

## LARSEN PROPERTY, ADMINISTRATIVE SUBDIVISION PLAN NO. 620230030

### Description

Administrative Subdivision Plan to convert a 7.18-acre parcel (P657) into three (3) lots for three (3) single-family detached dwelling units.

No. 620230030

Completed: 3/3/2023

MCPB

Item No. 5

March 16, 2023

2425 Reddie Drive

Floor 14

Wheaton, MD 20902

## Planning Staff

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### LOCATION/ADDRESS

10420 Oaklyn Drive Potomac, MD

### MASTER PLAN

2002 Potomac Subregion Master Plan

### ZONE

RE-2

### PROPERTY SIZE

7.18 acres (312,596 square feet)

### APPLICANT

Norton Land Design LLC.

### ACCEPTANCE DATE

December 8, 2022

### REVIEW BASIS

Ch. 50, 59, and 22A



### Summary:

- Staff recommends approval of the administrative subdivision plan with conditions.
- The Applicant is proposing two flag lots and one lot without frontage, for a total of three lots.
- Per Section 50.4.3.C. of the Subdivision Ordinance, the Planning Board must review flag lots and lots without frontage to ensure adequate separation between the building envelope of the proposed flag lot and adjacent lots.
- Staff received a letter from a neighboring property owner concerned with privacy along the proposed driveway.

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## SECTION 1: RECOMMENDATIONS AND CONDITIONS

### ADMINISTRATIVE SUBDIVISION PLAN

Staff recommends approval with conditions of the Administrative Subdivision Plan to convert a 7.18-acre parcel (P657) into three (3) lots for three (3) single family detached dwelling units. All site development elements shown on the latest electronic version of the Administrative Subdivision Plan No. 620230020 as of the date of this Staff Report submitted via ePlans to the M-NCPPC are required except as modified by the following conditions:

#### GENERAL APPROVAL

1. This Administrative Subdivision Plan is limited to three (3) lots for three (3) single-family detached dwelling units.
2. At the time of building permit, the Applicant will supply proof to M-NCPPC of an 80-foot minimum separation between the building envelopes of each lot and the building envelopes of all adjacent lots.

#### ADEQUATE PUBLIC FACILITIES AND OUTSIDE AGENCIES

3. 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).

#### PLAN VALIDITY PERIOD

4. 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 before 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 filed.

#### OUTSIDE AGENCIES

5. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated February 28, 2023 (Attachment B), and incorporates them as conditions of the Administrative Subdivision Plan approval. The Applicant must comply with each of the recommendations 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.
6. Before recording a plat for the Subject Property, the Applicant must satisfy MCDOT’s requirements for access and improvements.

7. 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 September 22, 2022 (Attachment B) and incorporates them as conditions of approval. The Applicant must comply with each of the recommendations in the letter, which MCDPS may amend if the amendment does not conflict with other conditions of Administrative Subdivision Plan approval.

#### OTHER APPROVALS

8. Before approval of a record plat or any demolition, clearing or grading for the Subject Property, the Applicant must receive Staff certification of this Administrative Subdivision Plan.
9. Before recording the plat, the Applicant must obtain approval of a stormwater management concept from the MCDPS – Water Resources Section, and such approval may not conflict with the Administrative Subdivision Plan approval.

#### ENVIRONMENT

10. Before recordation of any plats and the start of any demolition, clearing, grading, or construction, whichever comes first, for this development Application, the Applicant must:
  - a. Record a Category I Conservation Easement over all areas of forest planting and environmental buffers as specified on the approved Preliminary and Final Forest Conservation Plan (“FCP”). Areas within the environmental buffer that are encumbered by sewer easements must be excluded from the Conservation Easement. 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(s).
  - b. Install permanent conservation easement signage and fencing along the perimeter of the conservation easements as shown on the FCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
  - c. Execute a five-year Maintenance and Management Agreement (“MMA”) in a form approved by the M-NCPPC Office of the General Counsel. The MMA is required for all forest planting areas, and mitigation tree plantings, including variance tree mitigation plantings. The MMA includes invasive species management control measures as deemed necessary by the M-NCPPC Forest Conservation Inspection Staff. All applicable measures should be chosen with consideration of the proximity to the on-site stream and wetlands and the sensitive nature of the watershed. The use of herbicides should be avoided where possible.
  - d. Submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel to the M-NCPPC Planning Department for the 1.45 acres of new forest planting, mitigation trees, and maintenance, including invasive species management controls, credited towards meeting the requirements of the FCP.
11. The Applicant must remove the existing wire fence located within the stream buffer and install the Afforestation/Reforestation plantings as shown on the approved FCP, 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.

12. 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 the variance tree mitigation plantings on the Subject Property as shown on the approved FCP. The variance tree mitigation plantings must be a minimum size of 3 caliper inches totaling a minimum of 17 caliper inches.
13. 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.
14. The Applicant must comply with all tree protection and tree save measures shown on the FCP. Tree save measures not specified on the FCP may be required by the M-NCPPC Forest Conservation Inspection Staff.
15. The Limits of Disturbance (“LOD”) shown on the Final Sediment and Erosion Control Plan must be consistent with the LOD shown on the FCP.

## TRANSPORTATION

### Existing Frontage Improvements

16. The Applicant must provide the following dedications and show them on the record plat(s) for the following existing roads:
  - a) right-of-way necessary to accommodate forty (40) feet from the existing pavement centerline along the Subject Property frontage for Oaklyn Drive.
17. Prior to the recordation of plat(s), the Applicant must satisfy all necessary requirements of MCDPS to ensure construction of a six-foot-wide sidewalk along the Property frontage on Oaklyn Drive.
18. The Applicant must construct a six-foot wide sidewalk along the Oaklyn Drive frontage to include a minimum 6-foot-wide buffer.

## RECORD PLATS

19. There shall be no clearing or grading of the site prior to recordation of plat(s).
20. All building restriction lines must be shown on the record plat. The plat must reflect the following building restriction lines as shown on the Administrative Subdivision Plan:
  - a) A 50-foot minimum BRL from the front setback for all lots (Lots 1, 2, and 3).
  - b) A 150-foot minimum lot width at the BRL for all lots.
  - c) An 80-foot minimum separation between the building envelopes of each lot and the building envelopes of all adjacent lots.

## Easements

21. The record plat must show necessary easements.

22. The record plat must reflect common ingress/egress and utility easements over all shared driveways.

#### Notes and Labels

23. The record plat must reflect all areas under common ownership.

#### CERTIFIED ADMINISTRATIVE SUBDIVISION PLAN

24. The certified Administrative Subdivision Plan must contain the following notes:
  - a. *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.*
  - 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, along with their representatives, 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.*
25. Before submittal of the Certified Administrative Subdivision Plan, the Applicant must make the following changes:
  - a) Show resolutions and approval letters on the certified set
  - b) Include the approved Fire and Rescue Access plan in the certified set



## SECTION 2: SITE DESCRIPTION

### VICINITY

The Subject Property is located at 10420 Oaklyn Drive, approximately 0.5 miles south of its intersection with Falls Road in Potomac (“Subject Property” or “Property”). The Subject Property abuts a Montessori school to the north and a Hindu temple to the south. A tributary to Rock Run and associated wetlands, 100-year floodplain, and stream buffer are located in the southern portion of the Property. The Property is southwest of the Heritage Farm Neighborhood Park and northwest of the Avenel Local Park.



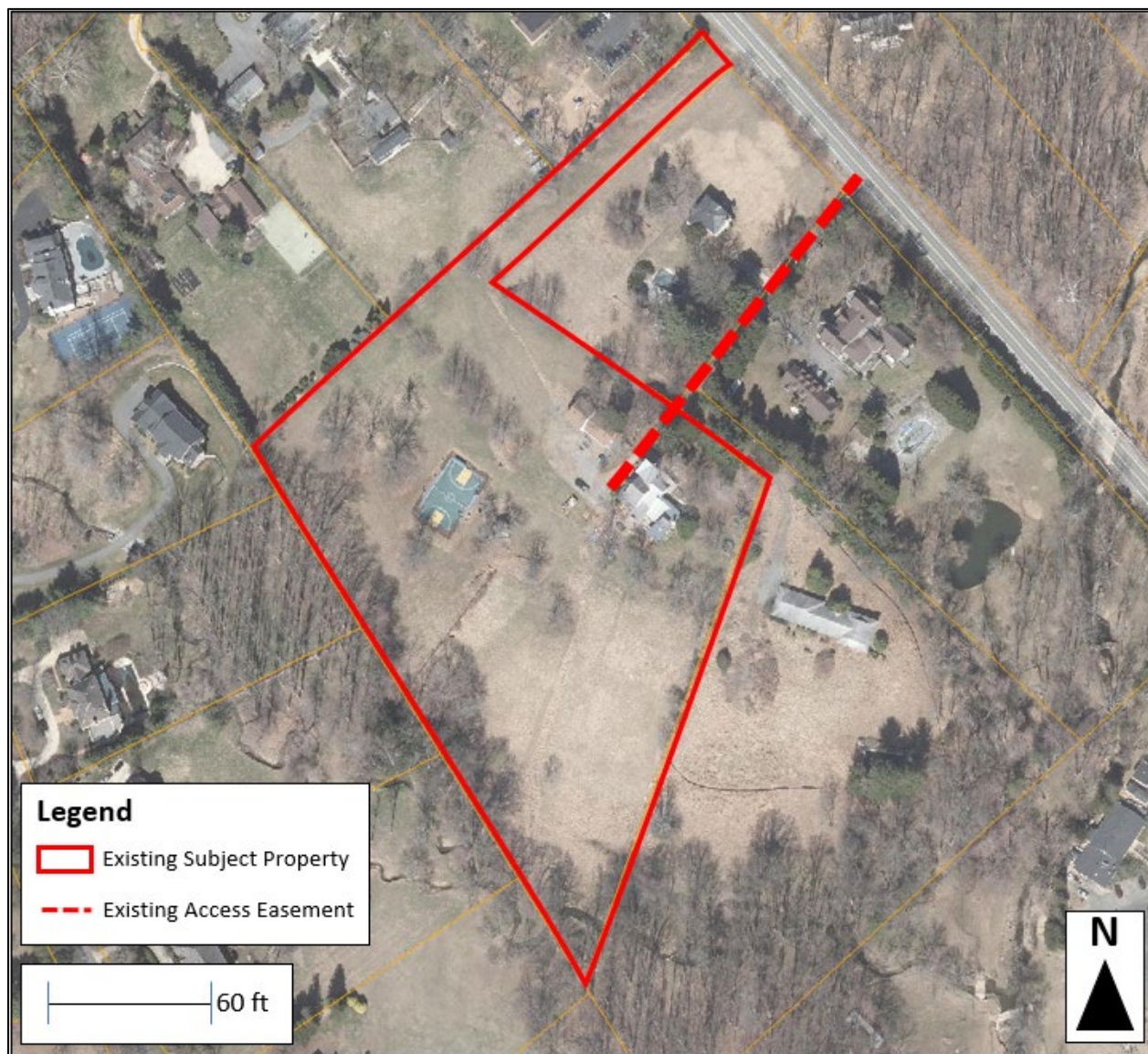
Figure 1 – Vicinity Map

### PROPERTY DESCRIPTION

The Subject Property is within the 2002 Potomac Subregion Master Plan (“Master Plan”) area. The Property identified as parcel (P657) consists of 7.18 acres (312,761 square feet) of land zoned Residential Estate-2 (RE-2). The Property is an existing flag lot with an atypical existing easement. The Property is currently improved with a single-family home, a gravel drive, a basketball court, and a



barn. The existing home is currently accessed from Oaklyn Drive via an easement through the lots east of the Property, between the residence and Oaklyn Drive. Like the Subject Property, the neighboring properties are zoned RE-2 and range in size from one to three acres (Figure 2).



