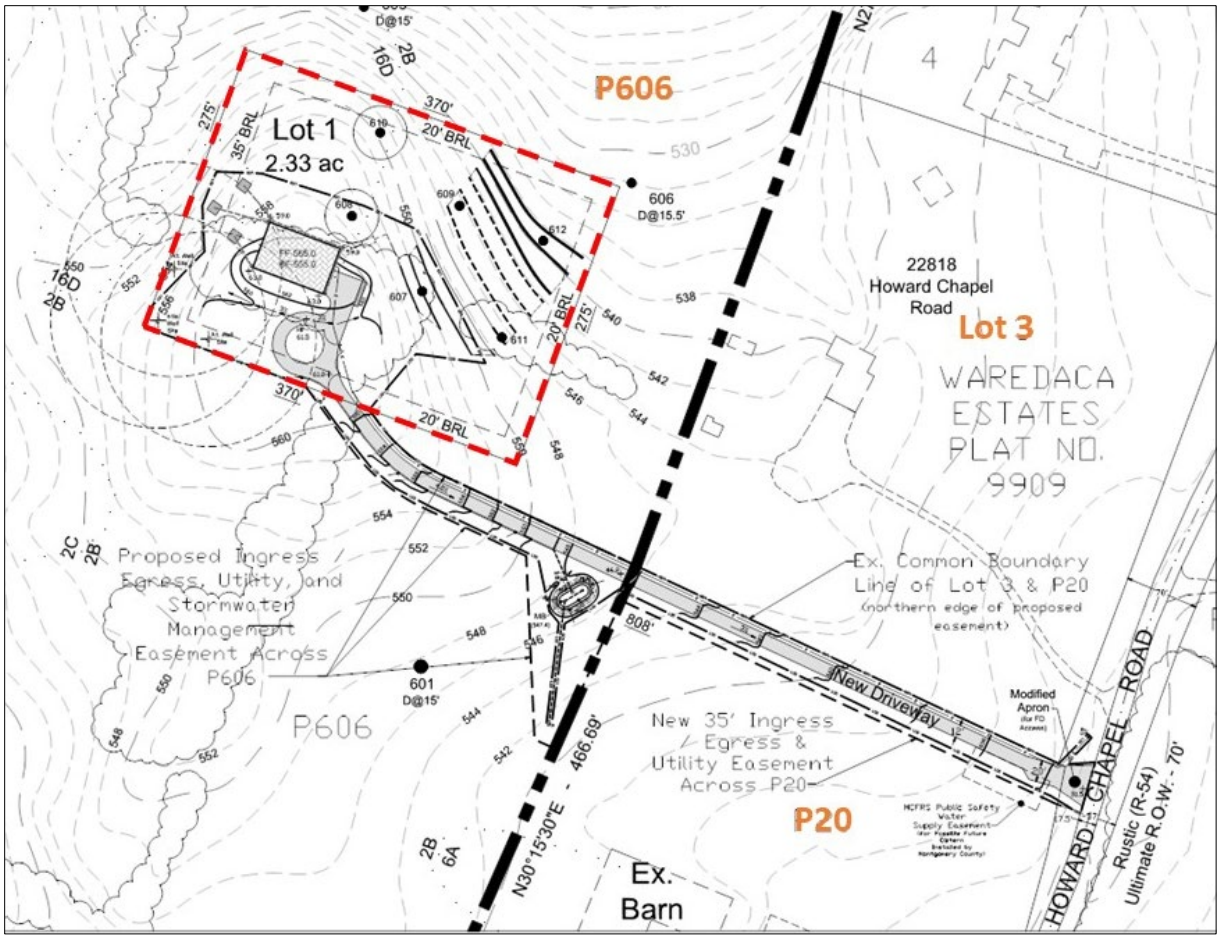


Figure 4 – Close up of lot only from the plan drawing

ANALYSIS AND FINDINGS – Chapter 50, Section 4.3 – Technical Review

1. The layout of the subdivision, including size, width, shape, orientation and density 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 Application proposes no new residential blocks.

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

    The Administrative Subdivision Plan meets all applicable sections of the Subdivision Code. The proposed lot size, width, shape, and orientation are appropriate for the location of the subdivision, taking into account the recommendations of the Master Plan, and the intent of the AR zone, to preserve and support agriculture. In this case, by permitting a single family detached dwelling unit for member of the farm owner, it promotes the continuation of intergenerational transfer of farmed property .

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

The lot 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 Lots and Use comply with the basic requirements of Chapter 59

The lot was reviewed for compliance with the dimensional requirements for the AR zone as specified in the Zoning Ordinance. The lot meets the dimensional requirements for area, and width in that zone, but does not have frontage on a public road. Per Chapter 50, Section 4.3.C, "every lot must abut on a public or private road" however,

i. The Board may approve a maximum of 2 lots that do not abut a public or private road if the lots will be served by a private driveway that serves no other lots without frontage.

ii. The access to lots with no road frontage must be adequate to serve the lots for emergency vehicles and for installation of public utilities. In addition, the lots must be accessible for other public services and not detrimental to future development of adjacent lands.

As proposed, the lot meets the above conditions (I & ii) by providing a 35-foot-wide access easement and utility easement on Parcel P20 between Howard Chapel Road and the proposed lot. A new 20-foot-wide private driveway with a modified apron will be installed to serve the individual lot and is acceptable to Fire and Rescue Services. With the exception of water and sewer, which is not available in this part of the County, other utilities are available along Howard Chapel Drive and will be brought into the site as needed within the proposed access easement. A summary of this review is included below in the Administrative Subdivision Plan Data Table below.

Table 1 – Development Standards Table

AR Zone	Required by the Zone	Proposed for Approval
Minimum Lot Area	40,000 sq. ft.	2.33 acres or 101,494 sq. ft.
Minimum Lot Frontage	25 feet	See waiver
Minimum Lot Width at B.R.L.	100 feet	275 ft.
Maximum Lot Coverage	25%	Approximately 3.5%
Setbacks		
Front	50 feet	NA[1]
Side	20 feet	20 feet or greater[1]
Rear	35 feet	35 feet or greater[1]
Building Height	50 feet max.	50 feet max. [1]
Site Plan Required	No	No

[1] As determined by MCDPS

2. The preliminary plan substantially conforms to the master plan;

2005 *Olney Master Plan*

The Subject Property is located within Northern Olney Area of the of the 2005 *Olney Master Plan* (pg.17). In Northern Olney, specifically west of Georgia Avenue, the Master Plan retained the RDT Zone (now AR) in an effort to maintain rural character and protect the Patuxent River and Hawlings River watersheds. The low density of the AR Zone (1 lot per 25 acres) provides significant protection to the aforementioned watersheds that play an important role supplying drinking water to the Triadelphia and T. Howard Duckett reservoirs. As previously discussed, the Property is encumbered by an Ag Easement which limits residential development. The proposal to create a new single-family residential lot from the existing 192 acre farm is consistent with the intent of the Master Plan and the terms of the Ag Easement.

1996 *Rustic Roads Functional Master Plan*

The proposed lot will access Howard Chapel Road (R-54) which is identified as a Rustic Road in the 1996 Rustic Roads Functional Master Plan for the portion of the road between Damascus Road (MD 650) and the Patuxent River (Howard County Line). Howard Chapel Road has an ultimate right-of-way width of 70 feet. The new driveway entrance will be located along the western side of Howard Chapel Road, approximately 1/4 of a mile north of MD 650.

The Master Plan states that while traveling north from Damascus Road "the western side has views of horse pastures and modern homes".

The new driveway is located along the northern boundary of Parcel 20 so as not to interrupt the existing horse pasture, and no tree clearing is required to construct the driveway. As such the proposed new driveway will not adversely affect the views described in the Rustic Road Functional Master Plan. The new driveway access from Howard Chapel Road is the minimum width permitted by the MCDPS – Fire Access and Water Supply Section and maintains the existing character of horse pasture along this portion of the road and is therefore consistent with the intent of the Rustic Roads Master Plan.

The Rustic Roads Advisory Committee ("RRAC") has reviewed the Application to determine if it has any effect on Howard Chapel Road. In a letter dated September 20, 2019, (Attachment E) the RRAC determined that the committee generally supports the proposal. The Application has also been reviewed by the MCDOT, which determined that the new driveway has adequate site distance as shown on the Administrative Subdivision (Attachment F).

No dedication is required as part of this Application because the lot does not front on a right-of-way . Because of its Rustic Road designation, there are no existing or recommended sidewalks or bikeways.

3. Public facilities will be adequate to support and service the area of the subdivision;

Roads and Transportation Facilities

The transportation Adequate Public Facilities test is satisfied under the current 2016-2020 Subdivision Staging Policy. The Property is located in the Rural East Policy Area.

A traffic study is not required to satisfy the APF's Local Area Transportation Review (LATR) test because the new single-family detached unit do not generate 50 or more person trips during the weekday morning (6:30 to 9:30 a.m.) and evening (4:00 to 7:00 p.m.) peak periods.

An on-site well and septic system will be installed to serve the new lot. The use of a well and septic system is consistent with the existing W-6 and S-6 services categories designated for the Property. The Application has been reviewed by MCDPS – Well and Septic Section, which determined the proposed well and septic location is acceptable as shown on the approved well and septic plan dated July 26, 2019.

The Application has been reviewed by the Montgomery County Department of Permitting Services, Fire Department Access and Water Supply Section, which determined that the Property has adequate access for fire and rescue vehicles as shown on the approved Fire Department Access Plan dated August 5, 2019. (Attachment G). All other public facilities and services, police stations, and health services are currently operating within the standards set by the Subdivision Staging Policy Resolution currently in effect.

School Adequacy

With a net of one new one-family detached dwelling unit, the Application falls within the de minimis (three units or less) exemption. Therefore, the Application is exempt from any applicable residential development moratoria and it is unnecessary to test the project's estimated impact on school enrollment.

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

   a. Environmental Guidelines

The Property is located within the Upper Patuxent Watershed, which is classified by the State of Maryland as Use Class III waters. The Property consists of rolling topography that slopes down from Damascus Road to the northern property line. There are multiple forest stands on the Property: one in the northwest corner and one in the northeast corner, with a few smaller pockets in the center of the property for a total of 55.5 acres of existing forest onsite. There are multiple streams on the Property which generally align with the existing forest stands.

Natural Resource Inventory/Forest Stand Delineation

The Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) No.420011680 for this Property was approved on January 26, 2001. The NRI/FSD identifies the environmental constraints and forest resources on the Subject Property. The NRI/FSD calls out the Property to be a total of 192.94 acres of which 55.5 acres are existing forest. The Property contains multiple streams and their environmental buffers.

Patuxent River Watershed/Impervious Surface Limits

The Property is located within the Patuxent River and Hawlings River watersheds. The Master Plan makes reference to the Patuxent River Watershed Functional Master Plan, which delineates a Primary Management Area (PMA) limiting uses and restricting impervious area in low-density zones.

Due to its proximity to tributary streams, a portion of the Property is located within the Patuxent River PMA. The PMA is an area of land located within ¼ mile (1,320 feet) of the Patuxent River and Hawlings River mainstems, and ⅛ mile (660 feet) of all tributaries of the Patuxent and Hawlings Rivers. The PMA consists of the stream valley buffer and the transition area. There are specific requirements outlined in the Environmental Guidelines for properties located within the PMA. The stream valley buffer is delineated based on the normal criteria outlined in the Environmental Guidelines. The Environmental Guidelines note that overall imperviousness within the transition area should not exceed ten percent.

The Application does not propose any impacts on the stream valley buffer and the impervious levels proposed are less than 10% (Attachment H). The Application is in compliance with all PMA regulations.

b. Forest Conservation Plan

The original Final Forest Conservation Plan for this Property was submitted and approved in conjunction with a Special Exception S-2463. A new FFCP was submitted as part of the Administrative Subdivision Plan Application and given the number 620190090 (Attachment I-J).

This Property is zoned AR which is assigned a Land Use Category of Agricultural and Resource Areas (ARA) in the Land Use Table of the Environmental Guidelines. This gives the Property an afforestation requirement of 20% of the net tract and a conservation threshold of 50%.

The total tract area is 192.94 acres with 55.50 acres of forest with no forest clearing. The Application is above the break-even point of the forest conservation worksheet and does not have any afforestation or reforestation requirements. All existing forest onsite is already in Category I Conservation Easement so no new easements will be required.

The FFCP meets all applicable requirements of Chapter 22A of the County Code. Therefore, Staff recommends approval the Final Forest Conservation Plan with the conditions cited in this Staff Report.

c. 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. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that: measure 30 inches or greater DBH; are part of an historic site or designated with an historic structure; are designated as a national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

Variance Request - The Applicant submitted a variance request in a letter dated April 12, 2019 (Attachment K). The Applicant proposes to remove one (1) tree that is 30 inches or greater DBH,

that is considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law.

Table 2 - Tree to be removed:

Tree Number	Species	DBH Inches	CRZ Impact	Status
ST-2	Scarlet Oak (Quercus coccinea)	42.9"	59%	Poor condition; stormwater management and septic systems requires removal.

Unwarranted Hardship Basis

Per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship, denying the Applicant reasonable and significant use of its property. In this case, the unwarranted hardship is caused by poor soil conditions which dictates where the new septic system needs to be placed. Without a septic system the lot could not be built. Therefore, Staff concurs that the Applicant has a sufficient unwarranted hardship to justify a variance request.

Section 22A-21 of the County Forest Conservation Law sets forth the findings that must be made by the Planning Board or Planning Director, as appropriate for a variance to be granted.

Variance Findings - Staff has made the following determination 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.*

   Granting the variance will not confer a special privilege on the Applicant as the removal of the tree is due to placement of the Septic system and poor soil conditions. Therefore, Staff believes that the granting of this variance is not a special privilege that would be denied to other applicants.

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

   The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based on existing site conditions and the need to build a new septic system.

