



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

DEC 16 2021

MCPB No. 21-087
Administrative Subdivision Plan No. 620190130
2710 Washington Avenue
Date of Hearing: October 28, 2021

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review administrative subdivision applications when requested by the Director under Section 50.6.3 of the Subdivision Regulations; and

WHEREAS, on January 7, 2020, Larry Eig (“Applicant”) filed an application for approval of an administrative subdivision plan that would create two lots on 1.07 acres of land in the R-60 zone, located at 2710 Washington Avenue, approximately 100 feet west of Ellingson Drive (“Subject Property”), in the Silver Spring/Takoma Park Policy Area and 2000 *North and West Silver Spring Master Plan* (“Master Plan”) area; and

WHEREAS, Applicant’s administrative subdivision plan application was designated Administrative Subdivision Plan No. 620190130, 2710 Washington Avenue (“Administrative Subdivision Plan” or “Application”); and

WHEREAS, following review and analysis of the Application by Planning Board staff (“Staff”) and other governmental agencies, Staff issued a memorandum to the Planning Board, dated October 18, 2021, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on October 28, 2021, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, at the hearing the Planning Board voted to approve the Application, subject to certain conditions, on motion of Commissioner Cichy, seconded by

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Approved as to
Legal Sufficiency: /s/ Emily Vaias
M-NCPPC Legal Department

Commissioner Verma, with a vote of 4-0; Chair Anderson, Commissioners Cichy, Patterson and Verma voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Administrative Subdivision Plan No. 620190130 to create two lots on the Subject Property, subject to the following conditions:¹

1. This Administrative Subdivision is limited to two (2) lots for one (1) single-family dwelling unit on each lot.
2. The Adequate Public Facilities (APF) review for the Administrative Subdivision will remain valid for five (5) years 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 their letter dated July 1, 2021, 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. Prior to issuance of the first building permit, an amendment to Site Plan 819840640 must be approved to reflect the ultimately proposed features within Outlot A (such as but not limited to the paving and walls) in addition to the necessary 5-foot wide sidewalk extensions for Abilene Drive.
5. The record plat must show necessary easements.
6. Prior to recordation of plat(s), the Applicant must satisfy the provisions for access and improvements associated with each plat, as required by MCDOT.
7. The Applicant must dedicate all road rights-of-way to the full width as required by Chapter 49-31 as shown on the Certified Administrative Subdivision Plan, and show on the record plat(s) for the following dedications:
 - a. Dedication of right-of-way as necessary to provide 30 feet from the existing right-of-way centerline along the Subject Property frontage on Washington Drive to achieve the minimum total width for a secondary residential roadway.
8. Prior to recordation of the plat the Applicant must satisfy MCDPS requirements to ensure the construction of: i) a 5-foot wide sidewalk on the Washington Avenue frontage (south side) with a 6-foot lawn panel; and, ii) a 5-foot wide sidewalk with a 2-foot lawn panel on the Property frontage on the Abilene Drive cul-de-sac (east side), both segments connecting off-site to existing sidewalks. However, the sidewalk modifications associated with Abilene Drive will be

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

further evaluated as part of the pending Site Plan amendment associated with Outlot A.

9. The Applicant must install street trees along the Washington Avenue frontage subject to MCDPS-ROW review and approval. Any street trees proposed for Abilene Drive will be evaluated as part of the Site Plan amendment for Outlot A. The street tree plantings associated with the frontage of each lot must be installed as seasonally appropriate and prior to the Final Inspection for the new residence.
10. The use of retaining walls for grading purposes must be minimized where possible. Any retaining wall that is proposed, excluding walls built as part of a stormwater management facility, should use a tiered layout to minimize visual impact and enhance stability and must be located and implemented in a manner so that the wall can be constructed, maintained and/or replaced entirely from within the subject Property and/or Outlot A as applicable. Any retaining walls within the Outlot will be evaluated as part of the Site Plan amendment associated with Outlot A.
11. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS"), Fire Department Access and Water Supply Section in its letter dated July 20, 2021 and 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 amendment does not conflict with other conditions of Preliminary Plan approval.
12. Prior to record plat approval, the Applicant must satisfy the requirements for stormwater management and receive approval from the Department of Permitting Services, Water Resource Section.
13. The record plat must reflect the following building restriction lines as shown on the Administrative Subdivision Plan:
 - a. A 127-foot minimum side building restriction line (BRL) for the south side of Lot 141 as shown on the Certified Administrative Subdivision Plan.
 - b. A 15-foot minimum side BRL for the north side of Lot 141.
14. Prior to Certification of the Administrative Subdivision Plan, the Applicant must submit and receive M-NCPPC Staff approval of a revised Preliminary/Final Forest Conservation Plan (FFCP) and variance request as applicable. The revised FFCP must also address the removal of invasive species and the planting of supplemental native species.
15. Prior to approval of the record plat, the Applicant must record a Category I Conservation Easement as specified on the approved Final Forest Conservation Plan. The Category I Conservation Easement 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.
16. Prior to the start of any demolition, clearing, grading or construction for this development Application, the Applicant must install permanent conservation

easement signage, fencing and posts along the perimeter of the conservation easements as shown on the FFCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.