*Figure 2 – Existing Property Map with Easement*

The Property does not contain any forest, steep slopes, or highly erodible soils. There is a stream, a tributary to Rock Run, and associated wetlands, 100-year floodplain, and stream buffer located in the southern portion of the Property. The Property is served by public water and sewer, and the sewer line that serves the existing house connects to the existing WSSC sewer line within the on-site stream buffer. There are no documented rare, threatened, or endangered species and no known cemeteries on the Subject Property.

## SECTION 3: PROJECT DESCRIPTION

### PREVIOUS APPROVALS

#### CONCEPT PLAN NO. 520220080

On November 9, 2021, Concept Plan No. 520220080 for three (3) lots for three (3) single family detached dwelling units was discussed at the Development Review Committee meeting. Staff identified concerns related to the existing shared easement providing access to the existing house and the proposed driveway to provide access to both flag lots. The current Application includes revisions consistent with the direction provided at Concept Plan.

### 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 August 29, 2022. The notice gave the interested parties 15 days to review and comment on the contents of the Application.

Staff received one letter of correspondence throughout the review of the Project, concerned with buffering the shared driveway of the proposed lots from their property, a Montessori school, with a board-on-board fence (Attachment C). There is an existing split rail fence at this location. Because fence requirements are not part of the Subdivision Regulations, this issue has been raised to the Applicant and Staff encouraged the two neighbors to find an acceptable solution for both parties.

### PROPOSAL

This is an application to convert a 7.18-acre parcel (P657) into three (3) buildable lots (Figure 3) (Attachment A). Two of the proposed new lots are intended for two new single-family detached dwelling units and a shared driveway. Lot 3, as proposed, contains the existing single-family home which has access to the road via an existing private easement across the properties abutting Oaklyn Drive and the Subject Property. The existing gravel drive, basketball court, and barn will be removed. The existing home and the proposed two new houses are to be served by public water and sewer. As proposed, stormwater management goals will be met with micro bioretention areas north of the proposed houses.

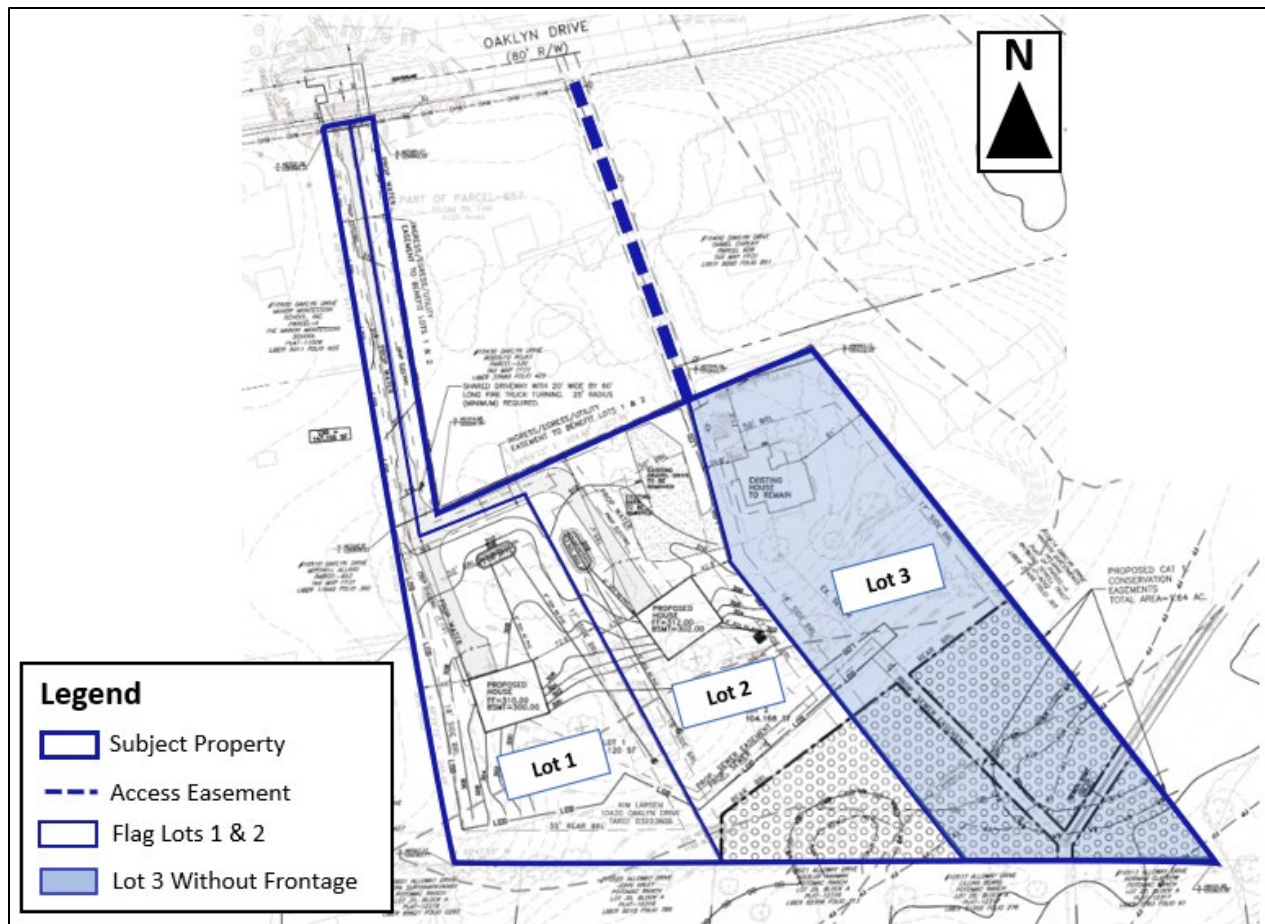


Figure 3 – Administrative Subdivision Plan with Flag Lots 1 and 2, Lot 3 without Frontage, and the Access Easement

## SECTION 4: ADMINISTRATIVE SUBDIVISION PLAN ANALYSIS AND FINDINGS

### APPLICABILITY, SECTION 50.6.1 OF THE SUBDIVISION ORDINANCE

The Application meets the criteria for the Administrative Subdivision process per Section 50.6.1.C as demonstrated below:

**C) Subdivision for creation of certain residential lots. Up to 3 lots for detached houses may be created in any residential or rural residential zone under these procedures if:**

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

The lots were submitted and comply with the standard method development in the RE-2 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;**

The Applicant must dedicate a right-of-way necessary to accommodate forty (40) feet from the existing pavement centerline along the Subject Property frontage for Oaklyn Drive. The Applicant will coordinate with County agencies to 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**

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

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

The Subject Property is subject to Chapter 22A of the County Code. As conditioned and discussed below in the Technical Review for Forest Conservation section, the Application satisfies the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A, and is compliant with the Montgomery County Planning Department's Environmental Guidelines. As conditioned, the Project will satisfy all Stormwater Management requirements with the Department of Permitting Services prior to approval of record plat.

**FINDINGS REQUIRED BY SECTION 50.6.3.C, INCLUDING TECHNICAL REVIEW CRITERIA OF SECTION 50.4.3 OF THE SUBDIVISION ORDINANCE**

**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.**

The Administrative Subdivision Plan meets all applicable sections of the Subdivision Regulations, including the requirements under Section 50.4.3.C. for flag lots (Lots 1 and 2) and lots that do not abut a road (Lot 3). The proposed lot sizes, widths, shapes, and orientations are appropriate for the location of the subdivision, considering the general recommendations of the 2002 *Potomac Subregion Master Plan*, the building type and residential use contemplated for the Property. The proposed lots were reviewed for compliance with the development standards and dimensional requirements for the Residential Estate-2 (RE-2) zone as specified in the Zoning Ordinance under the standard method of development. The lots will meet all applicable development standards and dimensional requirements for area,

frontage, and width. A summary of this review is included in Table 1. Under Section 50.4.3.C. of the Subdivision Regulations, the Planning Board may approve flag lots and lots that do not abut on a public or private road with the findings as described below.

### **Flag lots**

Lots 1 and 2 are flag lots. Per Section 50.4.3.C.b, “The Board must not approve flag lots, except where unusual topography, environmental conditions, or the position of the tract in relation to surrounding properties and rights-of-way permit no other feasible way to subdivide and the Board determines that appropriate separation between building envelopes can be achieved. In approving a flag lot, the following provisions apply:

- i. In residential zones, the Board must require building restriction lines as needed to provide separation of at least 80 feet between the building envelope of the proposed flag lot and (a) the building envelopes of all lots that are adjacent to the rear lot line of the proposed flag lot; and (b) the building envelopes of all lots that are between the proposed flag lot and the road on which it fronts.”

As proposed, the lots meet the above requirements. The proposed lots are within the RE-2 zone. The Subject Property is an existing flag lot, which positions this property behind other properties that front on Oaklyn Drive and limits the frontage on Oaklyn Drive rights-of-way to 25 feet. As a result, the position and shape of the tract does not permit other feasible way to subdivide without flag lots. The proposed building restriction lines maintain building envelopes at least 80 feet from the building envelopes of adjacent lots, as well as the lots between the flag lots and Oaklyn Drive. As conditioned, Staff supports the request for the proposed flag lots with the final building envelopes maintaining the 80-foot distance shown on the record plat.

### **Lots that do not abut on a public or private road**

Lot 3 does not abut a public or private road. Per Section 50.4.3.C.c, “The Board must not approve lots that do not abut a public or private road, except where unusual topography, environmental conditions, or the position of the tract in relation to surrounding properties and rights-of-way permit no other feasible way to subdivide, and the Board determines that appropriate separation between building envelopes will be achieved. In approving a lot that does not abut a public or private road, the following provisions apply:

- i. and ii. The Board must not approve more than two lots in a subdivision that do not abut a public or private road unless the lots will be served by a private driveway that serves no other lots without frontage.