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 existing conditions and not as a result of land or building use on a neighboring property.

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

The variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen tree being removed is not located within a stream buffer. The Application proposes mitigation for the removal of the tree by planting larger caliper trees on-site. The four mitigation trees will eventually provide more shade and more groundwater uptake than the existing three trees currently provide. Therefore, Staff concurs that the project will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provision - There is one (1) tree proposed for removal in this variance request which results in a total of 42.9 inches of DBH being removed. For removal of specimen trees associated with a variance request, Staff recommends mitigation for the tree loss by replacing the total number of DBH removed with ¼ of the amount of inches replanted. This results in a total mitigation of 10.73 inches of replanted trees. In this case, the Applicant proposes to plant four (4) 3" caliper overstory trees native to the Piedmont Region of Maryland on the Property.

County Arborist's Recommendation on the Variance - In accordance with Montgomery County Code Section 22A-21(c), the Planning Department is required to refer a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection for a recommendation prior to acting on the request. The request was forwarded to the County Arborist who recommendation approval.

Variance Recommendation - Staff recommends approval of the variance request.

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

   As conditioned, the Applicant must receive approval of a stormwater management concept from the MCDPS – Water Resources Section prior to record plat. As proposed stormwater management goals will be met via drywells and a micro-infiltration trench.

6. *Any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Inventory and located within the subdivision boundary is approved under Subsection 50-4.3.*

   There is no record or other evidence to suggest that a burial site is located within the boundary of the Subject Property. Therefore, this finding does not apply.

CONCLUSION

The Administrative Subdivision Plan meets the technical requirements of Section 50.4.3 of the Subdivision Regulations, and the applicable requirements of Section 50.6.1.B. The lot meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conform to the recommendations of the 2005 *Olney Master Plan*. Access and public facilities will be adequate to serve

the proposed lots, and the Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

This Administrative Subdivision Plan will remain valid for 36-months from its initiation date (as defined under Section 50.4.2.G of the Subdivision Regulations), by which time a plat must be recorded in the Montgomery County Land Records, or a request for extension must be filed under Section 50.4.2.H.

Attachments
Attachment A – Administrative Subdivision Plan
Attachment B – Agricultural Easement
Attachment C – Statement of Justification
Attachment D – Well and Septic Letter
Attachment E – Rustic Road Advisory Committee Letter
Attachment F – MCDOT Letter
Attachment G – Fire Access Letter
Attachment H – PMA Plan
Attachment I & J – Forest Conservation Plan
Attachment K – Tree Variance Request

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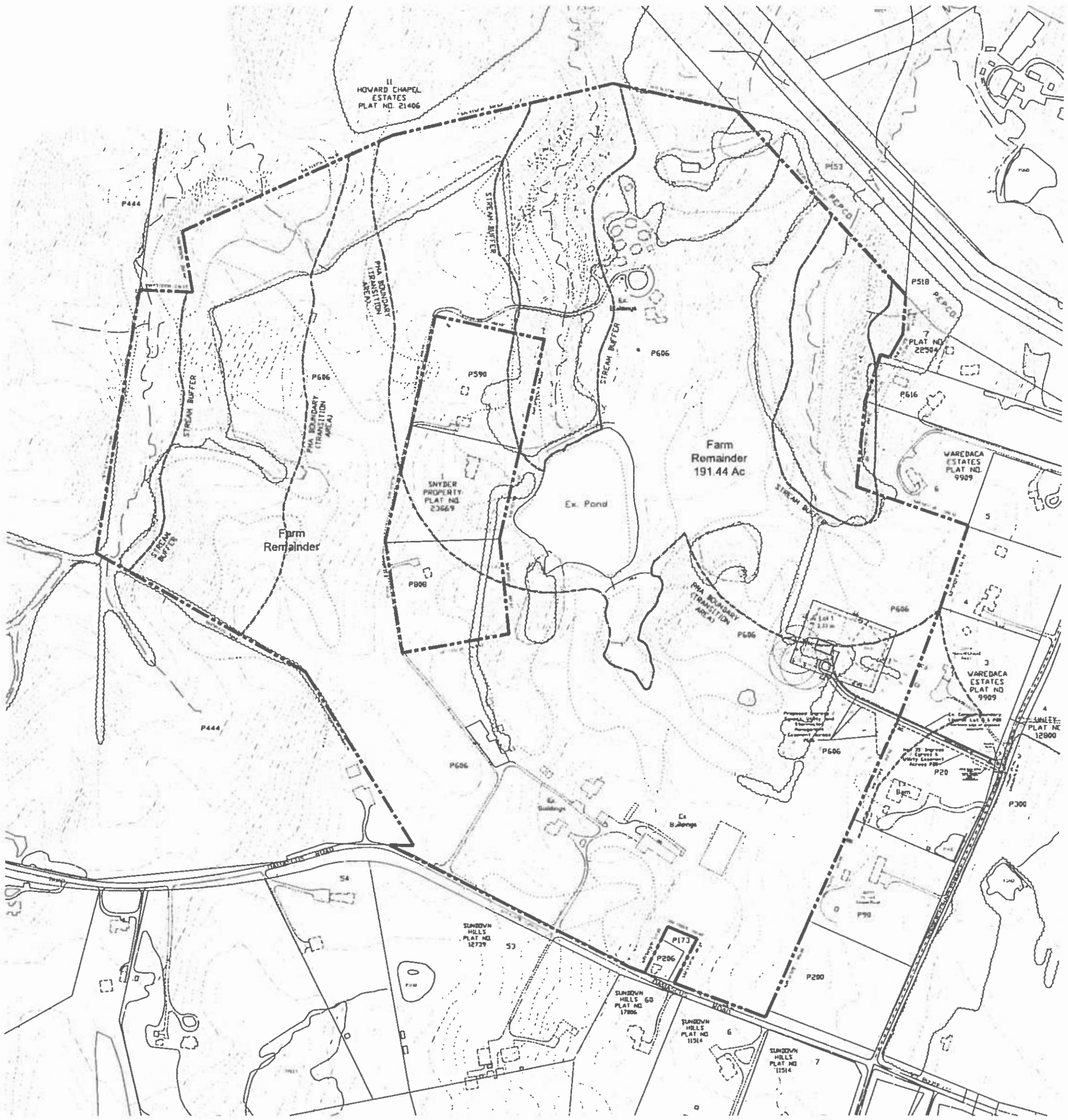
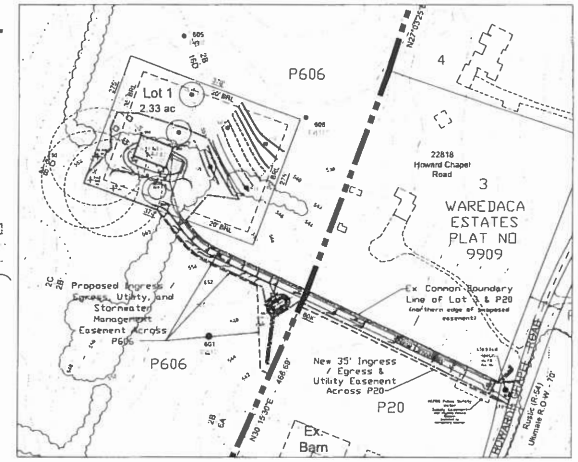


LEGEND:

- Property Boundary
- New Lot Line
- Proposed House
- Proposed Ingress / Egress Easement
- Building Restriction Line
- Proposed Septic Area
- Proposed Septic System
- Proposed Well Site
- Ex. Building
- Ex. Contour
- Proposed Contour
- Patuxent River Watershed Primary Management Area (PMA)
- Existing Conservation Easement
- Soil Series Divide
- Limit of Disturbance
- Ex. Canopy
- Micro Infiltration Trench
- Drywell
- Septic System Test Site
- Failed Septic System Test Site



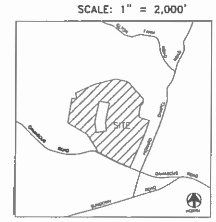
Detail View: Proposed New Lot
1" = 100'

ZONING STANDARDS: AR		
LOT 1	Required	Provided
Lot Size	40,000 sf	101,750 sf
Frontyard	50'	N/A
Sideyards	20' min.	20' or more
Rearyard	35'	35' or more
Building Height	50' Max.	50' Max.
Lot Coverage	10% Max.	~3.5%
Lot Width @ Building Line	125'	275'
Frontage	25'	0'*

* waiver of frontage requested

NOTES:
1. AREA OF PROPERTY (P606) - 192.94 ACRES (8,404,466 SF)
2. EXISTING ZONING: AR
3. NUMBER OF LOTS PROPOSED - 1
4. AREA OF PROPOSED LOT - 2.33 ACRES
5. AREA OF FARM REMAINDER NOT INCLUDED ~190.61 ACRES
6. SITE TO BE SERVED BY PRIVATE ON-SITE WELL & PRIVATE ON-SITE SEPTIC SYSTEM.
7. WATER SERVICE CATEGORY IS W-6; SEWER SERVICE CATEGORY IS S-6.
8. THE PROPERTY IS WITHIN THE LIMITS OF THE OLNEY MASTER PLAN AREA.
9. THE PROPOSED LOT IS WITHIN THE *UPPER PATUXENT RIVER WATERSHED.*
10. THERE ARE NO WELLS OR SEPTIC SYSTEMS WITHIN 100 FEET OF THE PROPOSED NEW LOT.
11. BOUNDARY INFORMATION FROM AVAILABLE DEED RECORDS.
12. TOPOGRAPHIC DATA FROM MNCPPC SHEETS SUPPLEMENTED WITH INFORMATION COLLECTED DURING A FIELD SURVEY BY THOMAS A. MADDOX, PLS.

VICINITY MAP
SCALE: 1" = 2,000'



Surveyor's Certificate:
I hereby certify that the boundary shown hereon is based upon an actual survey of the property and is correct to my best knowledge and belief.

DocuSigned by: Tom Maddox
AE29781A34CF430

Signature	Date	Exp. Date
		04-03-20

Scale: 1" = 200'
0' 200' 400' 800'

Scale: 1" = 100'
0' 100' 200' 400'

Prepared for:
Waredaca Farm, LLC
c/o Keith & Steph Kohr
4015 Damascus Road
Gaithersburg, MD 20882-2105
(703) 595-6395

Revisions
Rev. 7-26-19

date: 04/12/2019
scale: 1" = 200'

Benning & Associates, Inc.
Land Planning Consultants

Administrative Subdivision Plan
Waredaca Farm
4015 Damascus Road
Montgomery County, Maryland

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) LEK 37546, p. 0164, MSA_CE63_37503. Date available 07/02/2009. Printed 04/23/2019.

Please mail to:

DAVID R. PODOLSKY
ATTORNEY AT LAW
25 West Middle Lane
Rockville, MD 20850

37546 164

MONTGOMERY COUNTY, MD
APPROVED BY

JUN 26 2009

4 **Property ID #01-1345**

DEED OF AGRICULTURAL PRESERVATION EASEMENT

$ EX RECORDATION TAX PAID
$ N/C TRANSFER TAX PAID

This Deed of Agricultural Preservation Easement[1] (**Easement**) is sold, granted, and conveyed as of this 26th day of June 2009 by **Waredaca Farm, L.L.C as to an undivided 22.88% interest, and Susan B. Shackelford, Marian J. Staehle and Robert B. Butts, as to an undivided 77.12% interest as tenants in common** (**Grantors**) to Montgomery County, Maryland, c/o Department of Economic Development, 101 Monroe Street, Rockville, Maryland 20850 (**Grantee**) for the purpose of forever preserving the agricultural production capability of the subject property, pursuant to the Montgomery County Code 2004, as amended, Chapter 2B.

FILED
LORETTA E. KNIGHT
CLERK'S OFFICE
MONTGOMERY CO. MD
2009 JUN 26 PM 1:27

WITNESSETH:

By authority of the Montgomery County Code 2004, as amended, Chapter 2B (**Chapter 2B**) and the attendant Executive Regulations (**Regulations**), the Grantee may purchase agricultural preservation easements to restrict land to agricultural use.

The Grantors are the sole owner in fee simple of the farm property described in Exhibits A and A-1, attached to and made part of this Easement (**Property**), which consists of **188.64 acres,** more or less. The Grantors are saving and excepting a parcel of land totaling **22.3996 acres** leased to Carol Jean Cancer Foundation, Inc. for a total easement area of **166.24 acres,** more or less (**Easement Parcel**), as more particularly described below and in Exhibit B attached hereto and made part of this Easement (**Retained Parcel**), together with buildings and other improvements, and **six (6)** Transferable Development Rights(**TDRs**).

The Grantors acknowledge and agree that there is a discrepancy in the acreage calculation for the Property reflected in the land records and in the tax records as 192.94 acres. For purposes of this Easement Grantors acknowledge and agree that this Easement covers all of the Property except for the Retained Parcel and that the purchase price will be based on 166.24 acres. The Grantors also acknowledge and agree that if a future survey determines that the acreage under this Easement is greater than 166.24 acres, no additional purchase price will be paid by the Grantors by the Grantee.

The Property is eligible land located in the Rural Density Transfer, Rural, or Rural Cluster Zone, or is an approved State or County agricultural preservation district.

The Grantors desire to sell an agricultural preservation easement to the Grantee to restrict the Easement Parcel to agricultural use.

All holders of liens or other encumbrances upon the Easement Parcel have agreed to release or subordinate their interests in the Easement Parcel to this Deed of Agricultural Preservation

AGRICULTURE TRANSFER TAX IN THE AMOUNT OF $ N/A
SIGNATURE KS 6/26/09

HEREBY CERTIFY THIS PROPERTY HAS BEEN REGISTERED ON THE MONTGOMERY COUNTY ASSESSMENT BOOKS FOR TDR INFORMATION.
TDR NO CARD.
TRANSFER CLERK, ASSESSMENT DEPARTMENT

NO FEE

RP

1 For purposes of this transaction an Agricultural Preservation Easement is deemed to include certain Transferable Development Rights (TDRs) associated with the Property which the Grantor, simultaneous herewith, shall convey to Grantee.

