

# Montgomery County Planning Board

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

JUL 18 2022

MCPB No. 22-056  
Administrative Subdivision No. 620220030  
Fawsett Farms  
Date of Hearing: June 16, 2022

## RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review administrative subdivision applications; and

WHEREAS, on January 26, 2022, 10701 Rockrun 2021, LLC (“Applicant”) filed an application for approval of an administrative subdivision plan of property that would create two (2) lots on 0.98 acres of land in the R-200 zone, located at 10701 Rock Run Drive, in the northern quadrant of the intersection of Rock Run Drive and Kingsgate Road; Lot 30, Block 3, identified on Record Plat No. 3552 (“Subject Property”), in the Potomac Policy Area and 2002 *Potomac Subregion Master Plan* (“Master Plan”) area; and

WHEREAS, Applicant’s administrative subdivision plan application was designated Administrative Subdivision Plan No. 620220030, Fawsett Farms (“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 June 3, 2022, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions (“Staff Report”); and

WHEREAS, on June 16, 2022, the Planning Board held a public hearing on the Application and voted to approve the Application subject to conditions, on the motion of Commissioner Rubin, seconded by Vice Chair Verma, with a vote of 5-0; Chair Anderson, Vice Chair Verma, and Commissioners Cichy, Patterson, and Rubin voting in favor.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Administrative Subdivision Plan No. 620220030 to create two (2) lots on the Subject

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Approved as to

Legal Sufficiency: /s/ Emily Vaias

M-NCPPC Legal Department

Property, subject to the following conditions:<sup>1</sup>

**General Approval**

1. This Administrative Subdivision Plan is limited to two (2) lots for two single-family detached dwelling units.
2. The Adequate Public Facilities (“APF”) review for the Administrative Subdivision Plan will remain valid for five (5) years from the initiation date (as defined in Montgomery County Code Section 50.4.3.J.5).
3. The Administrative Subdivision Plan will remain valid for three (3) years from its initiation date (as defined in Montgomery County Code Section 50.4.2.G), and prior to the expiration date 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 filed.
4. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated May 31, 2022, and 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 if the amendment does not conflict with any other conditions of the Administrative Subdivision Plan approval.
5. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.
6. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”) – Water Resources Section in its stormwater management concept letter dated June 2, 2022, and 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 – Water Resources Section if the amendment does not conflict with any other conditions of the Administrative Subdivision Plan approval.
7. The Planning Board has reviewed and accepts the recommendations of the MCDPS, Fire Department Access and Water Supply Section in its letter dated

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<sup>1</sup> 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.

April 11, 2022 and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS, Fire Department Access and Water Supply Section may amend if the amendment does not conflict with other conditions of the Administrative Subdivision Plan approval.

## **Environment**

8. The Applicant must comply with the following conditions of approval for the Preliminary/Final Forest Conservation Plan No. 620220030, approved as part of this Administrative Subdivision Plan:
  - a. 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.
  - 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 Inspection Staff.
  - c. Prior to the start of any demolition, clearing, grading or construction, whichever comes first, for this development Application, the Applicant must submit the forest conservation fee-in-lieu payment to the M-NCPPC Planning Department for the 0.17 acres of afforestation/reforestation requirement.
  - d. Prior to any demolition, clearing, grading or construction for this development Application, whichever comes first, the Applicant must execute 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 mitigation tree plantings associated with the tree variance.
  - e. Prior to any demolition, clearing, grading or construction for this development Application, whichever comes first, 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 ten (10) variance mitigation trees and their necessary maintenance.
  - f. Within the first planting season following the release of the first Sediment and Erosion Control Permit from the MCDPS for the Subject Property, or as directed by the M-NCPPC Forest Conservation Inspection Staff, the Applicant must install the variance tree mitigation plantings as shown on the FCP.
  - g. The Applicant must plant the variance tree mitigation plantings on the Subject Property with a minimum size of three caliper inches totaling thirty caliper inches as shown on the approved FCP. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.
  - h. 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.