The Applicant is only proposing one lot that does not abut a public or private road, Lot 3. Lot 3 will be served by a the existing private driveway and access easement between the Property and Oaklyn Drive that serves no other lot without frontage.

- iii. In residential zones, the Board must require building restriction lines as needed to provide separation of at least 80 feet between the building envelope of the proposed lot without frontage and (a) the building envelopes of all lots that are adjacent to the rear lot line of the proposed lot without frontage; and (b) the building envelopes of all lots that are between the proposed lot without frontage and the road from which it is accessed.

As conditioned, Lot 3 meets the provisions above. The Subject Property has an existing house that uses an existing access easement. The proposed building restriction lines ensure that the building envelopes are least 80 feet from the proposed building envelopes of adjacent lots, as well as the lots between the existing house and Oaklyn Drive. As conditioned, Staff supports the request for the proposed lot without frontage with the final building envelopes maintaining the 80-foot distance shown on the record plat.

- ii. The Board may require additional building restriction lines to ensure appropriate separation between building envelopes and to provide appropriate location of the building envelope within the lot.

Staff does not recommend additional building restriction lines.

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

As proposed, the lot meets the above provisions. An existing 20-foot-wide access easement is located between the parcels north of the Property, between Lot 3 and Oaklyn Drive, to accommodate emergency vehicles. On September 27, 2022 the Applicant received approval of the Fire Department Access Plan from the Montgomery County Department of Permitting Services Fire Department Access and Water Supply demonstrating that access to the Property will be adequate for emergency vehicles (Attachment B). Public utilities are available along Oaklyn Drive and will be brought into the Property as needed within the shared driveway for Lots 1 and 2, or the existing access easement for Lot 3 that will be maintained. As conditioned, Staff supports the request for the proposed lot without frontage.

*Table 1 – RE-2 Zone Development Review Table (Standard Method of Development)*

<b>Development Standard</b>	<b>Permitted/ Required</b>	<b>Lot 1: Flag Lot</b>	<b>Lot 2: Flag Lot</b>	<b>Lot 3: Lot Without Frontage<sup>2</sup></b>
<b>Min. Lot Size</b>	2.0 acres	2 acres	2 acres	3 acres



<b>Max. Density</b>	1 unit per 2 acres	Meets requirement	Meets requirement	Meets requirement
<b>Minimum Setbacks (ft)</b>				
<b>Front</b>	50 ft.	50 ft min	50 ft min	50 ft min
<b>Side</b>	17 ft./35 feet for sum of side setbacks	17 ft min	17 ft min	17 ft min
<b>Rear</b>	35 ft.	35 ft min	35 ft min	35 ft min
<b>Min. Lot width at Building Line</b>	150 ft.	150 ft	150 ft	150 ft
<b>Min. Lot width at Front Lot Line<sup>1</sup></b>	25 ft.	25 ft	25 ft	n/a <sup>2</sup>
<b>Max. Building Height</b>	50 ft.	50 ft max	50 ft max	50 ft max
<b>Max. Lot Coverage</b>	25%	25% max	25% max	25% max
<b>Frontage on Street or Open Space</b>	Required, except as exempt under Chapter 50.			

**2. The Administrative Subdivision Plan substantially conforms to the Master Plan.**

The Administrative Subdivision Plan substantially conforms to the 2002 *Potomac Subregion Master Plan*. The Property is in the Potomac Planning Area south of the Village of Potomac and recommended for low-density residential development that conforms to the RE-2 zone. The Property is not called out in the Master Plan for specific land use recommendations and the proposed subdivision meets the requirements of the RE-2 zoning shown on the zoning map. The plan protects and enhances stream buffers outside of existing infrastructure easements. These sensitive areas will be reforested as part of the forest conservation plan.

Per the 1983 *Staff Guidelines for the Consideration of Transportation Noise Impacts in Land Use Planning and Development*, the Subject Property is not located within proximity to roadways with average daily traffic volumes that would result in adverse noise impacts to the proposed residential homes. Therefore, a noise analysis for traffic related noise impacts is not required.

The proposed subdivision is consistent with general Master Plan recommendations.

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

**a) Roads and other Transportation Facilities**

<sup>1</sup> Front Lot Line: A lot line abutting a right-of-way or common open space. (Section 59.1.4.2)

<sup>2</sup> Lot 3 does not abut a right-of-way or common open space, and therefore does not have a front lot line. Section 50.4.3.C allows the Planning Board to approve lots that do not abut a public or private road, otherwise known as a lot without frontage.

i. **Existing Facilities**

Oaklyn Drive is delegated as a *Neighborhood Connector* under 2021 *Complete Streets Design Guide* (CSDG) roadway classifications, with approximately 80 feet of right-of-way. At present, there are no existing bicycle or pedestrian facilities along the frontage of the property.

ii. **Planned Facilities**

The Complete Streets Design Guidance (CSDG) proposes a sidewalk on one side and a shared-use path on the other side of the street for neighborhoods designated as Neighborhood Connectors. The Applicant is providing a 6-foot sidewalk along the property's frontage, consistent with recommendations from the CSDG. Complete Streets and the 2018 Bicycle Master Plan envision a sidepath for the adjacent side of Oaklyn Drive. No additional master planned improvements are required on this Application. This Application does not propose any other transportation infrastructure from what has been discussed. Therefore, roads and transportation facilities are adequate to support the Application.

b) **Local Area Transportation Review (LATR)**

As demonstrated via the Applicant's Traffic Exemption Statement, dated October 7<sup>th</sup>, 2022, the Application generates fewer than 50 new person trips in the morning and evening peak hours. As a result, the Application is not subject to additional Local Area Transportation Review (LATR). Adequate public facilities exist to support and service the Property in accordance with Section 50.4.3.J of the Subdivision Regulations.

c) **Schools**

Public facilities will be adequate to support and service the Application. The project is served by Potomac ES, Herbert Hoover MS and Winston Churchill HS. Based on the FY23 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

*Table 2. Applicable FY2023 School Adequacy.*

School	Projected School Totals, 2026				Adequacy Status	Adequacy Ceilings		
	Program Capacity	Enrollment	% Utilization	Surplus/ Deficit		Tier 1	Tier 2	Tier 3
Potomac ES	480	368	76.7%	+112	No UPP	197	214	280
Herbert Hoover MS	1,139	1,077	94.6%	+62	No UPP	188	290	461
Winston Churchill HS	1,949	2,070	106.2%	-121	No UPP	59	269	562

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. Based on the school capacity analysis

performed, using the FY2023 Annual School Test, this application is not subject to a Utilization Premium Payment. Therefore, no UPP condition is required.

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

The Property is subject to the Montgomery County Forest Conservation Law, Chapter 22A of the County Code, and requires a Forest Conservation Plan. Included with the Forest Conservation Plan is a request for a tree variance for impacts to subject trees. The Administrative Subdivision Plan complies with the Montgomery County Environmental Guidelines and the Forest Conservation Law, as conditioned in the Staff Report and described below.

**a) Natural Resource Inventory/Forest Stand Delineation**

The Natural Resource Inventory/Forest Stand Delineation (“NRI/FSD”) 420222540 for this Property was approved in September 2022. The NRI/FSD identifies the environmental features and forest resources on the Subject Property. The NRI/FSD identifies the 7.18-acre Subject Property located within the Rock Run Watershed, which is classified as Use Class I-P by the State of Maryland. The Subject Property does not contain any forest; however, there is some forest on the adjacent properties to the south and southwest. There are 37 trees located on and immediately adjacent to the Property that are ≥ 24 inches in diameter at breast height (“DBH”), 19 of which have a DBH of 30 inches or more.

There is one stream, a tributary to Rock Run, that flows through the southeastern corner of the Property as well as two areas of wetlands, existing M-NCPPC and FEMA mapped 100-year floodplain, and the associated stream buffer located on-site. There are no mapped highly erodible soils, no slopes greater than 25 percent, and as confirmed by the Maryland Department of Natural Resources, there are no known rare, threatened or endangered species on the Property.

**b) Forest Conservation Plan**

The Applicant has submitted a combined Preliminary and Final Forest Conservation Plan with this Application (Attachment D). The Application satisfies the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department’s approved Environmental Guidelines.

The Subject Property is zoned RE-2 and is assigned a land use category of Medium Density Residential (“MDR”) as defined in Section 22A-3 of the Montgomery County Forest Conservation Law (“FCL”) and in the Land Use Table in the Trees Technical Manual. The

MDR land use category is assigned an afforestation threshold of 20% and a conservation threshold of 25% of the net tract area. The net tract area of 7.25 acres is based on the 7.18-acre Property plus 0.07 acres of off-site disturbance related to the Application, including the construction of a 6-foot wide sidewalk along the property's frontage on Oaklyn Drive, the driveway apron to access the proposed lots, and the house connections to the water line located along Oaklyn Drive. There is no existing forest on the Property, which results in an afforestation requirement of 1.45 acres. The Application proposes to meet the planting requirement on-site by planting 1.65 acres of forest in the stream buffer and the land adjacent to the stream buffer. The forest plantings will occur in three areas that are bisected by the existing WSSC sewer line easements. All of the stream buffer except for the WSSC easements, and all of the planted forest will be protected in a Category I Conservation Easement (Figure 4).