Easement, and to refrain forever from any action that would be inconsistent with its preservation purposes.

NOW THEREFORE, for the reasons given, and in consideration of the sum of be **One Million Three Hundred Twenty Thousand Five Hundred Forty-Eight Dollars and Fifty-One Cents ($1,320,548.51)** paid by Grantee to Grantors, the sufficiency and receipt of which Grantors hereby acknowledge, and of the mutual covenants contained herein, the Grantors voluntarily sell, grant and convey to the Grantee, and the Grantee voluntarily accepts, a perpetual Agricultural Preservation Easement on the Easement Parcel, pursuant to Chapter 2B of the Montgomery County Code 2004, as amended, consisting of those rights described in this Easement, exclusively for the purpose of preserving and forever maintaining the agricultural production capacity of the Easement Parcel. The Grantee's payment of the full amount of the consideration to Grantors under this Easement is subject to Grantor's compliance with the requirements of Paragraph 5 "Soil, Water and Forestry Conservation Plans" and Addendum No. I, which is attached to this Easement and made part hereof.

1. Prohibited Acts -- Grantors promise that they will not perform, nor knowingly allow others to perform, any act on or affecting the Easement Parcel that is inconsistent with the covenants enumerated below. They also authorize the Grantee to enforce these covenants in any manner permitted by law or equity. However, unless otherwise specified below, nothing in this Easement shall require the Grantors to take any action to restore the condition of the Easement Parcel after any Act of God or other event over which they had no control. Grantors understand that nothing in this Easement relieves them of any obligation or restriction on the use of the Easement Parcel imposed by law.

2. Subdivision of Property -- The Grantors relinquish the right to subdivide the Property for industrial, commercial, or residential use or purpose except as provided below.

   a. The Grantors reserve as a personal covenant only and one not intended to run with the land, the right to subdivide and convey one acre, or the minimum lot size required by the zoning and health regulations, whichever is greater, upon written application to the Grantee, for a child for the sole purpose of constructing a dwelling for that child's personal use.

   b. The Grantors shall pay the Grantee, for the release of the easement on the lot used for constructing a dwelling for Grantor's child's use, the price per acre that the Grantee paid the Grantors for the grant of easement.

   c. The Grantors may not create lots at a density greater than one per twenty-five (25) acres of the Property, nor may the total number of lots exceed two (2).

   d. The Grantors retain the right to construct, subject to approval of the Grantee, houses for tenants fully engaged in the operation of the farm provided such construction does not exceed one tenant house per one hundred (100) acres. The land on which the tenant house is constructed may not be subdivided or conveyed to any person and the tenant house may not be conveyed separately from the Easement Parcel.

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e. The Grantors shall obtain from the Grantee written approval prior to the subdivision of the Property in order that the Grantee may determine whether the proposed subdivision is in keeping with the agricultural purposes of this Easement and whether the proposed subdivision violates any of the covenants, conditions, limitations or restrictions contained herein.

3. Construction of Buildings and Other Structures -- The construction or reconstruction of any building or other structure, except those existing on the date of this Easement or previously approved by the Grantee, is permitted only in accordance with this Paragraph 3.

a. Fences - Fences for, or related to, agricultural production, may be built anywhere on the Easement Parcel without limitation.

b. Agricultural Buildings -- Buildings and other structures to be used solely for, or related to, agricultural production, including the sale of farm products raised primarily on the Easement Parcel, but excepting any dwelling, may be built anywhere on the Easement Parcel without the permission of the Grantee.

4. Dumping Material -- The Grantors will not dump ashes, sawdust, bark, trash, rubbish or any other material on the Easement Parcel, however, the Grantor reserves the right to dump any material which is generated on the farm during regular agricultural operations.

5. Soil, Water and Forestry Conservation Plans

a. The Grantors must within two (2) years of the settlement date (as determined by Paragraph 2 of the Agricultural Easement Purchase contract) cause the Easement Parcel to be managed in accordance with an approved agricultural soil and water conservation plan so as to promote the agricultural capability of the land. Further within two (2) years of the settlement date the Grantors must manage any woodland in accordance with an approved Forest Resource Management Plan; provided, however, the Grantors reserve the right to selectively cut or clear cut from time to time trees in accordance with an approved Forest Resource Management Plan to insure that the agricultural character of the land will not be altered by diminishing its productive capability. (See Addendum No. 1 to this Easement).

b. The Grantors must implement all soil conservation and water quality practices that are required within a soil conservation plan, within five years of the settlement date. The plan must be implemented according to the schedule of implementation contained within the plan which exists at the time of easement settlement. Once the plan is approved it must be updated at least every ten (10) years. Revisions to the schedule of implementation may be made as approved by the Board of Supervisors of the local soil conservation district; however, the plan must be fully implemented within

five years of the settlement date. Exceptions may be considered by the Grantee on a case by case basis; however, whether to grant any exceptions to the requirements of this subparagraph are within the County's sole and absolute discretion.

c. All references to plan approvals, means approval by the applicable government agencies.

d. The Grantee's payment of that portion of the consideration under this Easement for the Soil Conservation and Forest Resource Management Plans (see Addendum I) must not be made to the Grantors unless and until said plans are certified by the appropriate government agencies and are implemented by the Grantors.

6. Mining -- The mining or extraction of soil, sand, gravel, rock, fossil fuels or any other mineral substance, using any method that disturbs the surface of the land, are prohibited without the advance written permission of the Grantee. The Grantee shall give such permission within a reasonable time, unless the Grantee determines that the proposed mining or extraction will diminish or impair the agricultural production capability of the Easement Parcel. However, nothing in this Easement must be interpreted to prevent Grantors or any third party holding subsurface mineral rights to remove such minerals, including coal, oil and gas, by methods that do not disturb the surface of the land, and to construct facilities necessary for the removal of such mineral; provided however, any third party holding subsurface mineral rights must take no action or otherwise cause the agricultural production capability of the Easement Parcel to be diminished.

7. Transferable Development Rights (TDRs) -- Simultaneous with this transaction, by Deed of Transfer of Development Rights (TDRs) of even date herewith by and between the Grantors and Grantee recorded simultaneously herewith in the Land Records of Montgomery County, Maryland, the Grantors conveyed to the Grantee **three (3)** TDRs associated with the Easement Parcel and the Grantors are retaining **three (3)** TDRs. Of the three TDRs retained by the Grantors: **one (1)** TDR is associated with the **22.3996** acres comprising the Retained Parcel; **one (1)** TDR is associated with the existing dwelling located on the **166.24** acre Easement Parcel; and **one (1)** TDR is retained for the potential future dwelling for a child on the Easement Parcel. However, by executing this Easement, the Grantors acknowledge and agree that the **two (2)** retained TDRs associated with the Easement Parcel (one for the existing dwelling and one for a potential lot for a child) must remain with the Easement Parcel and that the Grantors forego the right to convey them to any third party.

8. Rights Retained by Grantors -- As owners of the Easement Parcel, the Grantors retain the right to perform any act not specifically prohibited or limited by this Easement. These ownership rights include, but are not limited to, the right to exclude any member of the public from trespassing on the Easement Parcel and the right to sell or otherwise transfer the Easement Parcel to anyone they choose.

Further, the Grantors retain the right to use the Easement Parcel for any agricultural use, and to carry on all normal farming practices, including the operation at any time of any

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machinery used in farm production or the primary processing of any agricultural products; the right to conduct upon the Easement Parcel any agricultural operation which is in accordance with good husbandry practices and which does not cause bodily injury or directly endanger human health, including any operation directly relating to the processing, storage, or sale of farm, agricultural or woodland products produced on the Easement Parcel.

9. Responsibilities of Grantor Not Affected -- Other than as specified herein, this Easement is not intended to impose any legal or other responsibility on the Grantee, or on any existing obligation of the Grantors as the owners of the Easement Parcel. The Grantors must continue to be solely responsible for payment of all taxes and assessments levied against the Easement Parcel. The Grantors must continue to be solely responsible for the upkeep and maintenance of the Easement Parcel, or assume any liability for personal injury or property damage occurring on the Easement Parcel. The Grantors hold the Grantee harmless from and must defend the Grantee against any claim, loss, damage costs including reasonable attorney's fees, injury, death, property damage or other matter relating to or arising from or occurring on or about the Easement Parcel.

10. Enforcement -- The Grantee has the right and responsibility to prevent and correct violations of the terms of this Easement. With reasonable advance notice to the Grantors, the Grantee may enter the Easement Parcel for the purpose of inspecting for violations. If the Grantee finds what it believes is a violation, it may at its discretion take appropriate legal action. Except when an imminent violation could irreversibly diminish or impair the agricultural production capability of the Easement Parcel, the Grantee must give the Grantors written notice of the violation and thirty (30) days to correct it, before filing any legal action. The Grantee may take legal action, including but not limited to, obtaining injunctive relief requiring the Grantors to cease and desist activity in violation of the terms of this Easement and to return the Easement Parcel to its condition prior to any violation. If the Grantee prevails, the Grantors must pay all costs and expenses associated with the enforcement action, including but not limited to, reasonable attorneys fees. The failure of the Grantee to discover a violation or to take immediate legal action must not bar them from doing so at a later time.

11. Termination of Easement -- As required under Section 2B10(c) of the Montgomery County Code, any agricultural easement purchased after December 31, 2008 must not be terminated. Hence, this Easement is perpetual, with the land and is enforceable against the Grantors and the Grantors' heirs, successors and assigns.

12. Requirements Upon Transfer of Easement Parcel. If the Grantors intend to transfer the Easement Parcel, it must provide the Grantee with ten (10) days advanced written notice. Further, as required by Section 2B-14(c) of the County Code, the deed transferring the Easement Parcel must be a two-party deed (signed by the Grantor and the Grantee), must clearly state that the property is subject to this Easement and must contain the liber and folio reference of this Easement.

13. Interpretation -- This Easement shall be interpreted under the laws of the State of Maryland and Montgomery County, Maryland in a manner designed to resolve any ambiguities and questions of the validity of specific provisions to give maximum effect to its preservation purpose. If the Grantors have any doubt concerning the requirements of

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the easement, covenants, conditions, limitations or restrictions herein contained with respect to any particular use of the Easement Parcel, they may submit a written request to the Grantee for consideration and approval of such use.

14. Perpetual Duration - The easement created by this Easement shall be a servitude running with the land in perpetuity. Every provision of this Easement that applies to the Grantors or Grantee shall also apply to their respective agents, heirs, executors, administrators, assigns, and all other successors in interest.

15. Gender - Any masculine term used in this Easement shall include the female gender.

16. Remedies -- Grantee may enforce this Easement using any remedies available at law or in equity, including but not limited to specific enforcement and injunctive relief.

17. Severability -- If any portion of this Easement is declared unlawful or invalid, the remainder of this Easement shall remain in full force and effect.

IN WITNESS WHEREOF, the Grantors and Grantee intending to legally bind themselves, have set their hands and seals, effective on the last date written below.

Witness:

GRANTORS
Waredaca Farm, L.L.C.

By: 5/24/09
Robert B. Butts, Business Manager

Susan B. Shackelford 5/24/09
Susan B. Shackelford DATE

Marian J. Stachle 5/24/09
Marian J. Stachle DATE

5/24/09
Robert B. Butts DATE

GRANTEE

MONTGOMERY COUNTY, MARYLAND

Diane R. Schwartz Jones
Diane R. Schwartz Jones, Assistant
Chief Administrative Officer

(Jurats on following page)

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THE UNDERSIGNED, a member of the Bar of the Court of Appeals of Maryland, hereby certifies that the foregoing instrument was prepared by or under the supervision of the undersigned.

County Attorney's Office Vickie Gaul

APPROVED FOR FORM AND LEGALITY
OFFICE OF THE COUNTY ATTORNEY

By:

Date: 6-8-09

STATE OF MARYLAND
COUNTY OF MONTGOMERY, SS:

I HEREBY CERTIFY that on this 24TH day of MAY, 2009, before me, a Notary Public in and for the jurisdiction aforesaid, personally appeared **Robert B. Butts** who acknowledged that he, as **Business Manager,** of the **Waredaca Farm, L.L.C., a Maryland Limited Liability Company** executed the foregoing Deed of Agricultural Preservation Easement on behalf of said Company for the purposes therein contained, and further acknowledged the foregoing Deed of Agricultural Preservation Easement to be the act and deed of the Limited Liability Company.

Notary Public VINCENT H. BERG
MY COMMISSION EXPIRES: 10/22/2011

COUNTY OF MONTGOMERY
STATE OF MARYLAND, SS:

I hereby certify that on this 24TH day of MAY 2009, before me, a Notary Public of the State and County aforesaid, personally appeared **Marian J. Staehle,** known to me (or satisfactory proven) to be the person whose name is subscribed to the foregoing Deed of Agricultural Preservation Easement, and acknowledged that all material statements of fact in the foregoing Deed of an Agricultural Preservation Easement are true to the best of her knowledge and belief, and that the execution of said Deed is her free act.

Notary Public VINCENT H. BERG
My commission expires: 10/22/2011

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COUNTY OF MONTGOMERY
STATE OF MARYLAND, SS:

I hereby certify that on this 24TH day of MAY 2009, before me, a Notary Public of the State and County aforesaid, personally appeared **Susan B. Shackelford,** known to me (or satisfactory proven) to be the person whose name is subscribed to the foregoing Deed of Agricultural Preservation Easement, and acknowledged that all material statements of fact in the foregoing Deed of an Agricultural Preservation Easement are true to the best of her knowledge and belief, and that the execution of said Deed is her free act.