17. Prior to certification of the Administrative Subdivision Plan, the Applicant must revise plans/notes to include details and specifications for soil restoration in areas of the LOD which are not built (i.e. to remain in a lawn or landscape setting).
18. The Applicant must comply with all tree protection and tree save measures shown on the approved Tree Save Plans and/or Final Forest Conservation Plan as applicable. Tree save measures not specified on the Final Forest Conservation Plan and/or the Tree Save Plan may be required by the M-NCPPC Forest Conservation Inspection Staff.
19. Prior to any demolition, clearing, grading or construction for this development Application, the Applicant must submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department for the supplemental forest plantings and for the mitigation trees and maintenance, including invasive species management controls, credited toward meeting the requirements of the FFCP.
20. Prior to any demolition, clearing, grading or construction for this development Application, the Applicant must submit a five-year Maintenance and Management Agreement ("MMA") in a form approved by the M-NCPPC Office of General Counsel. The MMA is required for all forest planting areas, variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FFCP. The MMA is to include invasive species management control measures. All proposed measures should be chosen with consideration of the proximity to the wetland and the associated watershed. The use of herbicides should be avoided where possible.
21. Within the first planting season following the release of the first Sediment and Erosion Control Permit from the Montgomery County Department of Permitting Services for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install any variance tree mitigation plantings as shown on the FFCP. The variance tree mitigation plantings must be a minimum size of 3 caliper inches each, with the total caliper inches planted equaling the requirement as shown on the approved FFCP. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.
22. The Applicant must hire a project arborist to implement the tree save plan who is qualified as an ISA-certified Arborist and also a MD Licensed Tree Care Expert.
23. 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 as applicable.

24. The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the approved Final Forest Conservation Plan.
25. Prior to approval of the Certified Administrative Subdivision Plan, the Applicant must address the following:
 - a. The Applicant must include all applicable agency approval letters and Administrative Subdivision Plan Resolution on the cover sheet(s).
 - b. 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). Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot.*
 - c. The Applicant must revise the Plans and include corresponding cross-sections of Washington Avenue and Abilene Drive showing the applicable master-planned right-of way width, the sidewalks, lawns panels and proposed street trees along the Property’s frontages including extensions beyond the frontages as needed to connect to the nearby existing sidewalks. However, the sidewalk modifications associated with Abilene Drive will be further evaluated as part of the pending Site Plan amendment associated with Outlot A.
 - d. Pursue refinements of the new access driveway layout through Outlot A and the associated infrastructure, utility connections and any proposed easement locations to be shown on the Certified Administrative Subdivision Plan.
 - e. Provide corrections from the ePlans reviews and conditions of approval on the Certified Administrative Subdivision Plan.

BE IT FURTHER RESOLVED that having considered the recommendations of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. *The Administrative Subdivision Plan meets the requirements of Chapter 50, Section 6.1.C, for the creation of up to 3 lots for detached houses permitted in any residential zone.*

A. The lots are approved for standard method development;

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

- B. 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 a well or septic area, as the Property is served by public water and sewer service and is designated in the W-1 and S-1 categories.

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

Washington Avenue and Abilene Drive function as secondary and tertiary residential roadways, respectively. As conditioned, the Applicant will be required to dedicate or demonstrate that prior dedication has been made such that there is 30-feet of dedicated right-of-way between the roadway centerline and the property line, to achieve the minimum total width of 60-feet for a Secondary Residential Roadway (Section 49-31 of the County Code).

As conditioned, the Applicant will provide a 5-foot sidewalk with a 6-foot tree lawn on the Washington Avenue frontage and a 5-foot sidewalk with a 2-foot lawn panel on its Abilene Drive frontage. Both sidewalks will be extended beyond the Site frontage to connect with existing sidewalks east of the existing lot and south of the Outlot A frontage.

The Applicant will coordinate with County agencies to ensure that any necessary public utility easements are shown on the plat.