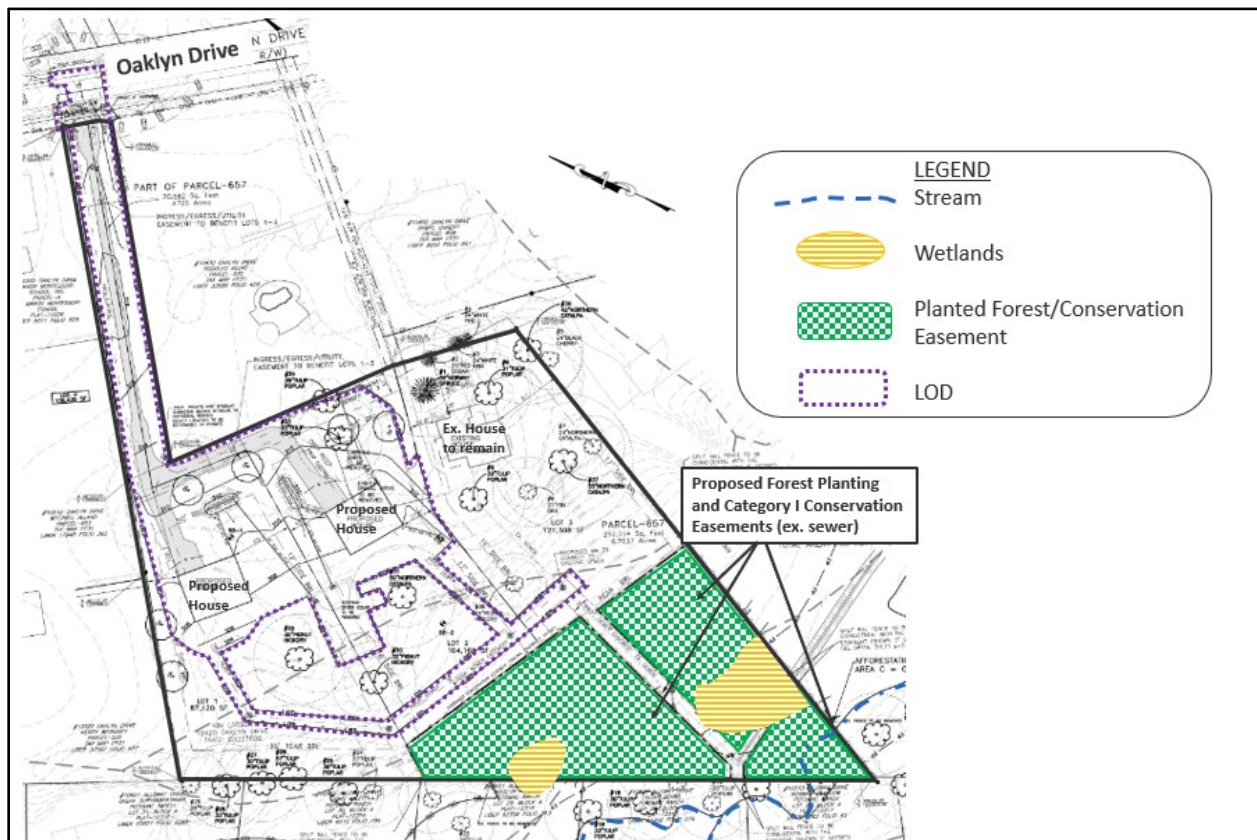


Figure 4. Forest Conservation Plan

#### Forest Conservation Tree Variance Findings

Section 22A-12(b)(3) of the Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection

(“Protected Trees”). Any impact to these trees, including removal of the subject tree or disturbance within the Protected Tree’s critical root zone (“CRZ”) requires a variance under Section 22A-21 (“Variance”). Otherwise, such resources as defined under Section 22A-12(b)(3) must be left in an undisturbed condition.

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 law requires no impact to trees that: measure 30 inches or greater DBH; are part of an historic site or designated with an historic structure; are designated as a national, State, or County champion tree; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species.

#### *Variance Request*

In accordance with Section 22A-21(a), the Applicant submitted a request for a variance in a letter dated January 17, 2023 (Attachment E). The Applicant proposes to remove two (2) and impact but retain six (6) trees that are 30 inches or greater DBH, that are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law (Table 2) and Figure 5. None of the Protected Trees are located within forest.

*Table 3 – Protected Trees to be Removed and Impacted*

<b>Tree Number</b>	<b>Species</b>	<b>DBH Inches</b>	<b>% CRZ Impacts</b>	<b>Reason</b>	<b>Disposition</b>
1	Norway Spruce ( <i>Picea abies</i> )	36	3%	Remove driveway	Impact only
9	Tulip Tree ( <i>Liriodendron tulipifera</i> )	39	6%	Grading	Impact only
26	Tulip Tree ( <i>Liriodendron tulipifera</i> )	57	6%	Grading	Impact only
30	Pignut Hickory ( <i>Carya glabra</i> )	32	13%	Sewer line, sport court removal	Impact only
31	Northern Catalpa ( <i>Catalpa sp.</i> )	50	23%	Sewer line, sport court removal	Impact only
32	Pignut Hickory ( <i>Carya glabra</i> )	35	8%	Sport court removal	Impact only
33	Tulip Tree ( <i>Liriodendron tulipifera</i> )	33	100%	Grading, barn removal	Removal
34	Tulip Tree ( <i>Liriodendron tulipifera</i> )	35	52%	Utility construction, driveway removal	Removal



Figure 5. – Tree Variance

#### Unwarranted Hardship

Per Section 22A-21, a variance may only be considered if the Planning Board finds that leaving the requested trees in an undisturbed state would result in an unwarranted hardship, denying the Applicant reasonable and significant use of its property. In this case, the unwarranted hardship is caused by the necessary layout of the proposed development on the Property, which is dictated by the existing conditions, including the existing house and existing sewer lines to remain, the existing basketball court, gravel driveway/parking, and barn that will be removed, the existing WSSC sewer line where the water lines for the new houses must connect, and the presence of sensitive environmental features, including wetlands, floodplains, and stream buffers. The Applicant has worked with Staff to reduce the number of Protected Trees to be removed by moving the house locations further north, closer to Oaklyn Drive, revising the LOD to separate the disturbance for the utility connections from the grading and house construction disturbance, consolidating the sewer line connections, tightening up the site grading and the associated LOD, and tightening up the LOD for the removal of the existing driveway/parking and barn. These actions minimized the CRZ disturbance to several Protected Trees and resulted in the



retention of three Protected Trees initially shown to be removed. The ability to design the development around the existing features, while incorporating additional requirements has limited the ability to avoid impacts to Protected Trees. Based on the existing conditions on the Property, there is an unwarranted hardship.

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

- i. *Will not confer on the applicant a special privilege that would be denied to other applicants.*

Granting the Variance to remove Trees 33 and 34 and to impact but retain Trees 1, 9, 26, 30, 31, and 32 will not confer a special privilege on the Applicant as the impacts are due to necessary development requirements of the site. Trees 33 and 34 will be removed due to necessary grading for Lot 2, water line house connections, and disturbance due to the removal of existing features including a barn and gravel drive/parking area. Tree 1 will be impacted for the removal of the existing driveway, Tree 9 will be impacted by grading for Lot 2, Tree 26, located on proposed Lot 1, will be impacted due to the construction of the sewer line to serve the proposed house, Trees 30 and 31 are located on proposed Lot 2 and will be impacted by disturbance related to the removal of the existing basketball court and construction of the sewer line house connections for the proposed houses on Lots 1 and 2. Tree 32, located on proposed Lot 1 will also be impacted by the removal of the existing basketball court.

As noted in the Unwarranted Hardship section above, the Applicant has worked with Staff to revise the plans resulting in additional tree retention, and minimization of impacts to trees. The resulting removals and impacts have been minimized but cannot be avoided. Therefore, the granting of this Variance is not a special privilege that would be denied to other applicants.

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

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested Variance is based on existing site conditions and the requirements to meet development standards.

- iii. *Is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.*

The requested Variance is a result of the existing conditions and the required improvements, and not as a result of land or building use on a neighboring property.

- iv. *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 and impacted are not located within a stream buffer, wetland, or a Special Protection Area. Additional trees will be planted on the Property as mitigation for the Protected Trees removed and as part of the forest conservation requirements. These trees will provide water quality benefits.

*Mitigation for Trees Subject to the Variance Provisions*

There are two trees proposed for removal that are included in this Variance request. This results in the removal of 68 inches of DBH. The FCP includes mitigation at a rate that approximates the form and function of the trees removed. These trees will be replaced at a ratio of approximately 1-inch caliper for every 4 inches removed using trees that are a minimum of 3 caliper inches in size. This results in a total mitigation requirement of 17 inches which will be satisfied with the installation of six 3-inch caliper trees.

Although these trees will not be as large as the trees lost, they will provide some immediate benefit and ultimately replace the canopy lost by the removal of these trees. These mitigation trees must be overstory trees native to the Piedmont Region of Maryland and installed on the Subject Property, outside of any rights-of-way and/or utility easements. It has been M-NCPPC policy not to require mitigation for Protected Trees impacted but retained as these trees will be provided tree protection measures during construction and their roots will be allowed to regenerate and continue to function as they have been.

*Recommendation on the Variance*

Staff recommends the variance request to impact and remove Protected Trees as illustrated on the FCP be granted.

**c) *Environmental Guidelines***

The stream buffer that encompasses the onsite stream, wetlands, and 100-year floodplain are located in the southeastern corner of the Property. There are existing sewer lines located within the stream buffer that will remain. The Application does not propose any new impacts within the stream buffer. The stream buffer will be planted in forest and protected with a Category I Conservation Easement.

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

As conditioned, the Application must obtain a stormwater management concept from DPS Water Resources Section before platting.

- 6. 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 50-4.3.M.**

Not applicable to this Property.

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

No other provisions apply to the Subdivision.

## SECTION 5: CONCLUSION

The Administrative Subdivision meets the requirements of Section 50.6.3.C and the technical requirements of Section 50.4.3 of the Subdivision Regulations, and the applicable requirements of Section 50.6.1.C. The lots meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conform to the recommendations of the 2002 Potomac Subregion Master Plan. Access and public facilities will be adequate to serve the proposed lots, and the Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

### ATTACHMENTS

*Attachment A: Administrative Subdivision Plan*

*Attachment B: Agency Approval Letters*

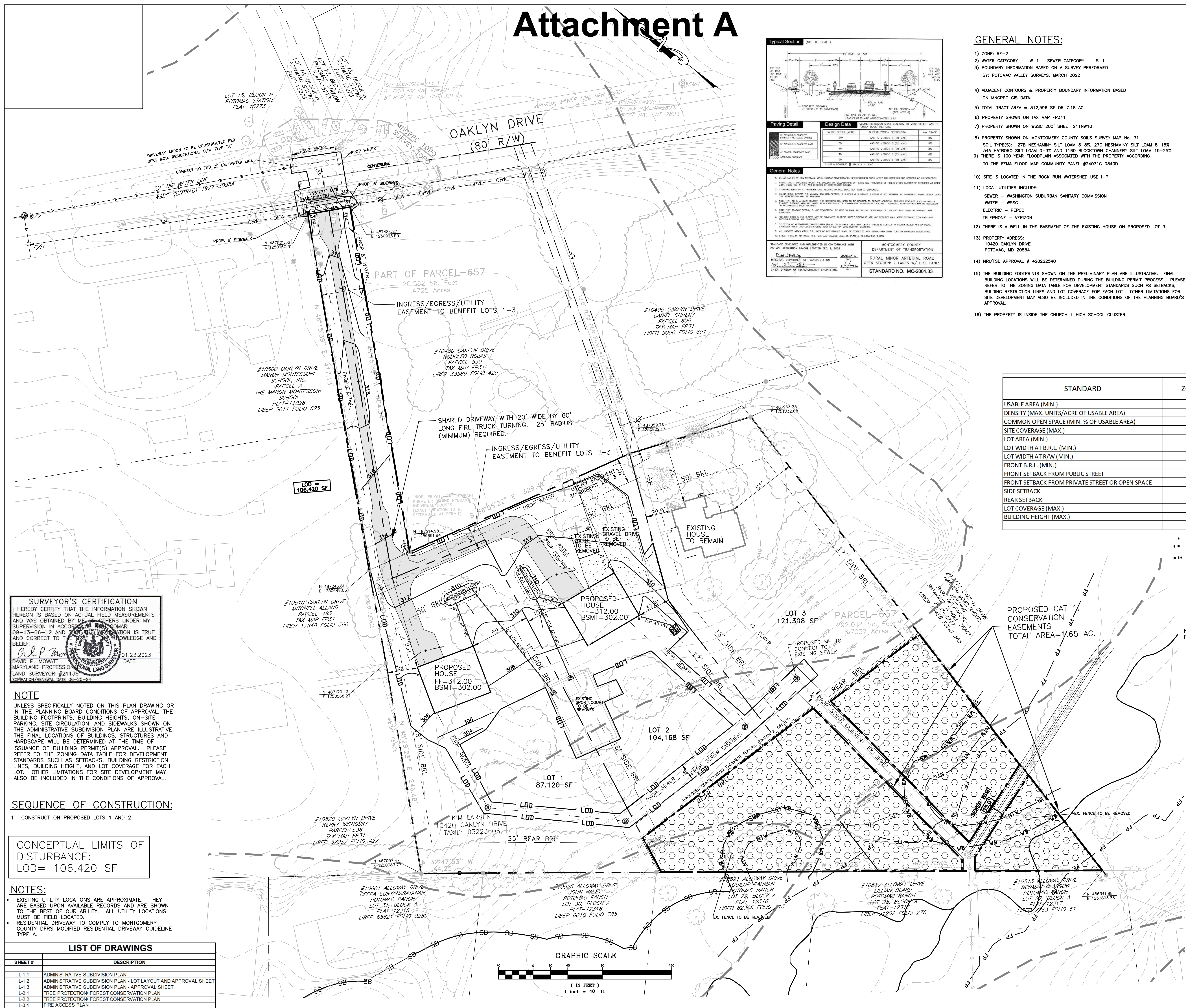
*Attachment C: Community Correspondence*