Vincent H. Berg
Notary Public VINCENT H. BERG
My commission expires: 10/22/2011

COUNTY OF MONTGOMERY
STATE OF MARYLAND, SS:

I hereby certify that on this 24TH day of MAY 2009, before me, a Notary Public of the State and County aforesaid, personally appeared **Robert B. Butts,** known to me (or satisfactory proven) to be the person whose name is subscribed to the foregoing Deed of Agricultural Preservation Easement, and acknowledged that all material statements of fact in the foregoing Deed of an Agricultural Preservation Easement are true to the best of his knowledge and belief, and that the execution of said Deed is his free act.

Vincent H. Berg
Notary Public VINCENT H. BERG
My commission expires: 10/22/2011

COUNTY OF MONTGOMERY
STATE OF MARYLAND SS:

I hereby certify that on this 17th day of June 2009, before me, a Notary Public of the State and County aforesaid, personally appeared **Diane R. Schwartz Jones,** known to me (or satisfactory proven) to be the person whose name is subscribed to the foregoing Deed of Agricultural Preservation Easement, and acknowledged that she is the Assistant Chief Administrative Officer of Montgomery County, Maryland, and that the execution of this Deed of an Agricultural Preservation Easement is her free act as Assistant Chief Administrative Officer with Authority of the County pursuant to Montgomery County Code 2004, as amended, Chapter 2B.

Deborah Richards
Notary Public
My commission expires: 3-11-2012

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Exhibit A
Legal Description of Property

Subject to Agricultural Preservation Easement
Conveyed by
Waredaca Farm, L.L.C. as to an undivided 22.88% interest, and Susan B. Shackelford, Marian J. Staehle and Robert B. Butts, as to an undivided 77.12 interest as tenants in common, Grantors
To
Montgomery County

All that certain tract or parcel of land situate, lying and being in Election District **01**, Montgomery County, Maryland and being more particularly described in Exhibit B hereto. The Property's metes and bounds description describes the parcel as being a total of 188.64 acres.

Saving and excepting from the 188.64 acres the portion of the Property leased to Carol Jean Cancer Foundation, Inc. by lease dated January 1, 1991, surveyed as 22.3996 acres of land by Landmark Engineering, Inc. in January 1999.

The Agricultural Preservation Easement will encompass **166.24** acres and includes **6** TDRs (3 TDRS conveyed to the Purchaser and 3 TDRS reserved by the Sellers) (Easement Parcel).

Property Tax Account No. 11-00917124

Total Available TDRs = 37

Previous TDR Transactions:

31 TDRs, Serial Numbers (23-02406 through and including 23-02436) created by TDR Easement recorded in Liber 7559 at folio 785

Remaining TDRs after Previous TDR Transactions = 6

Number of TDRs to be conveyed to Montgomery County (Purchaser)	3
Number of TDRs to be retained by Landowner (Sellers)	**3***
Total TDRs	**6**

* One (1) TDR retained for the 22.3996 acres which has been saved and excepted
*One (1) TDR reserved within the Easement Parcel for an existing dwelling.
* One (1) TDR for a reserved right for a future dwelling for a child on the Easement Parcel

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Exhibit A-1
Metes and Bounds Description of Property

Parcel Identification Number - 000001345

Description of Easement Area
Over the property of
Susan B. Shackelford, Marian J. Staehle and Robert B. Butts
1st Election District
Montgomery County, Maryland

Being part of the lands conveyed from Robert B. Butts, Trustee for the benefit of Rufus Beecher Butts and Marian Moore Hamlin Butts to Susan B. Shackelford, Marian J Staehle and Robert B. Butts by Deed dated September 8, 2008 and recorded among the Land Records of Montgomery County, Maryland in Liber 36092 at Folio 110, said property also being part of the lands acquired by R. Beecher Butts and Marian H. Butts from Maude Irene Christie and Geneva I. Morris by deed dated December 13, 1952 and recorded among said Land Records in Liber 1643 at Folio 341, said part being more particularly described as follows in the Maryland State Plane (NAD 27) Datum from record documents

Beginning at a point on the northerly line of Damascus Road (MD Route 650), said point being the point of beginning of a conveyance from Rose Sack to Carl M. Freeman by Deed dated May 1, 1964 and recorded among said Land Records in Liber 3223 at Folio 460 and running with the 38th, 37th and 36th lines of said deed reversed the following three courses

1. North 31° 29' 53" West, 899.28 feet to a point, thence
2. North 60° 39' 51" West, 926.61 feet to a point, thence
3. North 06° 40' 31" East, 1103.38 feet thence running with the southerly line of Outlot A as shown on a plat entitled Outlot A, Block "A", Howard Chapel Estates as recorded among said Land Records as Plat No. 19113 the following six courses

5. South 87° 21' 33" East 220.37 feet, thence
6. North 09° 39' 02" West 259.48 feet, thence
7. North 65° 11' 47" East 808.50 feet, thence
8. North 66° 11' 47" East, 150.15 feet, thence
9. North 76° 51' 47" East, 940.50 feet, thence
10. South 77° 36' 27" East, 517.09 feet, thence with the North 42° 39' 20" West line of a conveyance from R. Beecher Butts, et ux. to Potomac Electric Power Company, by Deed dated September 13, 1974 and recorded among said Land Records in Liber 4572 at Folio 547
11. South 42° 39' 20" East 1007.41 feet to a point on the 15th line of Liber E.B.P. 8, Folio 436, said point also being the most northerly corner of Lot 7 as shown on a plat entitled Lot 7, Waredaca Estates and recorded among said Land Records as Plat No. 22504, thence with the westerly line of Lot 7 the following two courses
12. South 04° 17' 06" West, 163.43 feet, thence
13. South 30° 00' 10" West, 110.23 feet to a point 38.13 feet from the westerly end of the third or South 64° 31' 15" East, 1077.40 foot line of a conveyance from R. Beecher Butts and Marian H. Butts to Emerson W. Head by Deed dated June 26, 1969 and recorded among said Land Records in Liber 14007 at Folio 363, thence with said property the following two courses

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14. North 71° 40' 03 " West, 38.13 feet to a point, thence
15. South 18°19' 57" West, 201.76 feet to a point on the most northerly point of Lot 6 as shown on a plat of subdivision entitled Lots 3, 4, 5 & 6 Waredaca Estates recorded among said Land Records as Plat No. 9909, thence with the outline of said plat the following three courses

16. South 02° 23' 17" West, 364.00 feet, thence
17. South 71°40'03" East, 500.00 feet; thence
18. South 20° 22'37" West, 837.90 feet to a point at the most northerly corner of a conveyance from David Hamlin Butts to Edward L. Huntt and Nancy H. Huntt by deed dated June 13, 1973 and recorded among said Land Records in Liber 4389 at Folio 687, thence running with the westerly line of Liber 4389, Folio 687 and with the westerly line of a conveyance from R. Beecher Butts and Marian H. Butts to Edward L. Huntt and Nancy H. Hunt by Deed dated August 28, 1969 and recorded among said Land Records in Liber 3896 at Folio 836 and a conveyance from David Hamlin Butts to Camp Waredaca, Inc. by Deed dated January 11, 1990 and recorded among said Land Records in Liber 9252 at folio 621
19. South 23° 33' 42" West, 1383.38 feet to a point on the northerly line of Damascus Road (MD Route 650), thence with Damascus Road
20. North 68° 45' 15" West, 411.41 feet, thence with the outline of a conveyance from R. Beecher Butts to Stephen Michael Marfak by Deed dated July 26,1985 and recorded among said Land Records in Liber 7083 at Folio 126 the following three courses
21. North 26° 10' 51"East, 186.44 feet, thence
22. North 71° 13' 54" West, 120.34 feet, thence
23. South 26° 10' 51" West 179.68 feet, to a point on the northerly line of Damascus Road, thence running with the northerly side of the road a calculated bearing and distance of
24. North 62° 44' 31" West, 1074.07 feet to the point of beginning, containing 8,847,251 square feet or 203.10 acres of land

Saving and Excepting the following conveyances by Rufus Beecher Butts and Marian Moore Butts by Deeds all dated May 5, 1970

1. to Robert Beecher Butts and recorded among said Land Records in Liber 3959 at Folio 638, containing 4.714 acres of land, now known as Lot 1 as shown on a plat of subdivision entitled Lot 1, Snyder Property and recorded among said Land Records as Plat No. 23669,
2. to Susan B. Boyd and Sidney H. Boyd and recorded among said Land Records in Liber 3959 at Folio 640, being the same property currently held by Deed to Susanne (A.K.A. Susan) B. Shackelford in Liber 33262 at Folio 470, containing 5.000 acres of land,
3. to Marian Staehle and John Spencer Staehle and recorded among said Land Records in Liber 3959 at Folio 642, containing 4.750 acres of land,

Further Saving and Excepting the part of the property leased to Carol Jean Cancer Foundation, Inc. by Lease dated January 1, 1991, surveyed as 22.3996 acres of land by Landmark Engineering, Inc. in January 1999 under the direction of Rufus Beecher Butts.

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) LEK 37546, p. 0175, MSA_CE63_37503. Date available 07/02/2009. Printed 04/23/2019.

All four of the aforesaid exceptions being more particularly described in aggregate as follows:

Beginning at a point 457.69 feet from the westerly end of the ninth or North 76° 51' 47" West, 940.50 foot line of the above described parcel, thence running with part of said line

1. North 76° 41' 47" East, 482.81 feet to a point; thence
2. South 77° 36' 27" East, 517.09 feet to a point; thence with the a part of the North 42° 39' 20" West line of a conveyance from R. Beecher Butts, et ux. to Potomac Electric Power Company, by Deed dated September 13, 1974 and recorded among said Land Records in Liber 4572 at Folio 547
3. South 42° 39' 31" East, 225.27 feet to a point; thence leaving said line and running the following eleven courses
4. South 27° 31' 37" West, 125.90 feet to a point; thence
5. South 19° 06' 27" West, 92.80 feet to a point; thence
6. South 59° 25' 23" West, 234.50 feet to a point; thence
7. South 76° 08' 20" West, 177.02 feet to a point; thence
8. South 11° 33' 02" West, 92.71 feet to a point; thence
9. South 23° 36' 02" East, 327.22 feet to a point; thence
10. South 48° 50' 01" West, 282.42 feet to a point; thence
11. South 12° 10' 09" West, 241.75 feet to a point; thence
12. 102.42 feet along a curve to the left having a radius of 75.20 feet and a long chord bearing and distance of N 56' 36' 06 W, 94.68 feet to a point, thence
13. North 88° 06' 20" West, 215.35 feet to a point; thence
14. North 04° 57' 56" West, 367.09 feet to a point at the easterly corner of a conveyance from Rufus Beecher Butts and Marian Moore Butts to Susan B. Boyd and Sidney H. Boyd by Deed dated May 5, 1970 and recorded among said Land Records in Liber 3959 at Folio 640; thence with a part of the easterly line of said conveyance and with the easterly line of the property conveyed from Rufus Beecher Butts and Marian Moore Butts to Robert Beecher Butts by Deed dated May 5, 1970 and recorded among said Land Records in Liber 3959 at Folio 638, now known as Lot 1 as shown on a plat of subdivision entitled Lot 1, Snyder Property and recorded among said Land Records as Plat No. 23669
15. South 11° 50' 53" West, 846.69 feet to a point at the southerly corner of Lot 1, thence with a part of the easterly line of the property conveyed by Rufus Beecher Butts and Marian Moore Butts to Marian Staehle and John Spencer Staehle by Deed dated May 5, 1970 and recorded among said Land Records in Liber 3959 at Folio 642 the following three courses
16. South 09° 34' 16" East, 403.26 feet, thence
17. South 80° 25' 43" West, 478.87 feet, thence
18. North 09° 29' 53" West, 461.98 feet to a point at the southwesterly corner of Lot 1, thence with the westerly line of Lot 1 and the westerly line of Liber 3959, Folio 640
19. North 11° 50' 53" East, 966.69 to a point at the northwesterly corner of Liber 3959, Folio 640, thence with a part of its northerly line
20. South 78° 09' 07" East, 466.69 feet to a point; thence leaving said line and running
21. North 04° 27' 14" West, 892.30 to the point of beginning containing 1,605,917 square feet or 36.86 acres of land, more or less.

37546 176

The Description above having a net area of 166.24 acres of land, more or less. Subject to easements and rights-of-way of recorded or unrecorded. Areas subject to adjustment based on a field run boundary survey.

The foregoing description was prepared under my supervision and is based on computations from record documents and survey data provided by the owners of this property.

