

# Montgomery Planning

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB**

Item No.

Date: 01.07.2021

**Viger's Addition, Administrative Subdivision 620200070**

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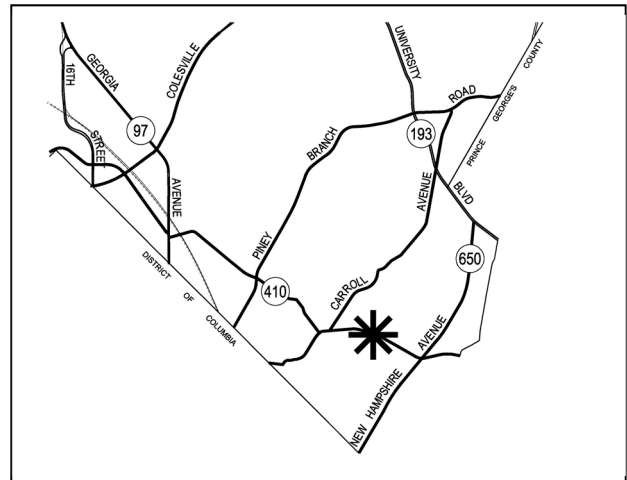
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**Completed: 12/28/2020**

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## Description

- Request to create two (2) lots for one (1) single-family detached dwelling unit on each lot
- Location: on Ethan Allen Avenue approximately 600 feet west of Prince Georges Avenue
- Zone: R-60
- Master Plan: 2000 *Takoma Park Master Plan*
- Property size: 1.48 acres
- Applicant: Pierre Viger
- Acceptance Date: June 29, 2020
- Review Basis: Chapter 50, Chapter 22A, Chapter 59



## Summary

- Staff recommends **APPROVAL** of the administrative subdivision with conditions.
- Per Section 50.6.1.C of the Subdivision Ordinance, subdivisions for the creation of 2 lots for residential detached houses are permitted to be reviewed administratively.
- Due to initial neighborhood opposition, the Planning Director deferred consideration of the application to the Planning Board, per Section 50.6.3.B.1 of the Subdivision Ordinance.
- The Application received one extension from the Planning Board to extend the review period from September 24, 2020, to not later than January 7, 2021.
- Based on the initial application submittal, Staff received several letters of opposition from the community. In the final resubmittal, the Applicant revised several components of the design and layout and Staff has not received any additional letters of concern based on the redesign. All correspondence is included as Attachments D and E.
- The Administrative Subdivision proposes to subdivide one lot into two, for a single-family dwelling on each lot. The Proposal will place the rear of each lot in Category 1 and 2 Forest Conservation Easements to protect the existing environmental features (stream valley buffer, steep slopes, forest). These easements will total 0.82 acres.
- The Property is located within the City of Takoma Park. Per Section 24-202 of the Land Use Article of the Annotated Code of Maryland, the City of Takoma Park has limited review authority over action(s) relating to land use planning within its boundaries, however the City has declined to comment on this Project.

## RECOMMENDATION AND CONDITIONS

### Administrative Subdivision Plan No. 620200070

Staff recommends approval of Administrative Subdivision Plan No. 620200070 with the following conditions.