*Attachment D: Forest Conservation Plan*

*Attachment E: Tree Variance Request*



# Attachment A



**SURVEYOR'S CERTIFICATION**  
I HEREBY CERTIFY THAT THE INFORMATION SHOWN HEREON IS BASED ON ACTUAL FIELD MEASUREMENTS AND WAS OBTAINED BY ME OR MY AGENTS UNDER MY SUPERVISION IN ACCORDANCE WITH MONTGOMERY COUNTY ORDINANCES. THE INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.  
DAVID P. MOWATT  
MARYLAND PROFESSIONAL LAND SURVEYOR  
LAND SURVEYOR #21136  
EXPIRATION/RENEWAL DATE 06-20-24

**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.

## SEQUENCE OF CONSTRUCTION:

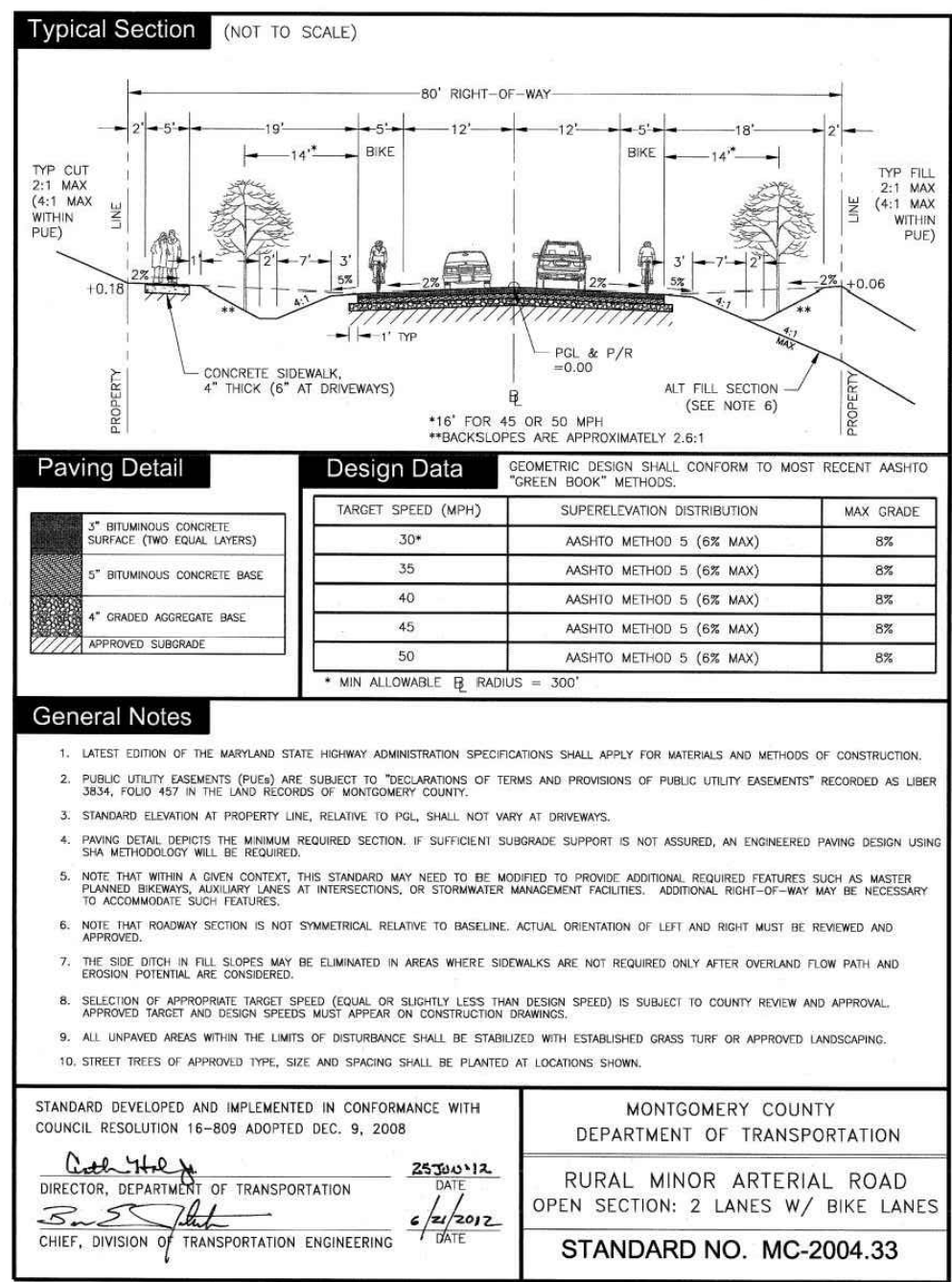
1. CONSTRUCT ON PROPOSED LOTS 1 AND 2.

**CONCEPTUAL LIMITS OF DISTURBANCE:**  
LOD= 106,420 SF

## NOTES:

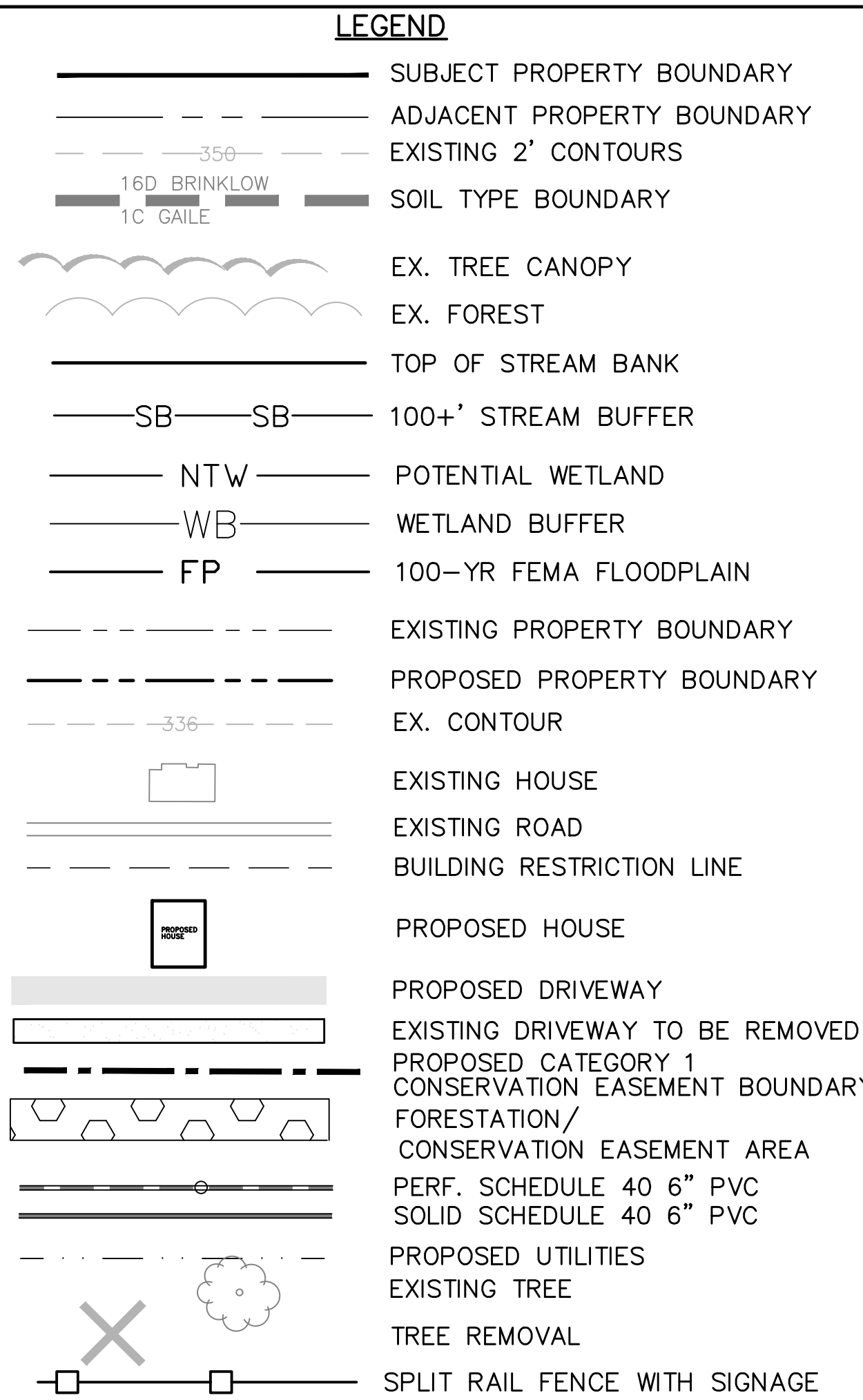
- EXISTING UTILITY LOCATIONS ARE APPROXIMATE. THEY ARE BASED UPON AVAILABLE RECORDS AND ARE SHOWN TO THE BEST OF OUR ABILITY. ALL UTILITY LOCATIONS MUST BE FIELD LOCATED.
- RESIDENTIAL DRIVEWAY TO COMPLY TO MONTGOMERY COUNTY DFRS MODIFIED RESIDENTIAL DRIVEWAY GUIDELINE TYPE A.