Charles Thomas Grimsley, Prof. L.S.
Maryland License No. 21392

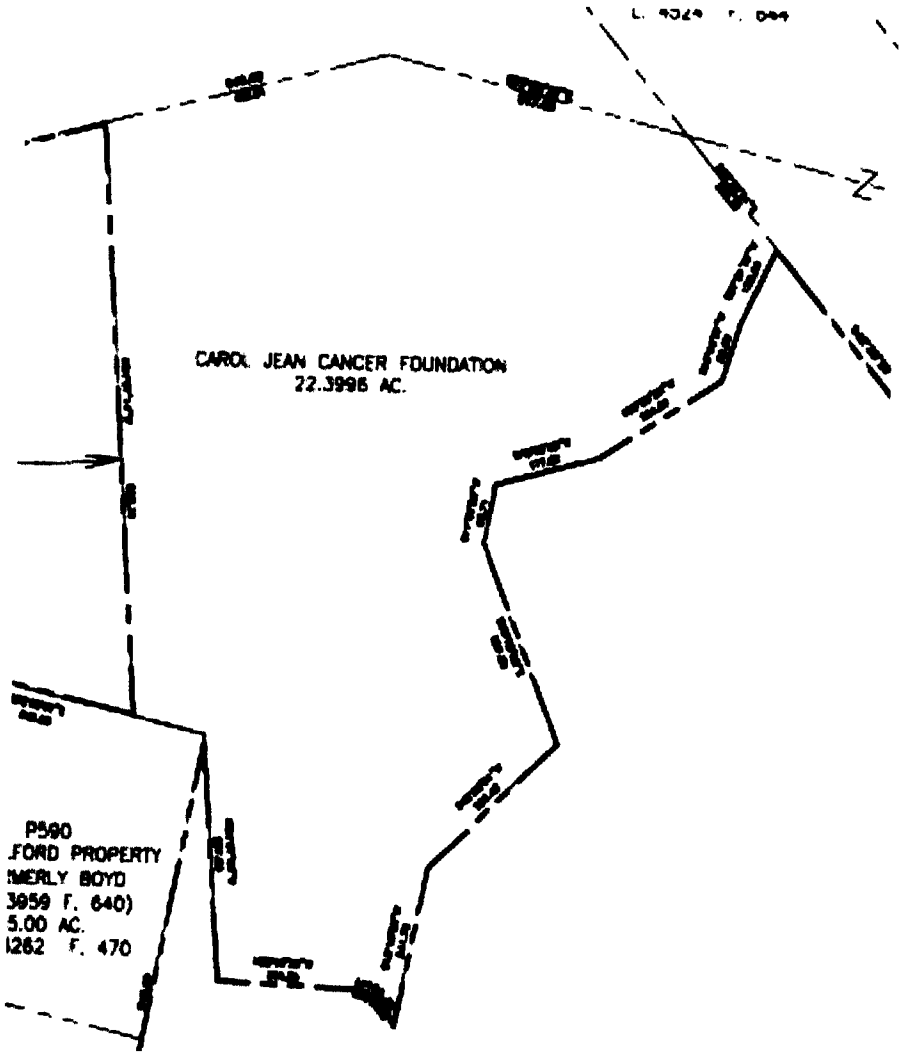
May 7, 2009
Date

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) LEK 37546, p. 0176, MSA_CE63_37503. Date available 07/02/2009. Printed 04/23/2019.

Exhibit B
Description of
Retained Parcel

(Property leased to Carol Jean Cancer Foundation, Inc.)

the part of the property leased to Carol Jean Cancer Foundation, Inc. by Lease dated January 1, 1991, surveyed as 22.3996 acres of land by Landmark Engineering, Inc. in January 1999 under the direction of Rufus Beecher Butts.



MONTGOMERY COUNTY CIRCUIT COURT (Land Records) LEK 37546, p. 0177, MSA_CE63_37503. Date available 07/02/2009. Printed 04/23/2019.

37546 178

ADDENDUM NO. 1

Subject to Agricultural Preservation Easement
Conveyed by
Waredaca Farm, L.L.C as to an undivided 22.88% interest, and Susan B. Shackelford, Marian J. Staehle and Robert B. Butts, as to an undivided 77.12% interest as tenants in common, Grantors
To
Montgomery County

The purchase price for said Agricultural Preservation Easement shall be **$1,306,163.45**. One acre is subtracted from the payment acres for an exiting dwelling on the Easement Parcel. The purchase price per acre shall be allocated as $**7,821.70** per acre towards the Easement Value and $**170** per acre for implementing the Soil Conservation/Forest Resource Management Plans. The terms of payment are as follows:

1.	Payment or Distribution to Leinholders/Landowner on settlement date: (165.24 acres X $7,821.70)	**$1,292,457.71**
2.	Payment to Landowners/Grantors for Soil Conservation District Certification that the Soil Conservation and Water Quality Plan has been implemented for the tillable farmland, including, if applicable, the certification that a Forest Resource Management Plan has been implemented for the woodland. In the event that certification is received prior to settlement, the payment shall be made on the settlement date. In the event that certification is made after settlement, payment shall be made upon receipt by Sellers of said certification. ANY PAYMENT PROVIDED FOR IN THIS PARAGRAPH 5 IS CONTINGENT UPON RECEIPT OF SAID CERTIFICATION WITHIN 24 MONTHS OF SETTLEMENT DATE. ($170 x 165.24 acres)	$ **28,090.80**
	Total Purchase Price	**$1,320,548.51**

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) LEK 37546, p. 0178, MSA_CE63_37503. Date available 07/02/2009. Printed 04/23/2019.

Benning & Associates, Inc.
Land Planning Consultants
8933 Shady Grove Court
Gaithersburg, MD 20877
(301)948-0240

April 12, 2019 (Rev. 7-30-19)

Mr. Richard Weaver, Chief
Planning Area 3
Montgomery County Planning Department of M-NCPPC
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Statement of Justification for Waredaca Farm (MNCPPC #620190090)

Dear Mr. Weaver,

This statement accompanies an Administrative Subdivision Plan Application for the subject property. The property consists of a large farm parcel (P606) which is 192.94 acres in size according to deed and tax records. The property is located within the AR zone and one (1) new single-family residential lot is proposed to be created for the construction of a new single-family residence for a child of the property owner.

The subject property, P606 in tax records, is subject to a Deed of Agricultural Preservation Easement recorded in the Land Records at Liber 37546 folio 164 between Waredaca Farm, L.L.C. (Grantor) and Montgomery County (Grantee). The Easement prohibits subdivision of the property (P606) except for a child of the Grantor "for the sole purpose of constructing a dwelling for that child's personal use". The subject application proposes to create the proposed new lot in accordance with this provision of the Easement.

Regarding the required findings of Chapter 50.4.2.D for approval of an Administrative Subdivision Plan, please note the following:

the layout of the subdivision, including size, width, shape, orientation and density 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;

The new lot has been carefully placed to avoid disruption to farming and other activities which occur on the farm parcel and also near adjacent P20 which contains a horse barn managed by the applicant. The subject area is one of the least used areas of the farm according to the applicant. There is some pasturing of fields in the area (not the homesite area which is currently in trees) and cross-country events occur nearby. But, overall the area is generally not used for farming activities at this time. Also, the

homesite is placed along a prominent knoll which will give the lot owners good views of other areas of the farm including the adjacent horse barn operation.

The proposed new lot meets or exceeds all development standards required in the AR zone except frontage. The proposed lot does not front on a public street and instead is proposed to be accessed by way of a 35-foot wide ingress / egress & utility easement. Arrangement of the lot in this way avoids the necessity of a lengthy pipestem and long driveway through farmland to Damascus Road. Access from nearby Howard Chapel Road through an adjoining parcel which fronts the road is provided. The adjoining parcel (P20) which contains the aforementioned horse barn is also owned by the applicant.

the preliminary plan substantially conforms to the master plan;

The subject property is located within the limits of the Olney Master Plan (2005). The 2005 Master Plan identifies the area where the subject property is located as part of Northern Olney (page 17) and in particular the portion west of Georgia Avenue. The Master Plan retains the zoning of 1 lot per 25 acres for this area of Northern Olney. The proposal to create 1 new single-family residential lot from a farm property of more than 192 acres is consistent with the intent of the Master Plan for this area.

The subject property was originally zoned RDT (now AR) by the 1980 Functional Master Plan for the Preservation of Agriculture and Rural Open Space. The owners of the subject property have supported the purposes and intent of the 1980 Master Plan by participating in the TDR program and by placing the property into an Agricultural Preservation Easement. The proposal to create 1 new lot for child of the property owner on a 192-acre farm property which has otherwise not been subdivided is consistent with the intent of the 1980 Master Plan and also with the provisions in the Deed of Agricultural Preservation Easement recorded at Liber 37546 folio 164.

The proposed new homesite is to be accessed by way of a new driveway access constructed from Howard Chapel Road. Howard Chapel Road is identified as a “Rustic Road” in the Rustic Roads Functional Master Plan (December 1996). The Master Plan identifies the “Rustic” portion of the road as the portion between Damascus Road (MD 650) and the Patuxent River (Howard County Line). The proposed new driveway is to be located along the western side of Howard Chapel Drive between Damascus Road and Elton Farm Road. The Master Plan states that while traveling north from Damascus Road “the western side has views of horse pastures and modern homes”. The proposed new driveway set along the northern boundary of P20 so as not to interrupt the existing horse pasture requires no tree clearing. The new driveway access from Howard Chapel Road maintains the existing character of horse pasture along this stretch of road and is consistent with the intent of the Rustic Roads Master Plan.

public facilities will be adequate to support and service the area of the subdivision;

The subject property is located in an area served by County and State roads (Damascus Road & Howard Chapel Road). These roadways are adequate in their current state for the one new homesite planned for this property. The property is in a rural area of the County where public water and sewer service is not available. However, requirements for on-site sewage disposal have been met and a new well will be installed for the new home. Other utilities are available along Howard Chapel Drive and will be brought into the site as needed within the proposed 35-foot wide access & utility easement. For

emergency vehicle access to the new homesite from Howard Chapel Road, a modified apron is proposed.

all Forest Conservation Law, Chapter 22A requirements are satisfied;

Forest Conservation Law requirements for the parent tract (P606) were addressed in a prior application under S-2463. S-2463 resulted in all of the existing forest on the 192 acre tract being placed into a category one conservation easement. As such, the forest conservation requirements for the proposed new lot have already been met. The proposal for development of the new lot including the off-site driveway area does not result in the clearing of any forest. An afforestation requirement of 0.6 acre for the new lot is accounted for already by the retention of more than 50 acres of forest on the parent tract. A plan of addendum to the approved Forest Conservation plan for S-2463 is included with our administrative subdivision application to identify certain details of the project not accounted for on earlier plans including the limit-of-disturbance, off-site driveway, specimen trees locations, and specimen tree impacts.

Much of the parent tract farm is located within the Patuxent River Watershed Primary Management Area (PMA). The original approved FCP identified the "transition area" of the PMA and this identification has been repeated on the amended FCP. In addition, the amended FCP submitted with the application identifies all existing and proposed impervious areas within the transition area. While the PMA Guidelines recommend a maximum impervious area of 10% in the transition area, the amended FCP shows that the proposed impervious on this site will be less than 1%.

Chapter 22A-12(b)(3) indicates “any tree with a diameter, measured at 4.5 feet above the ground” of 30 inches or more “must be left in an undisturbed condition unless the Planning Board or Planning Director, as appropriate, finds that the applicant qualifies for a variance under Section 22A-21”. The Forest Conservation Plan included with the subdivision application proposes to remove one (1) specimen tree from the proposed new lot. Justification for removal of this tree is included in the materials submitted for this application. The tree is already in poor condition and would be a hazard to the owners of the new lot if left in place.

all stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied;

Stormwater management for the project is to be addressed by utilizing Environmental Site Design (ESD) practices. These practices will include drywells for rooftop impervious areas and micro infiltration trenches for driveway pavement. There are no floodplains or environmentally sensitive areas on or in the vicinity of the proposed new lot.

<u>Waiver from Chapter 50, Article 2, Section 4.3.C (Lot Design)</u>

Chapter 50, Article 2, Section 4.3.C.1.b. requires “lots to abut on a public or private road”. A waiver from this requirement is requested for proposed Lot 1.

Section 4.3.C.1.b also states –

i. The Board may approve a maximum of 2 lots that do not abut a public or private road if the lots will be served by a private driveway that serves no other lots without frontage.

ii. The access to lots with no road frontage must be adequate to serve the lots for emergency vehicles and for installation of public utilities. In addition, the lots must be accessible for other public services and not detrimental to future development of adjacent lands.

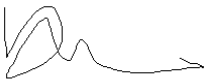
The condition required by "i" above is met with the proposed plan. Only 1 lot which does not abut a public or private road is requested and the private driveway will serve that 1 lot only.

The conditions required by "ii" above are also met with the proposed plan. The proposed new driveway has been designed to accommodate emergency vehicle access with a modified apron adjacent to Howard Chapel Road. In addition, the driveway is to be located within a 35-foot wide access & utility easement to provide for the installation of utilities alongside the driveway. The proposed new lot has not bearing on the future development of adjacent lands.