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

School Adequacy

The Property is served by Rock Creek Forest Elementary School, Silver Creek Middle School and Bethesda-Chevy Chase High School. Since the application was accepted prior to January 1, 2021 it falls under the rules of the 2016 Subdivision Staging Policy (SSP). Under the 2016 SSP, testing for estimated impact on school enrollment is not required as there is an increase of only of one new single-family-detached dwelling unit and the application falls within the de minimis (three units or less) exemption.

Transportation Adequacy

As conditioned, transportation access is adequate to serve the development approved by this Administrative Subdivision.

Section 50-4.3.E.3.b requires administrative subdivision applications containing lots fronting on an existing State, County, or municipally maintained road, provide additional right-of-way dedication and reasonable improvements to the road in front of the subdivision including sidewalks and bicycle facilities required by the Master Plan and the Road Design and Construction Code. As conditioned, the Applicant will install a 5-foot sidewalk and 6-foot tree lawn across the Washington Avenue frontage and 5-foot sidewalk with 2-foot lawn panels associated with the Abilene Drive frontage, unless waived by the Department of Permitting Services. As conditioned, the sidewalk improvements will be extended off-site to connect to existing sidewalks on the adjacent lots.

Local Area Transportation Review (LATR)

The Project generates one net new person trip as it proposes retaining an existing home and building another on a new lot. As a result, the Application is not subject to the Local Area Transportation Review (LATR)² and vehicular access to the Site is determined to be adequate. As conditioned, the provision of new sidewalks on both the Washington Avenue and Abilene Drive frontages, will provide adequate access for pedestrians.

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 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 in effect at the time of the Application acceptance.

E. Forest conservation, stormwater management, and environmental protection requirements are satisfied before approval of the plat;

The Administrative Subdivision is subject to Chapter 22A of the County Code. There are 0.50-acres of forest onsite and the Property has approximately 17 significant or specimen sized trees located on site. As conditioned, the development will provide at least 0.28-acres of onsite Category I Conservation Easement which will fully meet all of the Forest Conservation worksheet requirements through forest retention and without the use of offsite banking or the payment of a fee-in lieu.

² Page 40 of the LATR states, "Developments that generate less than 5 peak-hour vehicle trips (i.e. subdivisions of four or fewer single-family detached houses) are not generally included" in LATR review.

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. 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 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 ("Protected Trees"). Any impact to a Protected Tree, including removal or disturbance within the Tree's critical root zone ("CRZ") requires a variance. An application 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 Applicant proposes to impact subject trees that are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law. However, with the revised design, the impacts proposed to subject trees will change, therefore, an updated Forest Conservation Plan and variance request will be required prior to plat as allowed under section 50.6.1.C.5. of the Subdivision Regulations. Therefore, as conditioned, this Application will satisfy all requirements of Chapter 22A, Forest Conservation.

The Stormwater Management requirements must also be approved prior to the approval of plat, per Chapter 50.6.1.C.5 by MCDPS Stormwater Management Section.

Furthermore, under 50.4.3.K. the Board must restrict the subdivision or development of any land for environmental protection relative to highly erodible soils, steep slopes and the associated objectives of Chapter 22A relating to conservation of trees and forest resources. However, the modified BRL(s) and Category I Conservation Easement (along with other enhancements and special measures which are recommended as conditions of approval) adequately address protection of the environmentally sensitive areas as required under 50.4.3.K. 2.b.ii.

2. *The Administrative Subdivision Plan meets the technical review requirements of Chapter 50, Section 4.3.*
 - A. *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.*

- i. 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 subdivision is within an existing residential neighborhood with an established street grid. The Application is not proposing to create any new residential blocks.

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

The Administrative Subdivision Plan meets all applicable sections of the Subdivision Code. The lots 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 unit) contemplated for the Property.

The frontage is exempt under Chapter 50 *Lot design general requirements* per 50.4.3.C.1.b.ii. which provides that 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, and that the access to the lots with no road frontage must be adequate to serve the lots for emergency vehicles and for the installation of public utilities and other public service. The Outlot A was created to provide ingress/egress to the adjacent Property (lot 46). A 10' PUE leading from the Abilene Drive cul-de-sac to the Subject Property was also recorded within the Outlot. Furthermore, the owner of Outlot A has already granted a deed recorded in Liber 56917 at Folio 563 which includes additional provisions for utilities as needed.

The MCDPS Fire Prevention and Code Compliance Division Staff has approved the Fire Access Plan for the current layout on July 20, 2021.