### **Transportation**

9. The Applicant must provide the following dedications and show them on the record plat(s) and assure construction for the following existing roads:
  - a. Dedicate approximately 116 square feet necessary to provide a chamfered right-of-way at the intersection of Rock Run Drive and Kingsgate Road in the southeast corner of the Subject Property.
  - b. Prior to the issuance of the first above-grade building permit or right-of-way permit (whichever comes first), for a house on Lot 2, the Applicant must make a de minimis payment of \$23,040 ( $\$115.20 \times 2 \text{ units} \times 100 \text{ feet}$  (minimum lot width at front building line)) to MCDOT towards the construction of a pedestrian improvement in the Potomac Policy Area. The payment will be inflated based on the Federal Highway Administration's National Highway Construction Cost Index from the mailing date of the Planning Board Resolution to the date of the first above-grade building permit or right-of-way permit (whichever comes first).
  - c. Prior to the certification of the Preliminary Plan, the Applicant shall add a notation adjacent to the sidewalks shown along the Property frontages to state "Future sidewalks to be built by others. De minimis payment to be provided by the Applicant".

### **Record Plats**

10. There shall be no clearing or grading of the site prior to recordation of plat(s).

### **Easements**

11. The record plat must show necessary easements, including, but not limited to the following:
  - a. A 10-foot wide Public Utility Easement (PUE) on the frontage of Rock Run Drive;
  - b. A 10-foot wide Public Improvement Easement (PIE) and overlapping 20-foot wide PUE on the frontage of Kingsgate Road.
12. The record plat must reflect a common use and access covenant for the benefit of the public over all trails, sidewalks and paths not included in a public right-of-way or private street parcel. The covenant must be in a form approved by the

M-NCPPC Office of the General Counsel and recorded among the Montgomery County Land Records.

### **Certified Administrative Subdivision Plan**

13. The Applicant must include the stormwater management concept approval letter, MCDPS – Fire Department Access and Water Supply approval letter and Fire Access Plan and Administrative Subdivision Plan Resolution on the approval or cover sheet(s).
14. The Certified Administrative Subdivision Plan must contain the following notes:
  - a. *“Unless specifically noted on this plan drawing or in the 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.”*
  - b. *The Applicant must schedule an on-site preconstruction meeting with M-NCPPC inspection staff before any demolition, clearing, or grading occurs on-site. The Applicant, their representatives, and the general contractor must attend the pre-construction meeting with the M-NCPPC inspector. A copy of the approved Certified Administrative Subdivision Plan is required to be on-site at all times.*

BE IT FURTHER RESOLVED that having considered the recommendations of its Staff as presented at the hearing and/or 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-200 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.***

This requirement does not apply to this Administrative Subdivision because both lots are being served by community water and sewer.

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

As shown on Record Plat No. 3352, the existing right-of-way on Rock Run Drive is 100 feet and 50 feet on Kingsgate Road. The only additional land being dedicated is 116 square feet necessary to accommodate a chamfered corner for sight distance at the intersection of Rock Run Drive and Kingsgate Road.

As discussed later in this Resolution, the existing Rock Run Drive right-of-way is wide enough to accommodate future construction of a 6-foot-wide sidewalk. On Kingsgate Road the sidewalk can be accommodated in the new 10-foot-wide Public Improvement Easement (PIE) on proposed Lot 2. To accommodate existing and future utilities, the Administrative Subdivision Plan proposes a 10-foot-wide PUE on Rock Run Drive and a 20-foot-wide PUE overlapping the proposed PIE on Kingsgate Road.

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

As conditioned and discussed below, the requirements for adequate public facilities have been met.

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

- a. The Application is subject to the requirements of Chapter 22A. As conditioned and discussed below in the Technical Review for Forest Conservation section, the Application satisfies forest conservation requirements.
- b. The Application has received an approved Stormwater Management Concept, dated June 2, 2022, and will achieve stormwater management goals on each lot via Environmental Site Design (ESD) practices including drywells and microbioinfiltration.

2. *The Administrative Subdivision Plan meets the findings required by Section 50.6.3.C, including Technical Review criteria of Section 50.4.3 of the Subdivision Ordinance*

- 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.*

The Administrative Subdivision Plan meets all applicable sections of the Subdivision Regulations, Chapter 50. The proposed lot size, width, shape, and orientation is appropriate for the location of the subdivision, considering the general recommendations of the Master Plan, and residential use contemplated.

The Administrative Subdivision proposes lot sizes that are over 20,000 square feet, consistent with the allowed density in the R-200 Zone. Proposed Lot 1 is 21,550 square feet and proposed Lot 2 is 20,805 square feet. As depicted on the Administrative Subdivision Plan, each lot will meet minimum lot areas and other dimensional requirements of the zone, including the Established Building Line (EBL) and Residential Infill Compatibility (RIC) requirements, as applicable and as discussed below and supported by the Applicant's EBL analysis which was submitted with the Administrative Subdivision Plan.