LIST OF DRAWINGS	
SHEET #	DESCRIPTION
L-1.1	ADMINISTRATIVE SUBDIVISION PLAN
L-1.2	ADMINISTRATIVE SUBDIVISION PLAN - LOT LAYOUT AND APPROVAL SHEET
L-1.3	ADMINISTRATIVE SUBDIVISION PLAN - APPROVAL SHEET
L-2.1	TREE PROTECTION/FOREST CONSERVATION PLAN
L-2.2	TREE PROTECTION/FOREST CONSERVATION PLAN
L-3.1	FIRE ACCESS PLAN



## GENERAL NOTES:

- 1) ZONE: RE-2
- 2) WATER CATEGORY - W-1 SEWER CATEGORY - S-1
- 3) BOUNDARY INFORMATION BASED ON A SURVEY PERFORMED BY: POTOMAC VALLEY SURVEYS, MARCH 2022
- 4) ADJACENT CONTOURS & PROPERTY BOUNDARY INFORMATION BASED ON MNCPPC GIS DATA.
- 5) TOTAL TRACT AREA = 312,596 SF OR 7.18 AC.
- 6) PROPERTY SHOWN ON TAX MAP FP341
- 7) PROPERTY SHOWN ON WSSC 200' SHEET 211NW10
- 8) PROPERTY SHOWN ON MONTGOMERY COUNTY SOILS SURVEY MAP No. 31  
SOIL TYPE(S): 27B NESHAMINY SILT LOAM 3-8%, 27C NESHAMINY SILT LOAM 8-15%, 54A HATBORO SILT LOAM 0-3% AND 116D BLOKTOOWN CHANNERY SILT LOAM 15-25%  
TO THE FEMA FLOOD MAP COMMUNITY PANEL #24031C 0340D
- 10) SITE IS LOCATED IN THE ROCK RUN WATERSHED USE I-P.
- 11) LOCAL UTILITIES INCLUDE:  
SEWER - WASHINGTON SUBURBAN SANITARY COMMISSION  
WATER - WSSC  
ELECTRIC - PEPCO  
TELEPHONE - VERIZON
- 12) THERE IS A WELL IN THE BASEMENT OF THE EXISTING HOUSE ON PROPOSED LOT 3.
- 13) PROPERTY ADDRESS:  
10420 OAKLYN DRIVE  
POTOMAC, MD 20854
- 14) NRI/PSD APPROVAL # 420222540
- 15) THE BUILDING FOOTPRINTS SHOWN ON THE PRELIMINARY PLAN ARE ILLUSTRATIVE. FINAL BUILDING LOCATIONS WILL BE DETERMINED DURING THE BUILDING PERMIT PROCESS. PLEASE REFER TO THE ZONING DATA TABLE FOR DEVELOPMENT STANDARDS SUCH AS SETBACKS, BUILDING RESTRICTION LINES AND LOT COVERAGE FOR EACH LOT. OTHER LIMITATIONS FOR SITE DEVELOPMENT MAY ALSO BE INCLUDED IN THE CONDITIONS OF THE PLANNING BOARD'S APPROVAL.
- 16) THE PROPERTY IS INSIDE THE CHURCHILL HIGH SCHOOL CLUSTER.



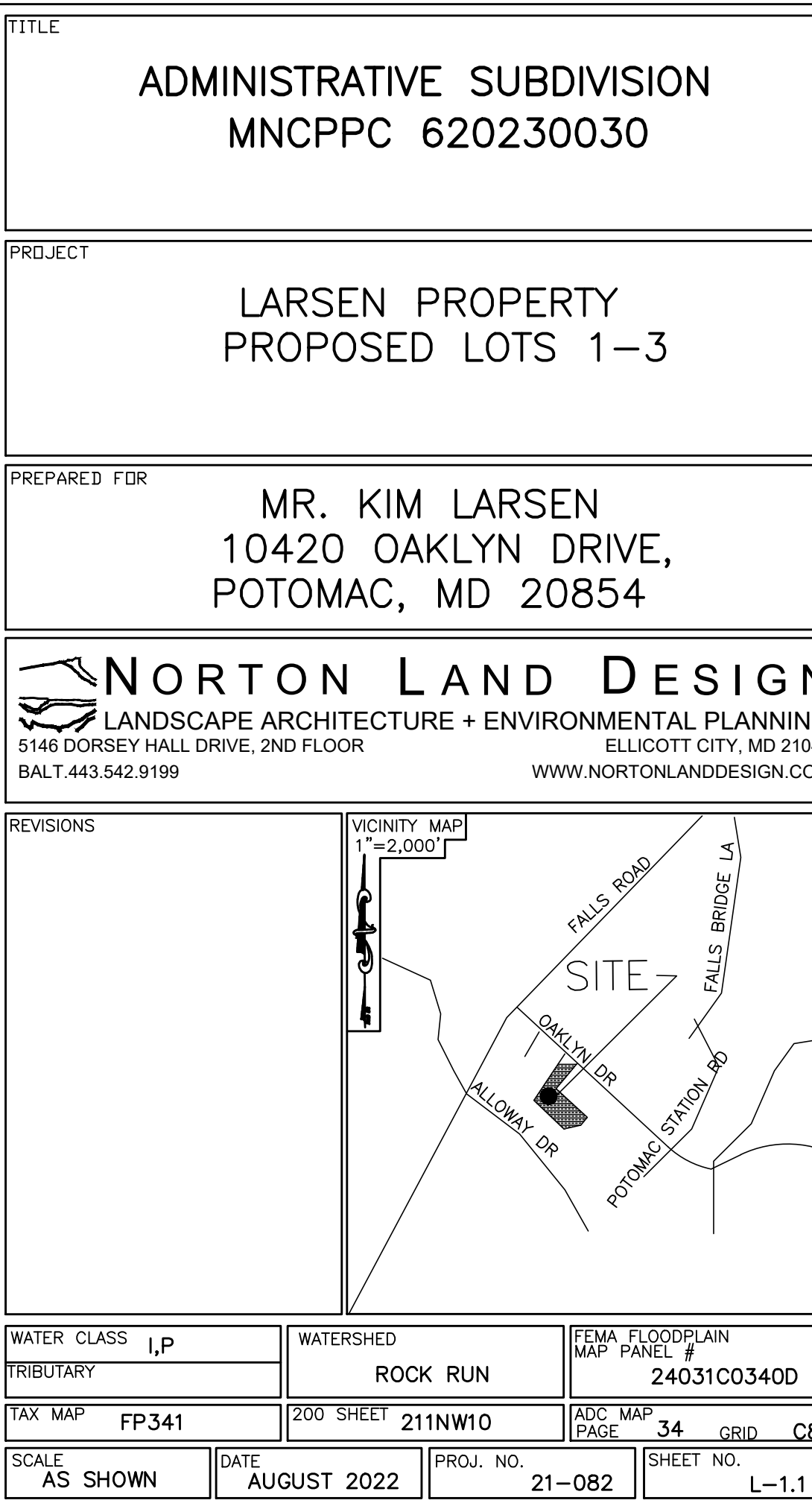
STANDARD	ZONING REQUIREMENT	LOT 1	LOT 2	LOT 3
USABLE AREA (MIN.)	2 ACRES	2	2	3
DENSITY (MAX. UNITS/ACRE OF USABLE AREA)	0.5			
COMMON OPEN SPACE (MIN. % OF USABLE AREA)	N/A			
SITE COVERAGE (MAX.)	N/A			
LOT AREA (MIN.)	87,120 SF	87,120 **	104,168 **	121,308 **
LOT WIDTH AT B.R.L. (MIN.)	150	150	150	150
LOT WIDTH AT R/W (MIN.)	25'	25	25	0*
FRONT B.R.L. (MIN.)	50'	>50	>50	>50
FRONT SETBACK FROM PUBLIC STREET	50'	>50	>50	>50
FRONT SETBACK FROM PRIVATE STREET OR OPEN SPACE	X			
SIDE SETBACK	17/35'	>17/35	>17/35	>17/35
REAR SETBACK	35'	>35	>35 ***	>35 ***
LOT COVERAGE (MAX.)	25%	<25	<25	<25
BUILDING HEIGHT (MAX.)	50'	<50	<50	<50

- \* WILL SEEK WAIVER FROM MINIMUM LOT WIDTH AT R/W
- \*\* THE APPROVED LOTS WILL EXCEED THE MINIMUM REQUIREMENT FOR THE RE-2 ZONE, LOT SIZE MAY BE ADJUSTED DURING FINAL RECORD PLAN REVIEW.
- \*\*\* FOR LOTS 2 AND 3, REAR BRL WILL FOLLOW FCP EASEMENT BOUNDARY AS SHOWN ON SHEET L-2.1.

## SITE TABULATIONS:

PROPERTY	7.18 AC (312,596 SF)
DEDICATION	0 AC (0 SF)
NET PROPERTY	7.18 AC (312,596 SF)

NOTE: THIS PLAN IS THEORETICAL YIELD ONLY AND SUBJECT TO PRELIMINARY PLAN REVIEW PROCESS.





# Attachment B



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Department of Permitting Services  
Fire Department Access and Water Supply Comments

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**DATE:** 27-Sep-22  
**TO:** Michael Norton  
Norton Land Design, LLC  
**FROM:** Marie LaBaw  
**RE:** Larsen Property  
620230030

---

## PLAN APPROVED

1. Review based only upon information contained on the plan submitted **22-Sep-22**. Review and approval does not cover unsatisfactory installation resulting from errors, omissions, or failure to clearly indicate conditions on this plan.
2. Correction of unsatisfactory installation will be required upon inspection and service of notice of violation to a party responsible for the property.

**\*\*\* See statement of performance based design on plan sheet \*\*\***

# Attachment B



## DEPARTMENT OF TRANSPORTATION

Marc Elrich  
*County Executive*

Christopher Conklin  
*Director*

February 28, 2023

Ms. Alexandra Duprey, Regulatory Planner II  
Down-County Division  
The Maryland-National Capital  
Park & Planning Commission  
2425 Reedie Drive  
Wheaton, Maryland 20902

RE: Administrative Plan No. 620230030  
Larsen Property

Dear Ms. Duprey:

We have completed our review of the administrative plan uploaded to Eplans on January 23, 2023. A previous version of this plan was reviewed by the Development Review Committee (DRC) at its meeting on December 6, 2022. We recommend approval of the plan subject to the following comments:

### Significant Plan Review Comments

1. Oaklyn Drive is designated as a neighborhood connector, per the Complete Streets Design Guide, with an 80' right-of-way. The applicant shall dedicate forty (40) feet from the existing centerline along the existing frontage of Oaklyn Drive.
2. The applicant shall construct a six (6) foot wide, concrete sidewalk within the right-of-way along the frontage as shown on the plan of Sheet 1. On the Certified Administrative Subdivision Plan, update the sidewalk in the cross section on Sheet 1 to be six (6) feet wide.