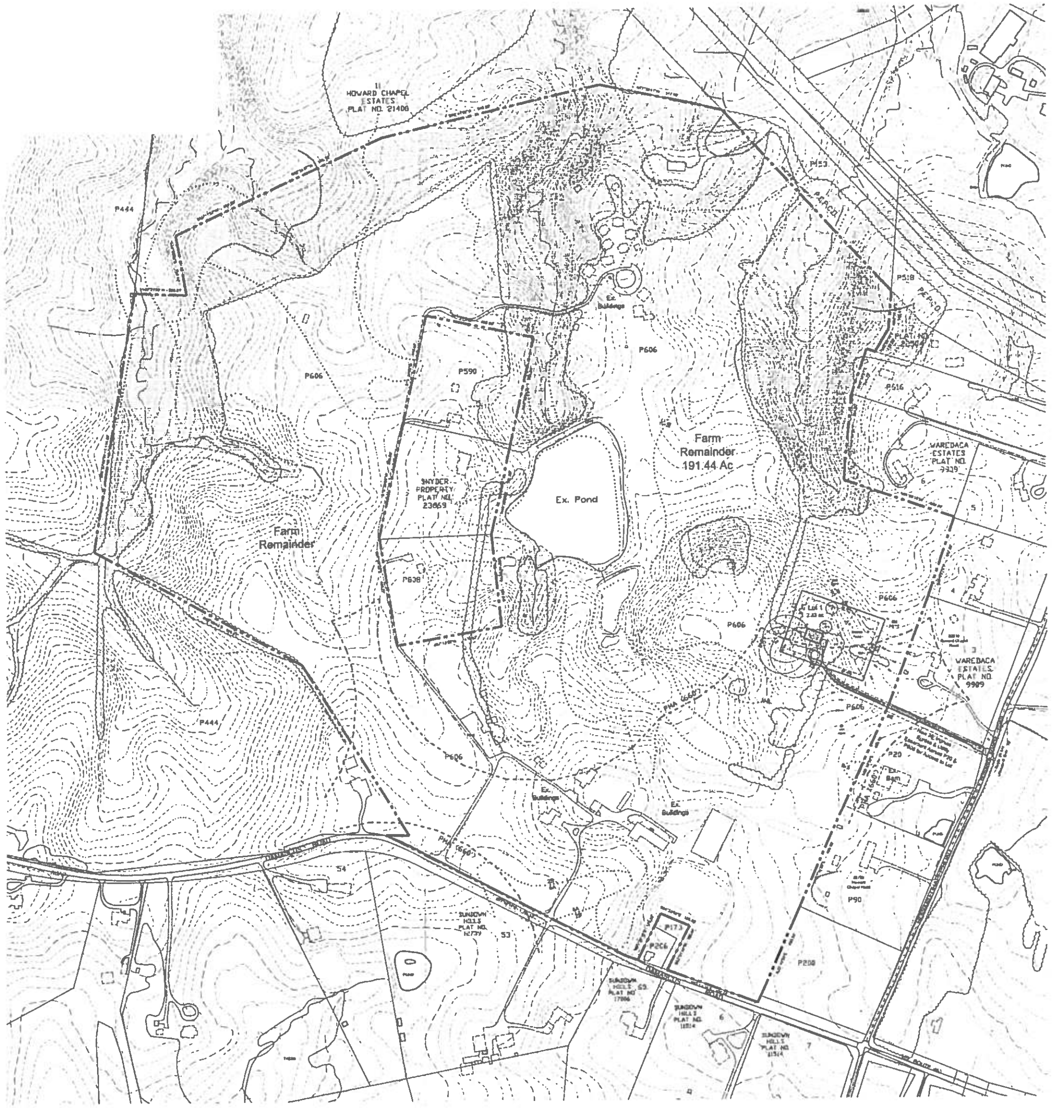
CONCLUSION

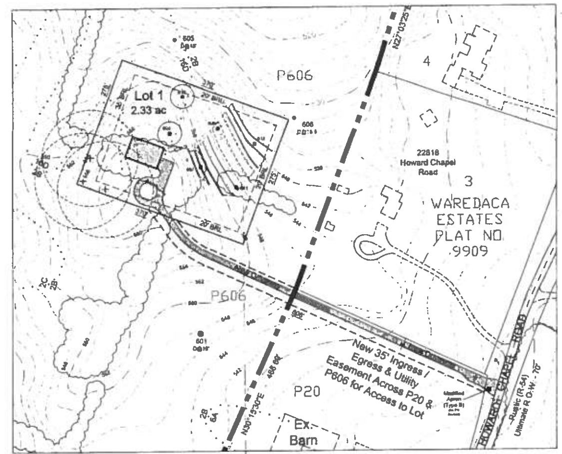
The Administrative Subdivision Plan application as presented is consistent with the requirements and recommendations of all applicable master plans and is in compliance with all zoning and subdivision standards for development within the AR zone with the exception of the frontage requirement in the AR zone. A waiver of the frontage requirement is requested as noted above. Based upon the information provided, we respectfully request approval of this application.

Sincerely,



David W. McKee





Detail View: Proposed New Lot
1" = 100'

LEGEND:

- Existing Buildings
- Proposed House
- Property Boundary
- New Lot Line
- Proposed Ingress / Egress Easement
- Building Restriction Line
- Patuxent River Watershed Primary Management Area (PMA)
- Existing Conservation Easement
- Existing Conservation Easement
- Proposed Initial System Trench
- Proposed 1st Recovery System Trench
- Proposed 2nd Recovery System Trench
- Proposed 3rd Recovery System Trench
- 25' Setback
- Proposed Septic Area
- Proposed / Existing Well
- Soil Series Divide
- Proposed Septic Tank
- Water Table / Percolation Test Site

NOTES:

1. AREA OF PROPERTY (P606) - 192.94 ACRES (8,404,466 SF)
2. EXISTING ZONING: AR
3. NUMBER OF LOTS PROPOSED - 1
4. AREA OF PROPOSED LOT - 2.33 ACRES
5. AREA OF FARM REMAINDER NOT INCLUDED ~190.61 ACRES
6. SITE TO BE SERVED BY PRIVATE ON-SITE WELL & PRIVATE ON-SITE SEPTIC SYSTEM.
7. WATER SERVICE CATEGORY IS W-6; SEWER SERVICE CATEGORY IS S-6.
8. THE PROPERTY IS WITHIN THE LIMITS OF THE OLNEY MASTER PLAN AREA.
9. THE PROPOSED LOT IS WITHIN THE *UPPER PATUXENT RIVER WATERSHED.*
10. THERE ARE NO WELLS OR SEPTIC SYSTEMS WITHIN 100 FEET OF THE PROPOSED NEW LOT.
11. BOUNDARY INFORMATION FROM AVAILABLE DEED RECORDS.
12. TOPOGRAPHIC DATA FROM MNCPPC SHEETS SUPPLEMENTED WITH INFORMATION COLLECTED DURING A FIELD SURVEY BY THOMAS A. MADDOX, PLS.

Scale: 1" = 100'
0' 100' 200' 400'

Scale: 1" = 200'
0' 200' 400' 800'

SEWAGE DISPOSAL SYSTEM DESIGN DATA

Lot	Max # Bedrooms	Systems	Test Site	Time (min)	Depths	Average Percolation Rate (mpi)	Effective Absorption Sidewall (ft)	Stone Depth (ft)	Linear Feet per System (ft)	Inv. Low Fixture	Inv. In	Inv. Out	Inv. Beg.	# Systems (Required)	Total Required Length	Total Length Shown	Area Shown
1	5	Initial & 1st Recovery	607	10	5' & 14.5'	10	5.5' & 13.5'	4.0	230	549.9	547.8	566.7	560.8 / 550.3	4	1,228'	1,306'	18,154 sf
			611	14	5.8' & 13.6'												
		2nd & 3rd Recovery	608	16	7.5' & 14.5'	13	6.5' & 14.5'	2.8	~~384~~ 375	Requires a pump							
			612	11	8.5' & 14.5'												

Test Site Certificate:
I hereby certify to the accuracy and location of the water table and percolation tests shown on this Plan.

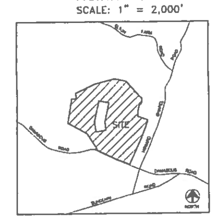
[signature] 7/2/19 4/1/20
Signature Professional Land Surveyor Date Exp. Date

MONTGOMERY COUNTY, MARYLAND
DEPARTMENT OF PERMITTING SERVICES
WELL AND SEPTIC

APPROVED BY [signature]
DATE APPROVED 7/26/19
Septic Area approved for 5 bedrooms

Prepared for:
Waredaca Farm, LLC
c/o Keith & Steph Kohr
4015 Damascus Road
Gaithersburg, MD 20882-2105
(703) 505-6385

VICINITY MAP
SCALE: 1" = 2,000'



Revisions

date: 07/01/2019
scale: 1" = 200'

B&A
Benning & Associates, Inc.
Land Planning Consultants
8933 Shady Grove Court
Gaithersburg, MD 20877
(301) 948-0240

Administrative Subdivision Plan
Waredaca Farm
4015 Damascus Road
Montgomery County, Maryland

SHEET 1 OF 1

RUSTIC ROADS ADVISORY COMMITTEE

September 20, 2019

David W. McKee
Benning & Associates, Inc.
Land Planning Consultants
8933 Shady Grove Court
Gaithersburg, MD 20877

Re: Waredaca Farm, Howard Chapel Road (rustic)
Administrative Subdivision 620190090

Dear Mr. McKee:

At our meeting on August 29, 2019, the Rustic Roads Advisory Committee voted unanimously to support the Waredaca Farm administrative subdivision proposal 620190090 with drawings dated April 12, 2019. This proposal is for one house with a new driveway (with a 20-foot apron for fire access) on rustic Howard Chapel Road. Three of our members made a site visit to review the location and impacts.

Our additional comment is about the oversized driveway apron requirement from Fire & Rescue Services. We are disappointed that this is being required in addition to the sprinkler system for fire suppression, which is a life safety improvement.

Thank you for submitting this project to our committee for review. If you have any questions, you may reach our committee through our staff coordinator, Atiq Panjshiri, at 240-777-6352 or Atiq.Panjshiri@montgomerycountymd.gov.

Respectfully,

Robert J. Tworkowski, Chair
Rustic Roads Advisory Committee

Committee Members: Sarah Navid (Vice Chair), Todd Greenstone, Laura Van Etten, Dan Seamans, Lonnie Luther, Leslie Saville

cc: Jonathan Casey, M-NCPPC

DEPARTMENT OF TRANSPORTATION

Marc Elrich
County Executive

Al R. Roshdieh
Director

August 6, 2019

Mr. Joshua Penn, Senior Planner
Area 3 Planning Division
The Maryland-National Capital
Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

RE: Administrative Plan No. 620190090
Waredaca Farm

Dear Mr. Penn:

We have completed our review of the Administrative Subdivision Plan on July 31, 2019. This plan was reviewed by the Development Review Committee at its meeting on May 28, 2019. We recommend approval for the plan based on the following comments:

All Planning Board Opinions relating to this plan or any subsequent revision, project plans or site plans should be submitted to the Department of Permitting Services in the package for record plats, storm drain, grading or paving plans, or application for access permit. Include this letter and all other correspondence from this department.

Preliminary Plan Review Comment

1. The sight distance study has been accepted. A copy of the accepted Sight Distance Evaluation Form is enclosed for your information and reference.
2. The proposed driveways should be per Montgomery County standard MC-301.01.
3. Storm Drain Analysis:
    a) The storm drain analysis uploaded to eplans on July 31, 2019, is approved. Based on the storm drain report a portion of the site drains to an existing stream located on the north end of the property (closest public storm drain system is 2300-feet away from the subject site) and the remaining portion of the site drains to an existing 12-inch CMP pipe located under Howard Chapel Road at the intersection of Damascus Road.

Since there is no increase in flow under the proposed conditions to the existing 12-inch pipe, no improvements are needed to the downstream public storm drain system by the applicant for this project.

b) The portion of the site draining to Damascus Road (MD 650) or any storm drain/inlet relocations along Damascus Road (MD 650) shall be reviewed and approved by Maryland State Highway Administration (MDSHA).

4. Permit and bond will be required as a prerequisite to DPS approval of the record plat. The permit will include, but not necessarily be limited to, the following improvements:
    a. Proposed driveway along Howard Chapel Road as shown in the plan.
    b. Enclosed storm drainage and/or engineered channel (in accordance with the MCDOT Storm Drain Design Criteria) within the County rights-of-way and all drainage easements.
    c. Permanent monuments and property line markers, as required by Section 50-4.3(G) of the Subdivision Regulations.
    d. Erosion and sediment control measures as required by Montgomery County Code 19-10(02) and on-site stormwater management where applicable shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.

Thank you for the opportunity to review this preliminary plan. If you have any questions or comments regarding this letter, please contact Deepak Somarajan, our Development Review Team Engineer for this project at deepak.somarajan@montgomerycountymd.gov or (240) 777-7170.

Sincerely,

Deepak Somarajan, Engineer III
Development Review
Office of Transportation Policy

SharePoint\teams\DOT\Director's Office\Development Review\Deepak\Administrative Subdivision Review\ Waredaca Farm\Letter\ 620190090 Waredaca Farm

Enclosure: Sight Distance Form (Proposed Driveway)

cc: Letters notebook

cc-e:	David McKee	Benning & Associates, Inc
	Atiq Panjshiri	MCDPS RWPR
	Sam Farhadi	MCDPS RWPR
	Kwesi Woodroffe	MDSHA District 3
	Deepak Somarajan	MCDOT OTP

MONTGOMERY COUNTY, MARYLAND

DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION
DEPARTMENT OF PERMITTING SERVICES

SIGHT DISTANCE EVALUATION

Facility/Subdivision Name: Waredaca Farm Preliminary Plan Number: 620190090

Street Name: Howard Chapel Road Master Plan Road Classification: Primary (Rustic) R-54

Posted Speed Limit: None (35) mph

Street/Driveway #1 (DRIVEWAY) Street/Driveway #2 ( )

Sight Distance (feet)	OK?	Sight Distance (feet)	OK?
Right 350	✓	Right	
Left 260'	✓	Left	

Comments: Comments:

GUIDELINES

Classification or Posted Speed (use higher value)	Required Sight Distance in Each Direction*
Tertiary - 25 mph	150'
Secondary - 30	200'
Business - 30	200'
Primary - 35	250'
Arterial - 40	325'
(45)	400'
Major - 50	475'
(55)	550'

*Source: AASHTO

Sight distance is measured from an eye height of 3.5' at a point on the centerline of the driveway (or side street) 6' back from the face of curb or edge of traveled way of the intersecting roadway where a point 2.75' above the road surface is visible. (See attached drawing)

ENGINEER/ SURVEYOR CERTIFICATE

I hereby certify that this information is accurate and was collected in accordance with these guidelines.

Signature 3/12/2019 Date

#10854
PLS/P.E. MD Reg. No.
EXPIRES 4/3/2020

STATE OF MARYLAND · THOMAS ALLEN BOOTH · REGISTERED PROFESSIONAL LAND SURVEYOR

Montgomery County Review:

☒ Approved

☐ Disapproved:

By:

Date: 8/6/19

Form Reformatted: March, 2000

Department of Permitting Services
Fire Department Access and Water Supply Comments

DATE: 05-Aug-19

TO: David McKee
Benning and Associates

FROM: Marie LaBaw

RE: Waredaca Farm - single lot subdivion
620190090

PLAN APPROVED

1. Review based only upon information contained on the plan submitted **05-Aug-19** .Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.

2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

***** Water supply easement and operational bay at driveway apron *****

Scale 1" = 200'

0' 200' 400' 800'

LEGEND:

Property Boundary	
New Lot Line	
Proposed House	
Patuxent River Watershed Primary Management Area (PMA)	
Stream Buffer	
PMA Transition Area	
Existing / Proposed Impervious Surfaces at PMA Transition Area (35,312 sf)	

PATUXENT RIVER WATERSHED "PRIMARY MANAGEMENT AREA" NOTES:

1. THE SUBJECT PROPERTY IS LOCATED WITHIN THE PATUXENT RIVER WATERSHED AND MOST OF THE PROPERTY LIES WITHIN THE WATERSHED'S PRIMARY MANAGEMENT AREA (PMA) AS DEPICTED ON THE PLAN.