**Established Building Line – Section 59-4.4.1.A**

The requirement of Section 59-4.4.1.A related to the EBL, applies to Kingsgate Road. The EBL for Kingsgate Road applies to Lot 2 only and has been determined to be 62.5 feet based upon the average front setbacks of the of two existing homes (8410 and 8412 Kingsgate Road) within 300 feet of the Property along Kingsgate Road. The EBL requirement of Section 59-4.4.1.A. is not applicable to Rock Run Drive for either lot based upon the following:

- WSSC records indicate that the water line which exists in Rock Run Drive was installed on 04/19/1995
- Three buildings exist within 300 feet of the western boundary of the Subject Property as follows:
  - 10705 Rock Run Drive, built in 2018
  - 10709 Rock Run Drive, built in 1971 (prior to public water)
  - 10715 Rock Run Drive, built in 1992 (prior to public water)

- Buildings on 10709 and 10715 Rock Run Drive are excluded from EBL determination because they were built prior to public water and were served by well or septic when they were first built. Per 59-4.4.1.A.3.a., lots in the R-200 zone that are or were ever served by well or septic are excluded from EBL determination.
- The EBL does not apply since only one building (10705 Rock Run Drive) can be used to establish the building line.

#### **Residential Infill Compatibility – Section 59-4.4.1.B**

The Residential Infill Compatibility requirement in Section 59-4.4.1.B applies to proposed Lot 2 of the Application because the Subject Property is zoned R-200 and proposes subdivision of a lot created by a record plat before January 1, 1978, which results in new lots smaller than 25,000 square feet, for the construction of a new detached house.

According to Section 59-4.4.1.B, the maximum lot coverage is 20% multiplied by the square footage of lot area for lots 16,000 square feet or larger. Both lots are under the maximum coverage of 20 percent allowed, which will be verified by MCDPS prior to building permit release.

The lots were reviewed for compliance with all applicable development standards, and the proposed lots can each accommodate a dwelling which can reasonably meet the applicable development standards, including the applicable EBL and RIC requirements. A summary of this review is included in the Data Table on the Certified Administrative Subdivision Plan<sup>2</sup>.

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

The Administrative Subdivision Plan substantially conforms to the recommendations within the 2002 *Potomac Subregion Master Plan*. The Subject Property is located in the Potomac community area, identified on page 5 of the 2002 *Potomac Subregion Master Plan*. The Master Plan describes the Potomac area as follows:

*“The Potomac area is the easternmost part of the Subregion and is more developed than the other three community areas. Since residential development is dispersed through the area, this Plan recommends infill development of the remaining vacant properties with residential*

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<sup>2</sup> Final building placement, setbacks, coverage and height to be determined by MCDPS at building permit



*development essentially similar to what is now there, unless specifically stated otherwise in this Plan” (p. 41).*

The Master Plan does not make specific recommendations for the Subject Property but recommends the retention and reconfirmation of the existing R-200 zone and residential land use. The Application substantially conforms with the recommendations from the Master Plan and is consistent with the Master Plan’s general land use recommendations by providing infill residential development that is essentially similar to what is now there.

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

Public facilities will be adequate to support and service the Application.

#### Roads and Transportation Facilities

The transportation Adequate Public Facilities (APF) test is satisfied under the current 2020-2024 Growth and Infrastructure Policy (“GIP”). The Property is in the Potomac Policy Area.

The Subject Property has approximately 225 feet of frontage on Rock Run Drive and approximately 154 feet of frontage on Kingsgate Road. Rock Run Drive is a non-master planned road, classified by MCDOT as an open section Secondary Residential Road with 4-foot-wide sidewalks, street trees and a 60-foot minimum right-of-way width (MC-211.03). Kingsgate Road is a non-master planned road, classified by MCDOT as a Tertiary Residential Street with 4-foot-wide sidewalks, street trees and a 50-foot minimum right-of-way width (MC-210.05). As proposed, both cross-sections are being modified to increase the sidewalk width from 4-feet to 6-feet. As shown on Record Plat No. 3352, the existing right-of-way on Rock Run Drive is 100 feet and 50 feet on Kingsgate Road.

The only additional land being dedicated is 116 square feet necessary to accommodate truncation at the intersection of Rock Run Drive and Kingsgate Road.

In the future, a 6-foot-wide sidewalk can be constructed on Rock Run Drive within the existing right-of-way and the section parallel to Kingsgate Road can be accommodated in a new 10-foot-wide Public Improvement Easement (PIE) on Lot 2. To accommodate existing and future utilities the Administrative Subdivision Plan proposes a 10-foot-wide PUE on Rock Run

Drive and a 20-foot-wide PUE overlapping the proposed PIE on Kingsgate Road.