### Standard Plan Review Comments

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

### **Office of the Director**

---

101 Monroe Street 10<sup>th</sup> Floor · Rockville Maryland 20850 · 240-777-7170 · 240-777-7178 FAX  
[www.montgomerycountymd.gov](http://www.montgomerycountymd.gov)

*Located one block west of the Rockville Metro Station*



4. The Record plat shall reflect a reciprocal ingress, egress and public utilities easement to serve the lots accessed by the common driveway.
5. The storm drain analysis was reviewed and is acceptable to MCDOT. No improvements are needed to the downstream public storm drain system for this plan.
6. The sight distance study has been accepted. A copy of the accepted Sight Distance Evaluation certification form is enclosed for your information and reference.
7. Relocation of utilities along Moorland Lane to accommodate the required roadway improvements shall be the responsibility of the applicant.
8. Trees in the County rights-of-way – spacing and species are to be in accordance with the applicable MCDOT standards. Tree planning within the public right of way must be coordinated with DPS Right-of-Way Plan Review Section.
9. Posting of a right-of-way permit bond is a prerequisite to DPS approval of the record plat. The right-of-way permit will include, but not necessarily be limited to, the following improvements:
  - A. Sidewalk and street trees along Oaklyn Drive.
  - B. Permanent monuments and property line markers, as required by Section 50-4.3(G) of the Subdivision Regulations.
  - C. Erosion and sediment control measures as required by Montgomery County Code 19-10(02) and on-site stormwater management, where applicable, shall be provided by the Developer (at no cost to the County) at such locations deemed necessary by the Department of Permitting Services (DPS) and will comply with their specifications. Erosion and sediment control measures are to be built prior to construction of streets, houses and/or site grading and are to remain in operation (including maintenance) as long as deemed necessary by the DPS.

Thank you for the opportunity to review this administrative plan. If you have any questions or comments regarding this letter, please contact me at [william.whelan@montgomerycountymd.gov](mailto:william.whelan@montgomerycountymd.gov) or (240) 777-2173.

Sincerely,

*William Whelan*

William Whelan  
Development Review Team  
Office of Transportation Policy

Ms. Alexandra Duprey  
Administrative Plan No. 620230030  
February 28, 2023  
Page 3

Enclosures (1)

Sight Distances

Sharepoint/transportation/director's office/development review/WhelanW/ 620230030 Larsen Property - MCDOT Review  
Letter 022823.docx

cc: Sharepoint Correspondence 2023

cc-e:	Michael Norton	Norton Land Design
	Brett Brown	MNCP&PC
	Sam Farhadi	MCDPS RWPR
	Marie LaBaw	MCFRS

# Attachment C



## THE MANOR MONTESSORI SCHOOL

November 19, 2022

Intake and Regulatory Coordination Division  
M-NCPPC  
2425 Reddie Drive  
Wheaton, MD 20902

Dear Alexandra,

I am writing with regard to Plan Number 620230030 Larson Property at 10420 Oaklyn Drive, Potomac, MD 20854.

The only comment I want to ask is the new drive way will run adjacent to our playground property of The Manor Montessori School, 10500 Oaklyn Drive, Potomac, MD 20854.

I would like to request that the Larson property please supply and install a six foot board on board fence for protection and safety of our children. Especially since there will be construction vehicles driving by and eventually home owners.

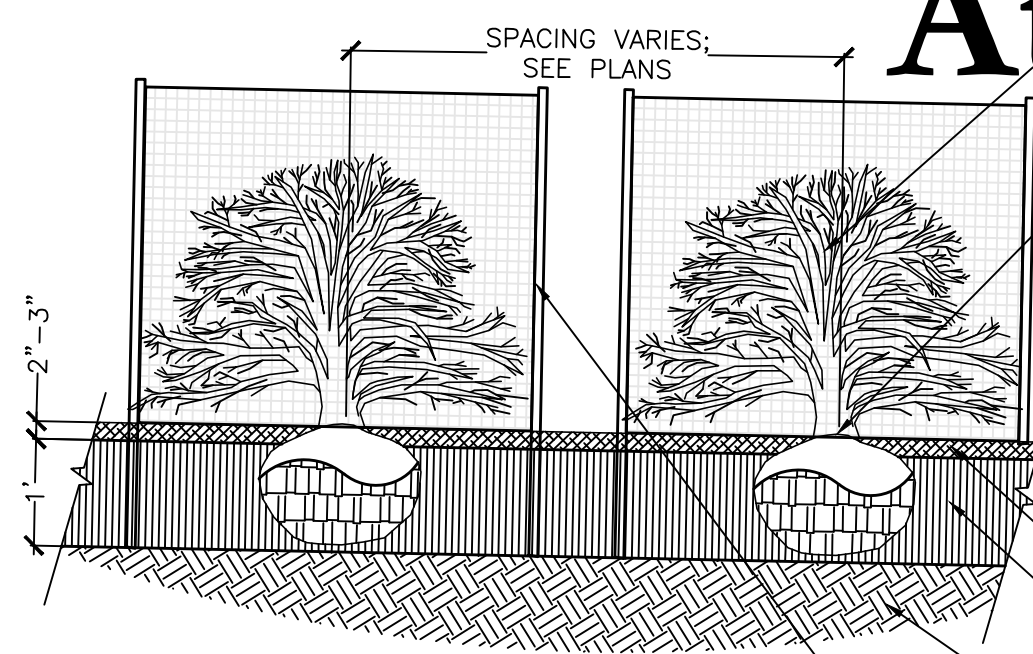
If you have any questions, do not hesitate to contact me at my cell listed below.  
Thank you kindly.

Sincerely,

Katherine Damico  
Director  
301-299-7400 - w  
703-402-4060 - c

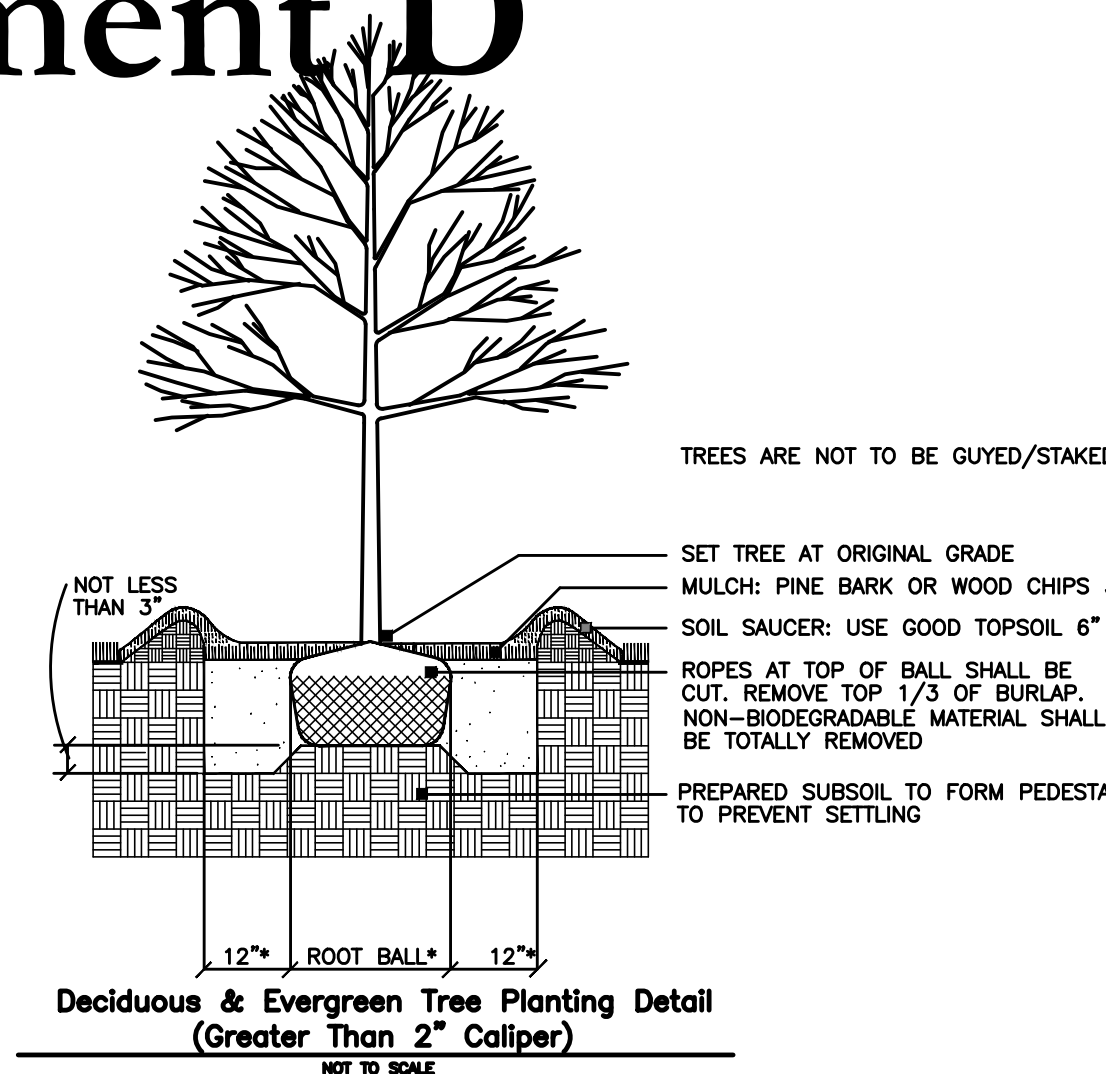


# Attachment D



SHRUB PLANTING DETAIL  
SCALE: NOT TO SCALE

BROKEN BRANCHES: REMOVE ALL TAGS, LABELS, WIRE, STRING ETC.  
B&B SHRUBS: CUT AND REMOVE BURLAP, ROPES AND WIRES FROM TOP THIRD OF ROOT BALL AND REMOVE FROM SITE.  
CONTAINER PLANTS: MAKE 4 TO 5 VERTICAL CUTS TO THE ROOT BALL BEFORE SETTING IN PLACE.  
MULCH: PREPARE PLANTING BED TO 12" DEPTH UNDISTURBED SUBGRADE.  
DEER PROTECTION (SEE DETAIL THIS DRAWING)



Deciduous & Evergreen Tree Planting Detail  
(Greater Than 2" Caliper)  
NOT TO SCALE