1. This Administrative Subdivision is limited to two (2) lots for one (1) single-family dwelling unit on each lot.
2. The Adequate Public Facility (APF) review for the Administrative Subdivision will remain valid for sixty (60) months from the date of mailing of the Planning Board resolution.
3. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (MCDOT) in its letter dated November 23, 2020, 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.
4. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (MCDPS) Fire Code Enforcement Section in its letter dated December 5, 2020, 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.
5. The record plat must show necessary easements.
6. The record plat must show Building Restriction Lines as reflected on the Certified Administrative Subdivision Plan.
7. Prior to recordation of the plat(s) the Applicant must satisfy the City of Takoma Park requirements for stormwater management.
8. Prior to issuance of any access permits, the Applicant must address the following:
  - a. satisfy requirements set forth by Maryland Department of Transportation State Highway Administration (MDOT SHA); and
  - b. construct a 6-foot tree panel and a 5-foot wide sidewalk along the Property on frontage on Ethan Allen Avenue, as illustrated on the Certified Administrative Plan with the design subject to approval by MDOT SHA, unless construction is waived by the City of Takoma Park.
9. The Applicant must dedicate all road rights-of-way to the full width mandated by the Takoma Park Master Plan or as otherwise designated on the Certified Administrative Subdivision Plan, and show on the record plat(s) a dedication of the Ethan Allen Avenue frontage necessary to provide the Master Plan-recommended 50-foot-wide right-of-way between the Subject Property line and right-of-way centerline.
10. The development must comply with the Final Forest Conservation Plan (FFCP) approved as part of this Administrative Subdivision Plan.
  - a. Prior to certification of the Administrative Subdivision Plan, the Applicant must update the FFCP sheets to resolve minor edits, typos, and related items to the satisfaction of Staff; and
  - b. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations;
  - c. The Applicant must comply with all tree protection and tree save measures shown on the Final Tree Save Plan; Tree-save measures not specified on the Plan may be required by the M-NCPPC Forest Conservation Inspection Staff as necessary;
  - d. Prior to the start of any demolition, clearing, grading, or construction for this development Application, the Applicant must record Category I and Category II Conservation Easement over all areas of forest retention, forest planting and environmental buffers as specified on the

- approved FFCP. The Conservation Easements must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed. The Book/Page for the easement must be referenced on the record plat;
- e. The Applicant must install permanent forest conservation easement signage along the perimeter of the conservation easements as shown on the FFCP or as determined by the Forest Conservation Inspection Staff; and
  - f. The Limits of Disturbance ("LOD") shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved FFCP.
11. Prior to certification of the Administrative Subdivision Plan, the Applicant must make the following changes:
- g. Show resolutions and approval letters on the certified plan;
  - h. Modify the data table to reflect development standards approved by the Planning Board;
  - i. Revise drawings to show the Building Restriction Lines outside of the Category I and II Forest Conservation easements as specified in the development standards approved by the Planning Board;
  - j. Include 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) approval. 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 approval.*

## SECTION 1 – SITE DESCRIPTION

### Site Vicinity

The Project is located within the City of Takoma Park on Ethan Allen Avenue(MD-410), approximately 1/3-mile west of New Hampshire Avenue. The vicinity is developed with single-family detached dwellings and the lot sizes range widely between 8,000 – 20,000 square feet, with some lots as large as 60,000 square feet in size. Lots are generally long and narrow on the south side of Ethan Allen Avenue with the rear of these lots containing steep slopes, forest, and a tributary/ intermittent stream. Forest Park, a public park owned and maintained by the City of Takoma Park, is located to the south east of the Property.