Other properties in the vicinity within the R-60 zone range from 6,000 square feet in size to 30,638 square feet (the existing Subject Property is the largest in the vicinity at 41,435 sf). The lots meet the minimum development requirements for the R-60 zone in terms of size, street frontage, setbacks, and meet the infill development standards for lot coverage. Therefore, the lot design is appropriate for the development and use contemplated.

iii. *The Preliminary Plan provides for required public sites and adequate open spaces*

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.

iv. *The Lots and Use comply with the basic requirements of Chapter 59*

The lots were reviewed for compliance with the dimensional requirements for the R-60 zone as specified in the Zoning Ordinance. The lots will meet all the dimensional requirements for area, frontage, and width, and can reasonably achieve setbacks that meet or exceed the requirements of the R-60 zone.

Development Standards in the R-60 Zone

Standard	Required/ Permitted	Approved	
		LOT 140	LOT 141
Minimum lot size	6,000 sq ft	18,933 sq feet	22,443 sq feet
Min Lot Width at Front Building Line	60'	106 feet	212 feet
Min Lot Width at Front Lot Line	25 feet	106 feet	N/A ¹
Maximum Density (units/acre)	7.26	1	1
Max Lot Coverage	20% ²	3,786 SF (max)	4,488 SF (max)
Front setback	25 feet (min)	25 feet (min)	25 feet (min)
Side setbacks	8 feet (min)	15 (min)	15 feet (min) ³ north side 128 feet (min) ⁴ south side
Sum of Side setbacks	18 feet (min)	18 feet (min)	143 feet (min) ⁵
Rear setbacks	20 feet (min)	20 feet (min)	20 feet (min)
Max Building Height to highest point on any roof.	35 feet	≤ 35'	≤ 35'

¹25' frontages Per 59.4.4.9.B required except as exempt under chapter 50 Lot Design requirements under 50.4.3.C. 1.b.ii.

²Maximum lot coverage is 20% for lots ≥ 16,000 sf per Residential Infill Compatibility, Section 59.4.4.1.B.

³North side setback for Lot 141 was increased to enhance fire protection buffer.

⁴South side setback for Lot 141 was increased to enhance protection of environmentally sensitive areas.

⁵South Sum of the Lot 141 side setbacks.

B. The Administrative Subdivision Plan substantially conforms to the Master Plan.

The Property is located within 2000 North and West Silver Spring Master Plan. The Master Plan generally reaffirmed the existing zoning throughout

the plan area. The Property is more specifically within the West Silver Spring area of the Master Plan where “suburban and urban lifestyles merge.” (see p. 23 of the Master Plan) The Master Plan values the “close-in, older, well-established, and densely developed down-County area characterized by diversity in income, ethnicity, and racial composition.” The character of these neighborhoods should be preserved and enhanced. (Page 16).

The Administrative Subdivision seeks to add an additional single-family lot in a densely-developed neighborhood with lot sizes that range from 6,000 square feet to 30,638 square feet. At 41,436.53 square feet, the Property currently outlies as the largest lot in the neighborhood. The new lots, which are 18,933 square feet and 22,443, are more in character with the other lots in the neighborhood in terms of size, and diversity of housing options.

Furthermore, the Master Plan also recognizes the appeal of the densely developed residential neighborhoods due to their “proximity to natural resources, particularly the nearby stream valley parks, recreation facilities, and the urban forest.” (Master Plan at page 83).

Consistent with Master Plan recommendations, the new lots respect urban forests through the preservation of existing tree stock on the western and southern edges of Lot 141. In these areas, the subdivision minimizes the limits of disturbance to only the extent needed to reasonably accommodate the house, driveway and minimal yard area. Moreover, the plan utilizes urban forestry principles, including the maintenance of existing tree coverage in the forest conservation area and the removal of invasive species, as conditioned.

The sidewalk installation and associated plantings as conditioned are supported by the Master Plan, which states “Enhance the natural environment by creating green spaces and identifying locations for improved street tree plantings” (page 4), “Preserve the residential character. Improve existing streets, sidewalks, gathering spaces, streetscape and landscaping” (page 16), and lastly, maintaining the existing healthy tree stock is important to the character of the community” (page 91).

The modified BRL and Category I Conservation Easement will help protect the steepest part of the slopes and protect most of the forest and environmentally sensitive areas. As conditioned, the Project substantially conforms to the Master Plan.

- C. Public facilities will be adequate to support and service the area of the subdivision.*

As discussed in Finding 1.D above, public facilities will be adequate to support and service the area of the subdivision.