The Application has been reviewed by the MCDOT, who determined in its letter dated May 31, 2022, that the proposed driveways will have adequate sight distance on Rock Run Drive to serve the Subject Property. MCDOT also reviewed the Applicant's storm drain study and determined that no improvements to the downstream public storm drain system is necessary for the Application.

#### Local Area Transportation Review (LATR)

As demonstrated in the Applicant's traffic statement, dated January 7, 2021, a traffic study is not required for the Administrative Subdivision to satisfy the APF's LATR test because the proposed one new single-family detached unit does not generate 50 or more person trips in the peak hour, which occurs within the weekday morning (6:30 to 9:30 a.m.) and evening (4:00 to 7:00 p.m.) peak periods.

#### Other Public Facilities and Services

Other public facilities and services are available and adequate to serve the proposed lots. The proposed lots will be served by community water and sewer service. An existing 8-inch water main and 8-inch gravity sewer main within the Rock Run Road right-of-way are available and adequate to serve the existing and proposed homes. A new sewer house connection and water house connection will be tied into the 8-inch main to serve the house. The sewer house connection serving the existing house will be replaced. The use of public water and sewer is consistent with the existing W-1 and S-1 services categories designated for the Property.

Natural gas is also being extended from the gas main in the Rock Run Drive right-of-way to serve the new house.

The Application has been reviewed by the Montgomery County Department of Permitting Services, Fire Department Access and Water Supply Section. The Application has received an approved Fire Access Plan based in the letter dated April 11, 2022.

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 Growth & Infrastructure Policy ("GIP") currently in effect.

Schools Adequacy Test

The FY22 Annual School Test, approved by the Planning Board on June 17, 2021 and effective July 1, 2021 is applicable to this Application. This Application proposes one new single-family detached unit.

The Application is served by Potomac Elementary School, Herbert Hoover Middle School and Winston Churchill High School. Based on the FY22 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

*Table 1 – Applicable FY2022 School Adequacy*

School	Projected School Totals, 2025				Adequacy Status	Adequacy Ceilings		
	Program Capacity	Enrollment	% Utilization	Surplus/Deficit		Tier 1	Tier 2	Tier 3
Potomac ES	479	338	70.6%	+141	No UPP	226	243	309
Herbert Hoover MS	1,139	1,060	93.1%	+79	No UPP	205	307	478
Winston Churchill HS	1,969	2,096	106.4%	-127	No UPP	53	267	563

The school adequacy test determines the extent to which an applicant is required to make a Utilization Premium Payment (UPP) based on each school's adequacy status and ceilings, as determined in the Annual School Test. Under the FY22 Annual School Test, Potomac ES, Herbert Hoover MS and Winston Churchill HS do not require any UPP as identified in Table 1. If the Application is estimated to generate more students than the identified ceilings, then UPPs or partial payments at multiple tiers may still be required.

Based on the school capacity analysis performed, using the FY2022 Annual School Test, this Application is not subject to a Utilization Premium Payment. Therefore, no UPP condition is required.

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

## 1. Natural Resource Inventory/Forest Stand Delineation

The Natural Resource Inventory/Forest Stand Delineation (“NRI/FSD”) 420221040 for this Property was approved in December 2021. The NRI/FSD identifies the 0.98-acre Subject Property located within the Potomac Direct watershed, which is classified by the State of Maryland as Use I-P waters. There is no forest on the Property; however, there are seven trees with a diameter at breast height (“DBH”) of 24 inches or more located on or immediately adjacent to the Property. Three of these trees have a DBH of 30 inches or more. There are no streams, wetlands, 100-year flood plain, stream buffers, steep slopes, highly erodible soils, or other sensitive environmentally features located on the Property.

## 2. Forest Conservation

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

The Applicant has submitted a Preliminary/Final Forest Conservation Plan (“FCP”) with the Administrative Subdivision Plan No. 620220030. The Application satisfies the applicable requirements of the Forest Conservation Law, Chapter 22A of the Montgomery County Code, and complies with the Montgomery County Planning Department’s approved *Environmental Guidelines*, with the proposed conditions.

The Subject Property is zoned R-200 and is assigned a Land Use Category of High Density Residential (“HDR”) as defined in Section 22A-3 of the Montgomery County Forest Conservation Law (“FCL”) and in the Land Use Table of the *Trees Technical Manual*. This results in an afforestation threshold of 15% and a conservation threshold of 20% of the Net Tract Area.