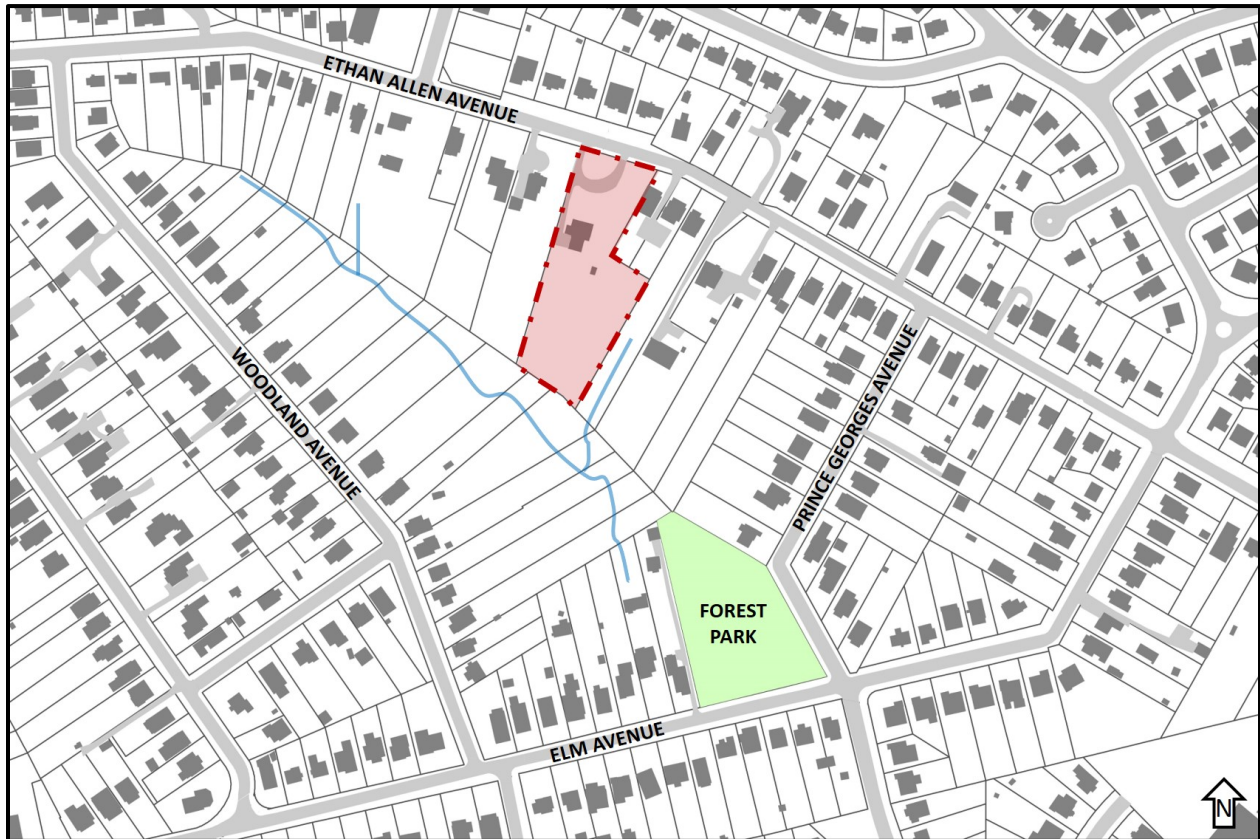


Figure 1 – Vicinity Map

### Subject Property

The Subject Property (Site, Property, or Project) consists of Lot 10, and part of Lot 11 of Block 24 created in 1886 by Plat No. 601-10 “B. F. Gilberts Addition”. The Subject Property is located on the south side of Ethan Allen Avenue. The Property consists of 64,709 square feet (1.48 acres), zoned R-60 within the 2000 *Takoma Park Master Plan*.





*Figure 2 – Aerial Map*

#### Site Analysis

As depicted in Figure 2, the Property is currently developed with a single-family house and a circular shaped driveway with two access points from Ethan Allen Avenue. The Subject Property is located within the Sligo Creek watershed, a Use I-P watershed<sup>1</sup>. The Property contains 0.85 acres of forest, including mature trees specimen trees which measure 30-inches or greater in diameter-at-breast height (DBH) as well as numerous significant trees which measure 24-inches or greater in DBH. The Property fronts on Ethan Allen Avenue and the topography slopes gently south towards an existing 2-story residence. The topography becomes steeper and begins to include patches of steep slopes of at least 25% or greater. The rear portion of the Property includes a stream valley buffer and numerous specimen trees. Aside from these environmentally sensitive features, there are no cultural or historic features on the Subject Property or rare, threatened, or endangered species.

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<sup>1</sup> WATER CONTACT RECREATION, PROTECTION OF AQUATIC LIFE. Waters that are suitable for: water contact sports: play and leisure time activities where the human body may come in direct contact with the surface water; fishing; the growth and propagation of fish (other than trout); other aquatic life, and wildlife; agricultural water supply; and industrial water supply.