- D. *The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A.*

Technical Review 50.4.3.K

1. Forest Conservation

The Board finds that as conditioned, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law.

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) 420192070, was approved for the Subject Property on September 5, 2019. The Subject Property is located within the Lower Rock Creek Watershed, a Use I watershed. The Property contains forest and mature trees subject to the Variance provision of the Forest Conservation Law, including a number of specimen trees which measure 30-inches or greater in diameter-at-breast height (DBH). The mature trees are generally located to the south of the Property, within the forested area, and along the bordering neighboring properties. The site is mostly flat towards Washington Avenue, but transitions into forest areas associated with steep slopes ($\geq 25\%$) toward the southern portion of the Property. At the bottom of this sloped area lies a potential wetland with a buffer as identified on the approved NRI/FSD.

There are no known rare, threatened, or endangered species on or near the site; there are no 100-year floodplains or associated BRLs, however there are steep slopes and wetland/buffers on site. The environmental features found onsite also include numerous significant and specimen trees. There are no historic or cultural features on or near the site.

The site design includes enhanced placement of the single-family home with a modified BRL and Category I Conservation Easement which reduces the area of forest cleared from 0.31-acres as originally submitted, to 0.22-acres. As conditioned the layout will also include a Conservation Easement area of approximately 0.28-acres which will fully meet all Forest Conservation requirements onsite.

These efforts serve to minimize the impact to the environmentally sensitive features of the Site such as the steep slopes and forest with respect to both the Master Plan and Forest Conservation Law which

provide guidance and priorities for the protection of natural resources. The Forest Conservation Regulations identify trees and shrubs in sensitive areas (such as steep slopes and near wetland buffers), areas of contiguous forest and forest identified as high priority for retention, and individual specimen trees as priorities for retention.

The Master Plan states that “urban forestry concepts should be applied both inside and outside the parks to improve the quality of the urban ecosystem...to create pockets of native trees and understory vegetation within the urban ring to better support the remaining natural ecosystem.”

Due to the impacts and removal of several specimen trees associated with this development, this Application is also subject to the Variance provisions of the Forest Conservation Law. Accordingly, a Variance Request is required. Among other changes, the current layout will result in impacts to two (2) previously unaffected variance trees; however, the subject trees are located along or beyond the Property boundaries (where they can be retained) and out of the forest/environmentally sensitive areas. The new impacts would be supported, as allowing the new impacts would result in reduced impacts to other subject trees located within the environmentally sensitive areas which have enhanced protection under the revised layout. An updated plan will be submitted at the time of Certification (prior to record plat) that addresses the updated Forest Conservation Plan and variance request which accounts for the design changes described above. The Application must meet the requirements of Chapter 22A of the Montgomery County Code prior to approval of the plat per Section 50.6.1.C.5. Therefore, as conditioned, this Application will satisfy all requirements of Chapter 22A, Forest Conservation.

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

Since the existing single family detached dwelling and the residence are governed by the Administrative Subdivision process, the Stormwater Concept Plan and the associated requirements must be approved by MCDPS Stormwater Management Section prior to the approval of the record plat in accordance with the Subdivision Regulations, Chapter 50.6.1.C.5. Although the SWM Concept Approval reflecting the current layout has not been submitted, a SWM concept was granted under the version of the plans which located the building envelope entirely within the sloping portion of the site, therefore it is anticipated that a SWM concept approval would also be achievable under the current scenario of shifting the building envelope partially into the flat/up-slope area. As conditioned the Applicant must

satisfy the requirements for stormwater management and receive approval from the Department of Permitting Services, Water Resources Section, thereby meeting the requirements as applicable.

- F. 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 are no known burial sites associated with the Subject Property.

- G. Any other applicable provisions specific to the property and necessary for approval of the subdivision is satisfied.*

There are no other applicable provisions associated with the subdivision.

BE IT FURTHER RESOLVED that this Administrative Subdivision Plan will remain valid for 36 months from its initiation date (as defined in Montgomery County Code Section 50.4.2.G), and that prior to the expiration of this validity period, a final record plat for all property delineated on the approved Administrative Subdivision Plan must be recorded in the Montgomery County Land Records, or a request for an extension must be filed; and


BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is DEC 16 2021 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

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CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Cichy, seconded by Commissioner Verma, with Chair Anderson and Commissioners Cichy and Verma voting in favor of the motion, Commissioner Rubin voting abstaining, and Commissioner Patterson absent at its regular meeting held on Thursday, December 9, 2021, in Wheaton, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board