The tract area for forest conservation purposes includes the 0.98-acre Subject Property plus 0.17 acres of offsite disturbance associated with this Application, for a total net tract area of 1.15 acres. There is no existing forest within the net tract area; therefore, the Application does not propose to retain or remove any forest. Since there is no forest on the Property, the Application results in an afforestation requirement of 0.17 acres. The Applicant proposes to meet the planting requirement by paying a fee-in-lieu as permitted under Section 22a-12(g)(2) since the planting requirement is less than 0.5 acres and there are no priority or appropriate on-site planting areas on the two proposed lots, which will both be less than 0.5 acre in size.

### 3. Forest Conservation Variance

Section 22A-12(b)(3) of the Forest Conservation Law identifies certain individual trees as high priority for retention and protection ("Protected Trees"). Any impact to these Protected Trees, including removal or any disturbance within a Protected Tree's critical root zone ("CRZ"), requires a variance under Section 22A-12(b)(3) ("Variance"). Otherwise such resources must be left in an undisturbed condition.

This Application will require the removal of three (3) Protected Trees as identified in the Staff Report. In accordance with Section 22A-21(a), the Applicant requested a Variance, and the Board agrees that the Applicant would suffer unwarranted hardship by being denied reasonable and significant use of the Subject Property without the Variance.

The Board makes the following findings necessary to grant the Variance:

- a. *Granting the Variance 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 and disturbance to the specified trees are due to the existing developed conditions to remain, proposed development of the Property, location of the trees within the right-of-way where sidewalk improvements are required, and necessary site design requirements. The Property contains large trees located within the developable area of the site. Granting a variance to allow disturbance within the developable portion of the site and meet the objectives of the Master Plan is not unique to this Applicant. The granting of this variance is not a special privilege that would be denied to other applicants.

- b. *The need for the Variance is not based on conditions or circumstances which are the result of the actions by the Applicant.*

The variance is not based on conditions or circumstances which are the result of actions by the Applicant. The variance is based upon the existing site conditions, development standards of the zone, and necessary design requirements of this Application, including street frontage improvements.

- c. The need for the Variance is not based on a condition related to land or building use, either permitted or non-conforming, on a neighboring property.*

The variance is a result of the existing conditions and the proposed site design and layout of the Subject Property, and not as a result of land or building use on a neighboring property.

- d. Granting the Variance 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 Protected Trees being removed are not located within a stream buffer, wetland or Special Protection Area. As conditioned, the Applicant will mitigate for the removal of these three trees by planting larger caliper trees on-site. These trees will replace water quality functions that may be lost by the removed trees. Therefore, the Board concurs that the Application will not violate State water quality standards or cause measurable degradation in water quality.

There are three (3) Protected Trees proposed for removal in this variance request, resulting in a total of 117.2 inches of DBH being removed. These three trees being removed are individual trees that are not part of a forest.

Mitigation for the Variance is at a rate that approximates the form and function of the Protected Trees removed. The Board approved replacement of Protected Trees at a ratio of approximately 1-inch caliper for every four inches removed using trees that are a minimum of three caliper inches in size. This results in a total mitigation of 29.3 inches with the installation of ten 3-inch caliper overstory trees native to the Piedmont Region of Maryland on the Property outside of any rights-of-way and outside of any utility easements. Although these trees will not be as large as the trees lost, they will be planted on the Subject Property and provide some immediate benefit, ultimately replacing the canopy lost by the removal of these trees. As conditioned, the mitigation trees will be protected as part of a 5-year Maintenance and Management Agreement.

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

MCDPS approved the Stormwater Management Concept Plan finding that it meets applicable standards. The Administrative Subdivision Plan received an approved stormwater concept plan from the Montgomery County Department of Permitting Services, Water Resources Section on June 2, 2022. The Application will meet stormwater management goals using ESD practices, microbioretention and drywells.

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

There are no known burial sites located on or adjacent to the Subject Property.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is JUL 18 2022 (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 the motion of Commissioner Rubin, seconded by Vice Chair Verma, with a vote of 4-0, Chair Anderson, Commissioners Cichy, Rubin, and Verma voting in favor, Commissioner Patterson absent, at its regular meeting held on Thursday, July 7, 2022, in Wheaton, Maryland and via video conference.



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Casey Anderson, Chair  
Montgomery County Planning Board





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