## SECTION 2 – PROPOSAL

### Proposal

The Applicant proposes to subdivide the 1.48-acre parcel into two lots with direct access and frontage on Ethan Allen Avenue: Lot 101, containing approximately 34,582 square feet with the existing single-family dwelling to remain, and Lot 102, containing approximately 29,482 square feet for a new single-family detached dwelling. In Figure 3 (below) the proposed lot configuration demonstrates that proposed Lot 101 can accommodate the existing single-family dwelling and proposed Lot 102 can accommodate a new single-family dwelling, in conformance with the standards for the R-60 zone. It is important to note, however, that the future single-family dwelling footprint is illustrative and final design and location will be determined at the time of building permit.

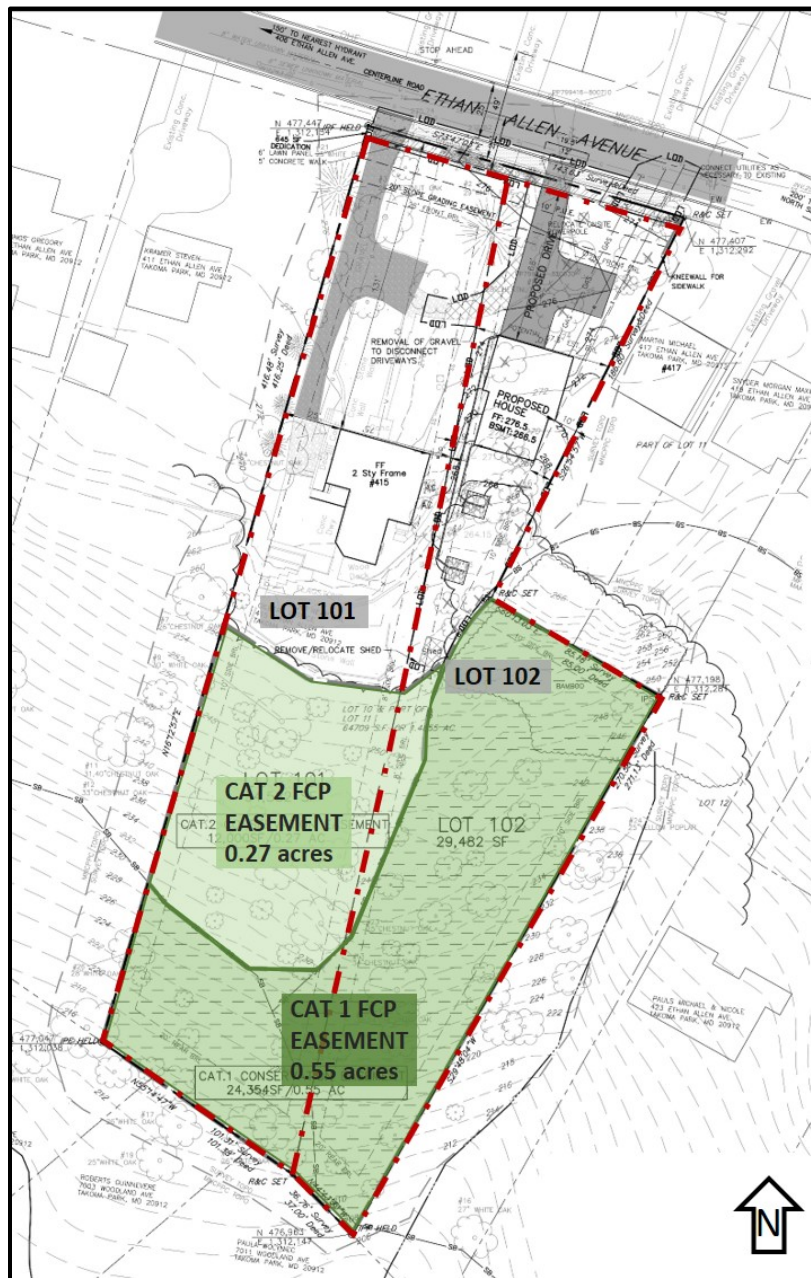


Figure 3: Proposed Administrative Subdivision Lot Configuration with FCP easements