2. THE PMA TRANSITION AREA PRESENT ON THE SUBJECT PROPERTY AS DEPICTED ON THE ORIGINAL FCP TOTALS 3,680,965 SF (~84.5 AC).

3. A PORTION OF THE NEW LOT LIES WITHIN THE TRANSITION AREA OF THE PMA WHICH IS THE AREA BETWEEN THE STREAM BUFFER AND THE LIMITS OF THE PMA.

4. THE PMA GUIDELINES LIMIT IMPERVIOUS AREAS WITHIN THE TRANSITION AREA TO 10%. THE IMPERVIOUS AREAS WITHIN THE TRANSITION AREA OF THE PROPERTY INCLUDING ALL EXISTING AND PROPOSED SURFACES TOTAL <1% (35,312 SF).

5. ALL OF THE EXISTING FORESTED AREAS LOCATED ON THE PARENT TRACT (P606) HAS BEEN PLACED INTO A CATEGORY I CONSERVATION EASEMENT. NO FOREST OR STREAM BUFFER IS PRESENT WITHIN THE LIMITS OF THE PROPOSED NEW LOT.

Professional Certification:
I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly licensed landscape architect registered to practice in the State of Maryland.

David William McKee 10-21-20

Signature Date Exp. Date

STATE OF MARYLAND

DEVELOPER'S CERTIFICATE

Developer's Name

Contact Person or Owner

Address

Phone and Email

Signature

Note: This plan is being submitted as an addendum to the approved FFCP for S-2463. The purpose of the amendment is to show the proposed new limit-of-disturbance and to address speciment tree impacts created by this new activity. Forest conservation requirements for the proposed lot have already been met by the approved FFCP for the parent tract for S-2463.

Final Forest Conservation Plan
Waredaca Farm
4015 Damascus Road
Montgomery County, Maryland

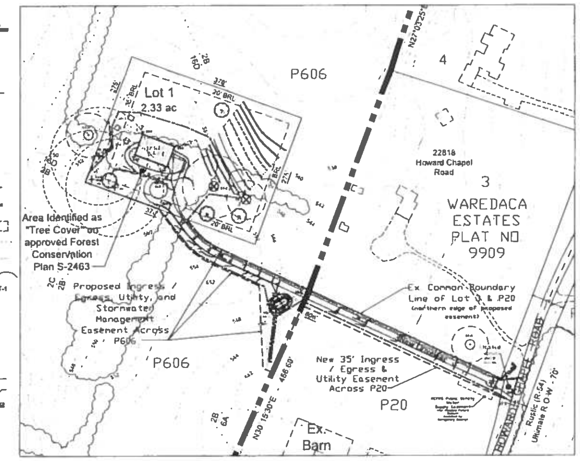
B&A Benning & Associates, Inc.
Land Planning Consultants
Gaithersburg, MD

date: 04/12/2019
scale: 1" = 200'

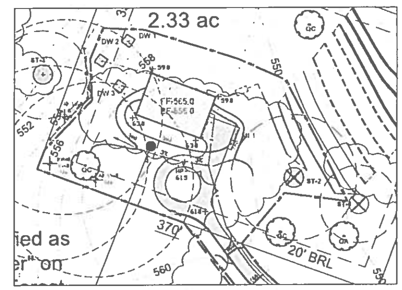
Revisions
Rev. 7-26-19

LEGEND

Property Boundary
New Lot Line
Proposed House
Proposed Ingress / Egress Easement
Building Restriction Line
Proposed Septic Area
Proposed Septic System
Proposed Well Site
Ex. Building
Ex. Contour
Proposed Contour
Patuxent River Watershed Primary Management Area (PMA)
Existing Conservation Easement
Soil Survey Divide
Limit of Disturbance
Ex. Canopy
Significant Tree or Critical Root Zone
Specimen Tree
Trees to be Removed
Tree Protection Sign
Mitigation Planting
Tree Protection Fence
Root Pruning
Micro Infiltration Trench
Drywell
Micro Bioretention Area
Stream Buffer



Detail View: Proposed New Lot
1" = 100'



Detail View: Proposed Homesite
1" = 50'

NOTES:
1. AREA OF PROPERTY (P606) - 192.94 ACRES (8,404,466 SF)
2. EXISTING ZONING: AR
3. NUMBER OF LOTS PROPOSED - 1
4. AREA OF PROPOSED LOT - 2.33 ACRES
5. AREA OF FARM REMAINDER NOT INCLUDED ~190.61 ACRES
6. SITE TO BE SERVED BY PRIVATE ON-SITE WELL & PRIVATE ON-SITE SEPTIC SYSTEM.
7. WATER SERVICE CATEGORY IS W-6. SEWER SERVICE CATEGORY IS S-6.
8. THE PROPERTY IS WITHIN THE LIMITS OF THE OLNEY MASTER PLAN AREA.
9. THE PROPOSED LOT IS WITHIN THE *UPPER PATUXENT RIVER WATERSHED.*
10. THERE ARE NO WELLS OR SEPTIC SYSTEMS WITHIN 100 FEET OF THE PROPOSED NEW LOT.
11. BOUNDARY INFORMATION FROM AVAILABLE DEED RECORDS.
12. TOPOGRAPHIC DATA FROM M-NCPPC SHEETS SUPPLEMENTED WITH INFORMATION COLLECTED DURING A FIELD SURVEY BY THOMAS A. MADDOX, PLS.

Professional Certification:
I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly licensed landscape architect registered to practice in the State of Maryland.
David William McKee — 10-21-20
Signature — Date — Exp. Date

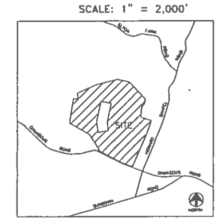
DEVELOPER'S CERTIFICATE

TREE REMOVAL / PLANTING NOTES:
1. REMOVAL OF TREES OUTSIDE THE LOD CAN BE APPROVED BY THE M-NCPPC FOREST CONSERVATION INSPECTOR AT THE PRE-CONSTRUCTION MEETING. ANY TREES DESIGNATED FOR REMOVAL OUTSIDE OF THE LOD ARE TO BE FLUSH CUT TO THE GROUND AND THE STUMP LEFT IN PLACE.
2. ADDITIONAL HAZARD TREE PRUNING OUTSIDE THE LOD CAN BE APPROVED BY THE M-NCPPC FOREST CONSERVATION INSPECTOR AT THE PRE-CONSTRUCTION MEETING PROVIDED THIS TREE PRUNING IS DONE BY THE MARYLAND LICENSE TREE EXPERT.
3. THE LOCATIONS OF THE MITIGATION TREE PLANTINGS MAY BE REVISED BY THE M-NCPPC FOREST CONSERVATION INSPECTOR IN THE FIELD SO THAT THE ROOTS OF EXISTING TREES ARE NOT DAMAGED DURING THE PLANTING.

Prepared for:
Waredaca Farm, LLC
c/o Keith & Steph Kohr
4015 Damascus Road
Gaithersburg, MD 20882-2105
(703) 595-6395

Note: This plan is being submitted as an addendum to the approved FFCP for S-2463. The purpose of the amendment is to show the proposed new limit-of-disturbance and to address specimen tree impacts created by this new activity. Forest conservation requirements for the proposed lot have already been met by the approved FFCP for the parent tract for S-2463.

VICINITY MAP
SCALE: 1" = 2,000'



Scale 1" = 200' (0' 200' 400' 800')
Scale 1" = 100' (0' 100' 200' 400')
Scale 1" = 50' (0' 50' 100' 200')

FINAL FOREST CONSERVATION PLAN (proposed lot and off-site disturbed area only)

ACREAGE OF TRACT	ACREAGE OF TRACT REMAINING IN AGRICULTURE USE	ACREAGE OF ROAD AND UTILITY R.O.W. NOT TO BE IMPROVED	ACREAGE OF EXISTING FOREST	ACREAGE OF TOTAL FOREST RETENTION	ACREAGE OF TOTAL FOREST CLEARED	LAND USE CATEGORY	CONSERVATION THRESHOLD	AFFORESTATION THRESHOLD	FOREST WITHIN WETLANDS TO BE RETAINED	FOREST WITHIN WETLANDS TO BE CLEARED	FOREST WITHIN WETLANDS TO BE PLANTED	FOREST WITHIN 100-YEAR FLOODPLAIN TO BE RETAINED	FOREST WITHIN 100-YEAR FLOODPLAIN TO BE CLEARED	FOREST WITHIN 100-YEAR FLOODPLAIN TO BE PLANTED	FOREST WITHIN STREAM BUFFER TO BE RETAINED	FOREST WITHIN STREAM BUFFER TO BE CLEARED	FOREST WITHIN STREAM BUFFER TO BE PLANTED	FOREST WITHIN PRIORITY AREAS TO BE RETAINED	FOREST WITHIN PRIORITY AREAS TO BE CLEARED	FOREST WITHIN PRIORITY AREAS TO BE PLANTED	STREAM BUFFER-LINEAR FEET	STREAM BUFFER-AVERAGE WIDTH
2.98 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	AGRICULTURAL RESOURCE	50% = 1.49 AC	20% = 0.60 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	0.00 AC	0'	0'

Revisions
Rev. 7-26-19

date: 04/12/2019
scale: 1" = 200'

B&A
Benning & Associates, Inc
Land Planning Consultants
8933 Shady Grove Court
Gaithersburg, MD 20877
(301)948-0240

Final Forest Conservation Plan
Waredaca Farm
4015 Damascus Road
Montgomery County, Maryland

Sequence of Events for Properties Required to Comply with Forest Conservation Plans, Exemptions from Submitting Forest Conservation Plans, and Tree Save Plans

Pre-Construction

1. An on-site pre-construction meeting is required after the limits of disturbance have been staked and flagged and before any land disturbance. The property owner shall contact the Montgomery County Planning Department inspection staff before any land disturbing activities occur to verify the limits of disturbance and discuss tree protection and tree care measures. The property owner's representative, construction superintendent, International Society of Arboriculture (ISA) certified arborist or Maryland licensed tree expert that will implement the tree protection measures, Forest Conservation Inspector and Montgomery County Department of Permitting Services (DPS) Sediment Control Inspector must attend this pre-construction meeting.

2. No land disturbance shall begin before stress-reduction measures have been implemented. Appropriate stress-reduction measures may include, but are not limited to
   a. Root pruning
   b. Crown reduction or pruning
   c. Watering
   d. Fertilizing
   e. Vertical mulching
   f. Root aeration matting

Measures not specified on the plan may be required as determined by the Forest Conservation Inspector in coordination with the property owner's arborist.

3. A Maryland licensed tree expert, or an ISA certified arborist must perform all stress reduction measures. Implementation of the stress reduction measures must be observed by the Forest Conservation Inspector or written documentation must be sent to the Forest Conservation Inspector at 8787 Georgia Avenue, Silver Spring, MD 20910. The Forest Conservation Inspector will determine the exact method to convey the implementation of all stress reductions measures during the pre-construction meeting.

4. Temporary tree protection devices shall be installed per the approved Forest Conservation Plan, exemption from submitting a Forest Conservation Plan, or Tree Save Plan and prior to any land disturbance. Tree protection fencing locations must be staked and flagged prior to the pre-construction meeting. The Forest Conservation Inspector, in coordination with the DPS Sediment Control Inspector, may make field adjustments to increase the survivability of trees and forest shown as saved on the approved plan. Temporary tree protect devices may include:
   a. Chain link fence (four feet high)
   b. Super silt fence with wire strung between the support poles (minimum 4 feet high) with high visibility flagging.
   c. 14 gauge 2 inch x 4 inch welded wire fencing supported by steel T-bar posts (minimum 4 feet high) with high visibility flagging.

5. Temporary protection devices must be maintained and installed by the property owner for the duration of construction project and must not be altered without prior approval from the Forest Conservation Inspector. No equipment, trucks, materials, or debris may be stored within the tree protection fence areas during the entire construction project. No vehicle or equipment access to the fenced area is permitted. Tree protection must not be removed without prior approval of Forest Conservation Inspector.

6. Forest retention area signs must be installed as required by the Forest Conservation Inspector, or as shown on the approved plan.

7. Long-term protection devices must be installed per the approved plan. Installation will occur at the appropriate time during the construction project. Refer to the approved plan drawing for the long-term protection measures to be installed.

During Construction

8. Periodic inspections by the Forest Conservation Inspector will occur during the construction project. Corrections and repairs to all tree protection devices, as determined by the Forest Conservation Inspector, must be made within the timeframe established by the Forest Conservation Inspector.

9. The property owner must immediately notify the Forest Conservation Inspector of any damage to trees, forests, understory, ground cover, and any other undisturbed areas shown on the approved plan. Remedial actions to restore these areas will be determined by the Forest Conservation Inspector and those corrective actions must be made within the timeframe established by the Forest Conservation Inspector.

Post-Construction

10. After construction is completed, the property owner must request a final inspection with the Forest Conservation Inspector. At the final inspection, the Forest Conservation Inspector may require additional corrective measures, which may include:
    a. Removal and replacement of dead and dying trees
    b. Pruning of dead or declining limbs
    c. Soil aeration
    d. Fertilization
    e. Watering
    f. Wound repair
    g. Clean up of retention areas including trash removal

11. After the final inspection and completion of all corrective measures the Forest Conservation Inspector will request all temporary tree and forest protection devices be removed from the site. Removal of tree protection devices that also operate for erosion and sediment control must be coordinated with both DPS and the Forest Conservation Inspector. No additional grading, sodding, or burial may take place after the tree protection fencing is removed.