### Environment

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD), no. 420151520, was approved for the Subject Property on February 6, 2019 (Attachment C). Soils on the Property includes 57B and 57C Chillum-Silt Loam, both of which are included within the areas of steep slopes on the site. In addition to steep slopes and the stream valley buffer, the environmentally sensitive features found onsite also include 37,139 sq. ft. (0.85 acres) of forest. Per the approved NRI/FSD, the forest stand is dominated by trees greater than 30 inches including: Chestnut Oaks, Beech, Poplar, and other Oak species.

### *Forest Conservation*

This Application is subject to Chapter 22A Forest Conservation Law and contains onsite forest. The Forest Conservation Worksheet included with the Preliminary Forest Conservation Plan (Attachment D) for this Application shows the site has a net tract area of 1.48 acres, 0.05 acres of proposed forest clearing, and 0.82 acres of forest retention. The Applicant proposes to capture much of the southern portion of the Site, which contains areas of overlapping environmental concern, within a Forest Conservation Easement in an effort to protect these sensitive areas in conformance with Forest Conservation requirements. Directly beyond the second timber wall that defines the rear yard area, the Applicant proposes a 0.27-acre Category II Conservation Easement as part of proposed Lot 101. As part of proposed Lot 102, the Applicant proposes a 0.55-acre Category I Forest Conservation Easement which follows the L-shaped curve of the stream valley buffer area into proposed Lot 101. These proposed easements will not only maintain the forested area and steep slopes to the rear of the Subject Property, but will enhance the area through the removal of any invasive plant materials and protection into the future of mature specimen and significant trees. The Forest Conservation Worksheet shows a conservation threshold of 0.30-acres, which results in a forest retention credit of 0.52 acres, exceeding the required 0.41-acres.

### Access and Circulation

Access to the proposed lots will be via separate driveways. The current lot has a circular driveway that will be separated into two distinct driveways; therefore no new curb cuts are necessary to accommodate access. While sidewalks are present along the Site's frontage, they are of a substandard width (4') and lack a vegetated buffer between the pedestrian path of travel and motor vehicles. The Project proposes to address these issues by dedicating additional ROW to support the Master Planned width of 50-feet and constructing a 5-foot wide sidewalk with a 6-foot tree panel and along Ethan Allen Avenue.

## SECTION 3 – ANALYSIS AND FINDINGS, CHAPTER 50

### Applicability, Section 6.1.C

1. **The lots are approved for the standard method of development;**

The lots were submitted and are approved for standard method development in the R-60 zone.

2. **Written approval for any proposed well and septic area is received from the Department of Permitting Services, Well and Septic Section before approval of the plat;**

The lots will not be served by wells or septic areas, as the Property is served by public water and sewer service and is designated in the W-1 and S-1 categories.

3. **Any required road dedications and associated public utility easements are shown on the plat and the applicant provides any required improvements;**

Ethan Allen Avenue (MD 410) is classified as an Arterial roadway. Per the *Takoma Park Master Plan*, the minimum right-of-way is 50 feet. Per Plat 25471, the existing right-of-way is 40 feet. Therefore, the Applicant will dedicate the additional right-of-way along the Site frontage to comply with the Master Plan.

As conditioned, the Applicant will construct a 5-foot sidewalk with a 6-foot tree panel along the Ethan Allen Avenue frontage, unless construction is waived by the City of Takoma Park.

As conditioned, the Applicant will ensure that any necessary public utility easements are shown on the plat.

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

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

#### Local Area Transportation Review (LATR)

The Project generates fewer than three (3) peak hour trips and is considered to have a *de minimis* impact on the transportation network. As a result, the Application is not subject to the Local Area Transportation Review (LATR). Based on the Project's *de minimis* impact and provision of new sidewalks on the Ethan Allen Avenue frontage vehicle and pedestrian access for the Project will be adequate.