Inspections

All field inspections must be requested by the applicant. Inspections must be conducted as follows:

Tree Save Plans and Forest Conservation Plans without Planting Requirements

1) After the limits of disturbance have been staked and flagged, but before any clearing or grading resumes.
2) After necessary stress reduction measures have been completed and the protection measures have been installed, but before any clearing or grading resumes.
3) After completion of all construction activities to determine the level of compliance with the provisions of the forest conservation plan.

Additional Requirements for Plans with Planting Requirements

4) Before the start of any required reforestation and afforestation planting
5) After required reforestation and afforestation planting has been completed to verify that the planting is acceptable and prior to the start of the maintenance
6) At the end of the maintenance period to determine the level of compliance with the provisions of the planting plan and, if appropriate, release of the performance bond.

SIGNIFICANT TREE CHART

TREE NUMBER	BOTANICAL NAME	COMMON NAME	SIZE (D.B.H.)	TREE CONDITION	COMMENTS	STATUS
ST-1	Prunus serotina	Black Cherry	26.4"	Poor	Canker w/ decay from root collar to breast height, massive column of decay, leader, adventitious limbs, phototropic lean, dead broken limbs w/ decay	To Be Removed
ST-2	Quercus coccinea	Scarlet Oak	42.9"	Poor-Hazard	Soil grading around roots, nest possible, barbed wire and fence pole in trunk, poison ivy on trunk, multi-stem dead leader, massive decay, adventitious limbs, dead broken limbs w/ decay, hazard w/ target	To Be Removed
ST-3	Juglans nigra	Black Walnut	30.2"	Poor	Multi-stem, poison ivy on trunk, massive basal rot, broken dead limbs w/ decay, co-dominant leaders	On Farm Remainder; to be Retained
ST-4	Quercus phellos	Willow Oak	23"	Moderate	20% visible grading roots, roots exposed, wounded roots, dead and broken limbs, tree has been pruned, adventitious limbs, small hangers, co-dominant leaders	Off-Site; To Be Retained

FCP WORKSHEET FROM ORIGINAL FFCP S-2463

FOREST CONSERVATION WORKSHEET
Waredaca Farm

NET TRACT AREA

A	Total tract area		192.94
B	Land dedication acres (parks, county facility, etc.)		0.00
C	Land dedication for roads or utilities (not being constructed by this plan)		0.00
D	Area to remain in commercial agricultural production/use		0.00
E	Other deductions (specify)		0.00
F	Net Tract Area	=	192.94

LAND USE CATEGORY (from *Trees Technical Manual*)
Input the number "1" under the appropriate land use, limit to only one entry

ARA	MDR	IDA	HDR	MPD	CIA
0	0	1	0	0	0

G	Afforestation Threshold	15%	x F =	28.94
H	Conservation Threshold	20%	x F =	38.59

EXISTING FOREST COVER

I	Existing forest cover	=	55.50
J	Area of forest above afforestation threshold	=	26.56
K	Area of forest above conservation threshold	=	16.91

BREAK EVEN POINT

L	Forest retention above threshold with no mitigation	=	41.97
M	Clearing permitted without mitigation	=	13.53

PROPOSED FOREST CLEARING

N	Total area of forest to be cleared	=	0.00
O	Total area of forest to be retained	=	55.50

PLANTING REQUIREMENTS

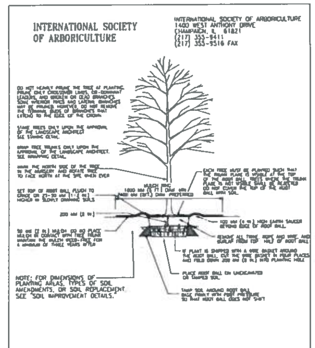
P	Reforestation for clearing above conservation threshold	=	0.00
Q	Reforestation for clearing below conservation threshold	=	0.00
R	Credit for retention above conservation threshold	=	16.91
S	Total reforestation required	=	0.00
T	Total afforestation required	=	0.00
U	Credit for landscaping (may not exceed 20% of "S")	=	0.00
V	Total reforestation and afforestation required	=	0.00

NOTES

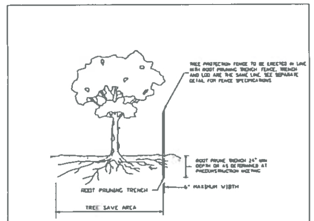
1. The Limits-of-Disturbance may be adjusted in the field to save adjacent trees.
2. Total specimen tree removal dbh is 42.9" (ST-2). Required mitigation is 11" dbh.
3. Mitigation tree planting to be planted pursuant to the ANSI planting standards.
4. M-NCCPC Inspector is to be contacted for an inspection of mitigation tree planting prior to completion of the project.
5. The proposed tree planting locations and species shown on this plan can be revised with approval from the forest conservation inspector.
6. Protection from deer damage is required to be installed on each tree before M-NCPPC acceptance of tree planting. See detail.
7. Tree sizes were obtained by measuring diameter-at-breast height with a diameter tape. Sizes for off-site trees are by ocular estimates.
8. On-site and off-site tree locations from a field survey by
   Thomas A. Madden
   Professional Land Surveyor
   8033 Shady Grove Court
   Gaithersburg, Maryland 20877
   301-948-5804
9. Area of forest to be cleared is 0.00 acres.
10. All tree protection and stress reduction measures are intended to be completed within the limits of the property.
11. Locations of symbols shown on plan may have been adjusted for graphic and legibility reasons.
12. Additional root pruning may be required by the M-NCPPC inspector if determined necessary to mitigate construction related damage to adjacent save trees.

MITIGATION TREE PLANTING SCHEDULE

QUANTITY	TREE ID	BOTANICAL NAME	COMMON NAME	SIZE (cal.)	COMMENTS
1	QA	Quercus alba	White Oak	3"	[illegible]
3	QC	Quercus coccinea	Scarlet Oak	3"	[illegible]



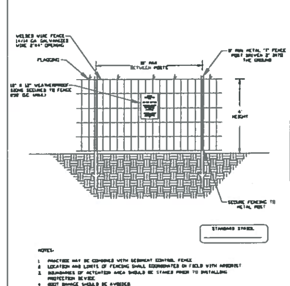
TREE PLANTING DETAIL – B&B TREES IN ALL SOIL TYPES



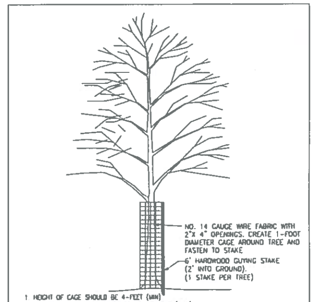
NOTES

1. RETENTION AREAS WILL BE SET AS PART OF THE REVIEW PROCESS AND PRECONSTRUCTION MEETING
2. BOUNDARIES OF RETENTION AREAS MUST BE STAKED AT THE PRECONSTRUCTION MEETING AND FLAGGED PRIOR TO TRENCHING
3. EXACT LOCATION OF TRENCH SHALL BE DETERMINED IN THE FIELD IN COORDINATION WITH THE FOREST CONSERVATION (FC) INSPECTOR
4. TRENCH SHOULD BE IMMEDIATELY BACKFILLED WITH EXCAVATED SOIL OR OTHER ORGANIC SOIL AS SPECIFIED PER PLAN OR BY THE FC INSPECTOR
5. ROOTS SHALL BE CLEANLY CUT USING VIBRATORY KNIFE OR OTHER ACCEPTABLE EQUIPMENT
6. ALL PRUNING MUST BE EXECUTED WITH LOD SHOWN ON PLANS OR AS AUTHORIZED IN WRITING BY THE FC INSPECTOR

ROOT PRUNING DETAIL
NOT TO SCALE
REVISED 2016



TREE PROTECTION FENCE DETAIL
NOT TO SCALE



1. HEIGHT OF CAGE SHOULD BE 4-FEET (MIN)
2. CAGE SHALL BE FASTENED TO STAKE WITH TWO (MIN.) 11-INCH RELEASABLE CABLE TIES (ONE AT TOP AND ONE 6" (MIN) ABOVE THE GROUND)
3. DO NOT DAMAGE TREE DURING INSTALLATION.
4. SUBSTITUTIONS MUST BE APPROVED BY FOREST ECOLOGIST
5. CAGES TO BE REMOVED AT DIRECTION OF FOREST ECOLOGIST

DEER PROTECTION CAGE

Professional Certification:
I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly licensed landscape architect registered to practice in the State of Maryland.
David William McKee — 10-21-20
Signature — Date — Exp. Date

DEVELOPER'S CERTIFICATE

Note: This plan is being submitted as an amendment to the approved FFCP for S-2463. The purpose of the amendment is to show the proposed new limit-of-disturbance and to address speciment tree impacts created by this new activity. Forest conervation requirements for the proposed lot have already been met by the approved FFCP for the parent tract for S-2463.

Revisions
Rev. 7-26-19

date: 04/12/2019
scale: N/A

Benning & Associates, Inc.
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Final Forest Conservation Plan
Waredaca Farm
4015 Damascus Road
Montgomery County, Maryland

Benning & Associates, Inc.

LAND PLANNING CONSULTANTS
8933 Shady Grove Court
Gaithersburg, MD 20877
Phone: 301-948-0240
Fax: 301-948-0241
E-mail: dmckee@benninglandplan.com

To: Mr. Richard Weaver, Chief – MNCPPC Planning Area 3

From: David W. McKee

Date: 04-12-19

Re: Waredaca Farm (620190090)

Dear Mr. Weaver,

In accordance with the requirements of Section 22A-21 of the County Code and on behalf of the applicant for this project, I am writing to request a variance from provisions of Chapter 22 as it applies to this project. Specifically, a variance is required in order to impact one specimen trees on the subject property.

The specimen tree proposed to be impacted is shown on the pending Final Forest Conservation Plan (FCP) for the subject project.

SPECIMEN TREE CHART

TREE NUMBER	BOTANICAL NAME	COMMON NAME	SIZE (D.B.H.)	TREE CONDITION	%CRZ IMPACTED	Status
ST-2	Quercus coccinea	Scarlet Oak	42.9”	Poor	59%	Remove

The subject application proposes the creation of one (1) single-family lot for a child of the property owner in accordance with the provisions of an Agricultural Preservation Easement recorded at Liber 37546 folio 164 for the parent tract. The new lot has been carefully placed to avoid disruption to farming and other activities which occur on the farm parcel and also near adjacent P20 which contains a horse barn managed by the applicant. The proposed new lot is in an area identified as “tree cover” on plans prepared previously for the parent tract under application S-2463. While no forest is proposed to be cleared for development of the new homesite, one (1) specimen will be impacted by on-site activities required to construct the new home.

Specific impacts to the 1 tree included in this variance request are as follows:

ST-2, a 42.9" Scarlet Oak in poor condition is located within the limits of the proposed new lot. The tree has numerous problems and in-fact has been identified as a hazard tree if given a target in its current condition. In addition, the tree will be impacted by the installation of a new septic system within its critical root zone. A stormwater management drywell is also planned within the CRZ. While some impacts could be lessened in an attempt to save the tree, the fact that the tree is in close proximity to the new house makes it a poor candidate for retention. As currently planned, approximately 59% of the CRZ of the tree will be impacted and as a result the tree is proposed to be removed. Several new trees are proposed to be planted on the new lot to mitigate for the loss of the tree.

Requirements for Justification of Variance:

Section 22A-21(b) *Application requirements* states the applicant must:

1. Describe the special conditions peculiar to the property which would cause 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 State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of granting of the variance; and
4. Provide any other information appropriate to support the request.

There are special conditions peculiar to the property which would cause unwarranted hardships should the variance not be approved. The proposed new lot is being created from a larger farm which contains forest and other environmentally sensitive areas, farming activities, and other permitted uses. The new homesite avoids these areas but results in impacts to one specimen tree. In addition, after extensive testing to secure the approval of a septic area for the new homesite, the location determined to be appropriate for placement of a septic system impacts the one specimen tree. Relocation of the septic area to another location is not practical given soil conditions in the area. The variance is needed to allow for development of the new lot as proposed.

Should this variance not be approved, the property owner would be deprived of rights commonly enjoyed by others in similar circumstances. The proposed new lot has been carefully planned to meet the intent of the AR zone (preservation of agricultural activities) and the requirements for on-site sewage disposal. Denial of the variance would result in the need to relocate the approved septic area which is not practical given soil conditions in the area of the site. Furthermore, the tree is in poor condition and should be removed for this reason alone.

The granting of a variance to remove specimen trees will not result in a violation of State water quality standards or any measurable degradation in water quality. There are no environmentally sensitive features near the planned homesite. Furthermore, the project has been planned to comply with the latest State and County stormwater management requirements. The project will provide environmental site design (ESD) practices for on-site stormwater management.

In addition to the above, Section 22A-21(d) indicates that a variance must not be granted if granting the request:

1. Will confer on the applicant a special privilege that would be denied to other applicants;
2. Is based on conditions or circumstances which are the result of the actions by the applicant;
3. Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or
4. Will violate State water quality standards or cause measurable degradation in water quality.

This request for a variance will not confer a special privilege that would be denied to other applicants. Approval of the requested variance will allow the property owner to develop the property in a manner appropriate for the AR zone.

This variance request is not based on conditions and circumstances which are the result of actions by the applicant. The applicant has not taken any actions other than to propose subdivision in accordance with Master Plan and Zoning Ordinance requirements.

The request for a variance does not arise from a condition relating to land or building use, either permitted or nonconforming on a neighboring property.

Granting this variance request will not violate State water quality standards or cause measureable degradation in water quality. As noted above, there are no environmentally sensitive features near the planned homesite. Furthermore, the project has been planned to comply with the latest State and County stormwater management requirements. The project will provide environmental site design (ESD) practices for on-site stormwater management.

For the above reasons, we respectfully request approval of this request for a variance from provisions of Section 22A-21 of the Montgomery County Code. If you have any questions regarding this request, please do not hesitate to contact me.

Sincerely,

David W. McKee