#### School Adequacy

The Property is served by Takoma Park Elementary and Middle School, and Blair High School. With a net increase of one new single-family-detached dwelling unit, the application falls within the *de minimis* (three units or less) exemption. Therefore, the Project is not subject to testing for its estimated impact on school enrollment.



#### Other Public Facilities and Services

The Property is currently served by public water and sewer, classified in the S-1 and W-1 categories, and will be adequate to serve the proposed subdivision. Dry utilities including electricity, gas, and telephone are also available to the Property. Other utilities, public facilities and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the Subdivision Staging Policy Resolution currently in effect.

#### **5. Forest conservation, stormwater management, and environmental protection requirements are satisfied before approval of the plat.**

The Application is subject to Forest Conservation Law and is meeting requirements via onsite forest retention through the establishment of Category I and Category II Conservation Easements. No specimen trees are proposed to be removed or impacted with this Application. As conditioned, the Application complies with the requirements of the Forest Conservation Law.

The Project is located within the City of Takoma Park, which handles stormwater review for the municipality. As conditioned, the Applicant will be required to demonstrate that the Project has satisfied all stormwater management requirements with the City of Takoma Park prior to recordation of plat.

There no additional environmental protection requirements to be met.

#### **Technical Review, Section 4.3**

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

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

The Administrative Subdivision Plan meets all applicable sections of the Subdivision Code. Proposed Lots 101 and 102 are appropriate in size, shape, width, and orientation, taking into account the recommendations of the Master Plan, the existing lot pattern of surrounding properties, and the building type (single-family detached dwelling units) contemplated for the Property.

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

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

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

The proposed lots were reviewed for compliance with the dimensional requirements for the R-60 zone as specified in the Zoning Ordinance. The lots will meet all the dimensional requirements for area, frontage, and width, and can reasonably accommodate two single-family detached dwellings on each lot. A summary of this review is included in Table 1.

*Table 1 – Development Standards in the R-60 Zone*

<b>Standard</b>	<b>Required/Permitted</b>	<b>Proposed Lot 101</b>	<b>Proposed Lot 102</b>
Minimum lot size	6,000 sq ft	34,582 sq ft <sup>1</sup>	29,482 sq ft <sup>1</sup>
Front setbacks	25 ft. min. <sup>2</sup>	Must meet minimum or EBL <sup>2</sup>	
Side setbacks	8 ft. min., 18 ft. total	Must meet minimum	
Rear setbacks	20 ft. min.	195' <sup>3</sup>	238' <sup>3</sup>
Lot Width at Front lot line	25'	Must meet minimum	
Lot Width at Front BRL	60'	Must meet minimum	
Lot Coverage	35%	Must meet minimum	
Building Height	35 ft max	Must meet minimum	
Site Plan Required	No	No	

<sup>1</sup> The proposed lots will exceed the minimum requirement for the R-60 zone, lot size may be adjusted during final record plat review

<sup>2</sup> Project may be required to conform to the Established Building Line standards of Section 59.4.4.1.A, as determined by Department of Permitting Services (DPS) at the time of building permit

<sup>3</sup> Rear BRL will follow FCP easement boundary to be finalized at Certified Administrative Plan.

2. *The Preliminary Plan substantially conforms to the Master Plan or Urban Renewal Plan*

The Property is located within the 2000 *Takoma Park Master Plan*. The Master Plan reconfirmed the existing single family detached residential zoning throughout the Property's vicinity. While there are no recommendations in the Master Plan related to this Property, the Master Plan does specify several environmental and transportation related recommendations that the Application has incorporated in the Proposal. As conditioned, the Project will dedicate land necessary to accommodate the Master Planned ROW for Ethan Allen Avenue, and the Applicant will be upgrading the Property frontage by constructing a 5' sidewalk with a 6' green panel, as recommended in the Master Plan. The Proposal will be controlling existing invasive species in the forested areas of the Property, per the Forest Conservation Plan, and will be avoiding impacts to the steep slopes, stream buffer, and forested area in the rear of the Property, consistent with the Master Plan's Urban Forestry Concept. As proposed, the Project substantially conforms to the Master Plan.

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

As discussed in findings 6.1.c.4 above, public facilities will be adequate to support and service the area of the subdivision.

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

a. Environmental Guidelines

The Property contains overlapping areas of environmental concern including steep slopes, a stream valley buffer, and forest containing mature significant and specimen trees. There are no rare, threatened, or endangered species within the boundaries of the proposed Project.

b. Forest Conservation

The Application is subject to Forest Conservation Law and is meeting requirements via onsite forest retention through the establishment of Category I and Category II Conservation Easements. No specimen trees are proposed to be removed or impacted with this Application. As conditioned, the Application complies with the requirements of the Forest Conservation Law.

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

As discussed in findings 6.1.c.4 above, the Project is located within the City of Takoma Park, which handles stormwater review for the municipality. As conditioned, the Applicant will be required to demonstrate that the Project has satisfied all stormwater management requirements with the City of Takoma Park prior to recordation of plat.

#### **SECTION 4 – COMMUNITY OUTREACH**

A pre-submittal community meeting is not required for an Administrative Subdivision Plan. However, applicants must post signs on the development site and provide written public notice. A notice of the Application was sent to all required parties by the Applicant on June 30, 2020. The notice gave the interested parties 15 days to review and comment on the contents of the Application. As this Application is being considered by the Planning Board, Staff has continued to collect correspondence from the acceptance date up to the posting of this staff report.

Given the significant amount of correspondence received related to the Project, the correspondence was separated into two attachments: Attachment D reflects all correspondence related to the initial application submittal, and Attachment E reflects all correspondence related to the revised application submittal. In the recent correspondence, there were no additional concerns related to the Application based on the revised lot design.

In the initial application submittal, the Applicant proposed a flag lot design in which the new lot and future single-family dwelling was located directly behind the existing single-family house. The surrounding community had concerns with this design, as the location of the future single-family dwelling would require a significant amount of tree removal (40 trees), forest clearing, and grading on steep slopes with erodible soils. Staff worked with the Applicant to determine if a superior lot design was possible by locating the new lot and the building footprint closer to Ethan Allen Avenue, similar to many of the existing single-family dwellings along Ethan Allen Avenue.

In the final submittal, as shown in Figure 3, the new lot and future building footprint are located at the front of the Property, avoiding any impacts to steep slopes, erodible soils, and specimen size trees located at the rear of the Property. Forest clearing has been greatly reduced, from 0.32 acres to 0.05 acres, and while some trees will still be removed, the new design entirely avoids removal and impacts to specimen trees. Additionally, the Applicant proposes two types of easements onsite; a Category I Forest Conservation Easement will encompass the rear of the two proposed lots following the stream valley buffer, totaling 24,354 square feet (0.55 acres), and a Category II Forest Conservation Easement totaling 12,000 square feet (0.27 acres) will cover the rear yard of existing house to protect the steep slopes in that area, while allowing the Property owner to maintain and enjoy their yard.

## **SECTION 5 – CONCLUSION**

The Administrative Subdivision Plan No. 620200070 meets the technical requirements of Section 50.4.3 of the Subdivision Code, and the applicable requirements of Section 50.6.1.C. The lots meet all requirements established in the Subdivision Code and the Zoning Ordinance and substantially conform to the recommendations of the 2000 *Takoma Park Master Plan*. The Takoma Park City Council has declined to comment on this Project. Therefore, Staff recommends approval of this Administrative Subdivision Plan with conditions specified at the beginning of this report.

### **Attachments**

Attachment A – Administrative Subdivision Plan

Attachment B – Agency Letters

Attachment C – Approved NRI/FSD & Forest Conservation Plan

Attachment D – Correspondence related to initial subdivision design

Attachment E – Correspondence related to revised subdivision design