## GENERAL NOTES:

- 1) ZONE: RE-2
- 2) WATER CATEGORY - W-1 SEWER CATEGORY - S-1
- 3) BOUNDARY INFORMATION BASED ON A SURVEY PERFORMED BY: POTOMAC VALLEY SURVEYS, MARCH 2022
- 4) ADJACENT CONTOURS & PROPERTY BOUNDARY INFORMATION BASED ON MNCPPC GIS DATA.
- 5) TOTAL TRACT AREA = 312,596 SF OR 7.18 AC.
- 6) PROPERTY SHOWN ON TAX MAP FP341
- 7) PROPERTY SHOWN ON WSSC 200' SHEET 211N10
- 8) PROPERTY SHOWN ON MONTGOMERY COUNTY SOILS SURVEY MAP No. 31 SOIL TYPE(S): 27B NESHAMINY SILT LOAM 3-8%, 27C NESHAMINY SILT LOAM 8-15%, 54A HATBORO SILT LOAM 0-3% AND 116D BLOCKTOWN CHANNERY SILT LOAM 15-25%
- 9) THERE IS 100 YEAR FLOODPLAIN ASSOCIATED WITH THE PROPERTY ACCORDING TO THE FEMA FLOOD MAP COMMUNITY PANEL #24031C 0340D
- 10) SITE IS LOCATED IN THE ROCK RUN WATERSHED USE I-P.
- 11) LOCAL UTILITIES INCLUDE:  
SEWER - WASHINGTON SUBURBAN SANITARY COMMISSION  
WATER - WSSC  
ELECTRIC - PEPCO  
TELEPHONE - VERIZON
- 12) THERE IS A WELL IN THE BASEMENT OF THE EXISTING HOUSE ON PROPOSED LOT 3.
- 13) PROPERTY ADDRESS:  
10420 OAKLYN DRIVE  
POTOMAC, MD 20854
- 14) MNCPPC NRI/FSO # 420222540

## GENERAL NOTES:

- ALL TREES TO BE REMOVED OUTSIDE THE LOD SHALL BE REMOVED BY HAND
- ROOT PRUNING WILL OCCUR PRIOR TO THE CONSTRUCTION OF THE UTILITY LINES. ROOT PRUNING SHALL NOT OCCUR PRIOR TO EXISTING UTILITY LOCATIONS VERIFIED.
- THE EXTENT OF ROOT PRUNING IS TO BE DETERMINED AT THE PRECONSTRUCTION MEETING.
- NO CLEARING IS TO TAKE PLACE OUTSIDE OF THE LIMITS OF DISTURBANCE.
- A COPY OF THE APPROVED FOREST CONSERVATION PLAN MUST BE MAINTAINED ONSITE THROUGHOUT CONSTRUCTION.

## DEVELOPER'S CERTIFICATE

The Undersigned agrees to execute all the features of the Approved Final Forest Conservation Plan No. 620230030 including, financial bonding, forest planting, maintenance, and all other applicable agreements.

Developer's Name: Kim Larsen  
Printed Company Name: \_\_\_\_\_  
Contact Person or Owner: Kim Larsen  
Printed Name: \_\_\_\_\_  
Address: 10420 Oaklyn Drive  
Potomac, MD 20854  
Phone and Email: kimdlarsen@gmail.com  
Signature: \_\_\_\_\_

LEGEND	
	SUBJECT PROPERTY BOUNDARY
	ADJACENT PROPERTY BOUNDARY
	EXISTING 2' CONTOURS
	SOIL TYPE BOUNDARY
	EX. TREE CANOPY
	EX. FOREST
	TOP OF STREAM BANK
	100+ STREAM BUFFER
	POTENTIAL WETLAND
	WETLAND BUFFER
	100-YR FEMA FLOODPLAIN
	EXISTING PROPERTY BOUNDARY
	PROPOSED PROPERTY BOUNDARY
	EX. CONTOUR
	EXISTING HOUSE
	EXISTING ROAD
	BUILDING RESTRICTION LINE
	PROPOSED HOUSE
	PROPOSED DRIVEWAY
	PROPOSED CATEGORY 1 CONSERVATION EASEMENT BOUNDARY
	FORESTATION/ CONSERVATION EASEMENT AREA
	PROPOSED 6" PERF PVC
	PROPOSED 6" PVC
	PROPOSED UTILITY

	#1 MULBERRY	EXISTING SIGNIFICANT TREE ≥24" AND <30"DBH WITH CRITICAL ROOT ZONE
	#2 RED MAPLE	EXISTING SPECIMEN TREE ≥30"DBH WITH CRITICAL ROOT ZONE
	#3	MITIGATION TREE
	#4	TREE PROTECTION FENCE
	#5	TREE REMOVAL
	#6	SPLIT RAIL FENCE WITH SIGNAGE

## CERTIFICATION OF QUALIFIED PROFESSIONAL

I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON HAS BEEN PREPARED IN ACCORDANCE WITH MARYLAND STATE, MNCPPC AND MONTGOMERY COUNTY FOREST CONSERVATION LAWS.

09.15.2022  
DATE  
MICHAEL A. NORTON  
MONT / COMAR 08.19.06.01  
QUALIFIED PROFESSIONAL

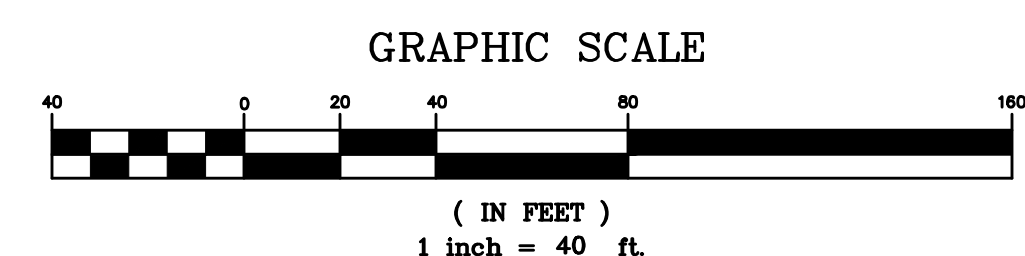
PRELIMINARY AND FINAL  
FOREST CONSERVATION PLAN  
MNCPPC #620230030

LARSEN PROPERTY  
PROPOSED LOTS 1-3

MR. KIM LARSEN  
10420 OAKLYN DRIVE,  
POTOMAC, MD 20854

NORTON LAND DESIGN  
LANDSCAPE ARCHITECTURE + ENVIRONMENTAL PLANNING  
5140 DORSEY HALL DRIVE, 2ND FLOOR  
BALTIMORE, MD 21242  
TEL: 410.542.9199  
WWW.NORTONLANDDESIGN.COM

REVISIONS	MOCKUP MAP 2,000'	SITE
WATER CLASS I, P	WATERSHED ROCK RUN	FEMA FLOODPLAIN MAP PANEL # 24031C0340D
TRIBUTARY	200' SHEET 211N10	ADC MAP PAGE CND
TAX MAP FP341	DATE AUGUST 2022	PROJ. NO. 21-082
SCALE AS SHOWN	SHEET NO. L-2.1	





# Attachment E



January 17, 2023

Montgomery County  
Planning Department  
2425 Reddie Drive, 14th Floor  
Wheaton, MD 20902

Larsen Property  
Request for Specimen Tree Variance  
Administrative Subdivision 620230030

On behalf of the property owner and pursuant to Section 22A-21 *Variance provisions* of the Montgomery County Forest Conservation Ordinance and revisions to the State Forest Conservation Law enacted by S.B. 666, we are writing to request a variance(s) to allow impacts to, or the removal of, the following trees identified on the approved Natural Resource Inventory/Forest Stand Delineation for the above-named residential construction project.

## **Project Description:**

### **The Subject Properties**

The combined properties total 7.18 comprised of two parcels. The site is currently developed with one single family detached house. The project consists of retaining the current house and constructing two new homes. The site is surrounded by residential properties.

### **Forest Conservation**

Natural Resources Inventory/Forest Stand Delineation has been approved for the Subject Property. A Preliminary and Final Forest Conservation Plan is filed with this application. There is no forest on the Subject Property. The afforestation requirement for the property is 1.45 acres. The afforestation requirement is being met through forestation of the stream valley buffer and slopes adjacent to the buffer.

There are freestanding specimen trees located sporadically around the area to be developed with impacted specimen trees along the property line.

The following specimen trees require a variance:

SpecimenTree Summary							
Tree #	Species (Scientific Name)	Species (Common Name)	D.B.H (inches)	Percent of CRZ Impacted (SF)	Tree Condition	Comments	Disposition
1	<i>Picea abies</i>	Norway Spruce	36	3%	Good	Removal of gravel driveway	Impact only
9	<i>Liriodendron tulipifera</i>	Tulip Poplar	39	6%	Good	Grading impacts	impacts only
26	<i>Liriodendron tulipifera</i>	Tulip Poplar	57	6%	Good	Grading impacts	impacts only
30	<i>Carya glabra</i>	Pignut Hickory	32	13%	Good	sewer line & sport court removal	impacts only
31	<i>Catalpa speciosa</i>	Northern Catalpa	50	23%	Fair	sewer line & sport court removal	impacts only
32	<i>Carya glabra</i>	Pignut Hickory	35	8%	Good	sport court removal	impacts only
33	<i>Liriodendron tulipifera</i>	Tulip Poplar	33	100%	Good	grading & barn demolition	removal
34	<i>Liriodendron tulipifera</i>	Tulip Poplar	35	52%	Good	utility construction and driveway removal	removal

### **Requirements for Justification of Variance:**

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

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
- (3) Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance; and
- (4) Provide any other information appropriate to support the request.

### **Justification of Variance**

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;

**Response:** This work will require disturbance of the root zones of a total of eight (8) specimen trees. Two (2) of the impacted trees will be required to be removed. Each of the existing variance trees lies within or very near the footprints of a detached house, existing infrastructure to be removed, grading due to topographic conditions, or proposed utilities. The trees that require removal to develop the proposed lots are the only obstacle to a development proposal that furthers the county's housing goal of avoiding sprawl by locating greater density in developed, urban communities.

Unwarranted hardship is demonstrated, for the purpose of obtaining a Specimen Tree Variance when an applicant presents evidence that denial of the Variance would deprive the Applicant of the reasonable and substantial use of the property. The subdivision of existing properties into conforming and compatible lots in a fully developed urban transition community, of residential lots is clearly within the class of reasonable and substantial uses that justify the approval of a Specimen Tree Variance for the Subject Property. If the requested Variance were denied the Applicant would be precluded from developing the Subject Property for a reasonable and significant use commonly enjoyed by virtually all other property owners in the community.

- (2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;

**Response:** If the requested Variance were denied, the Applicant would suffer unwarranted hardship and would be deprived of rights commonly enjoyed by other property owners in the RE-2 zone and adjoining areas similar to the location of the Property. If the requested variance were denied, the Applicant would be denied the right enjoyed by other similarly situated property owners to develop their RE-2 zoned property in a manner permitted by the zoning ordinance that is consistent with the development history of the neighborhood, block and subdivision.

If the variance were not granted for the trees identified on the attached chart would have to remain and the Applicant would be unable to develop the property with any houses in the disparate treatment of the Applicant in comparison the exercise of rights commonly enjoyed by others in the same area and in similar RE-2 zoned areas.

- (3) Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance;



**Response:** Tree removals have been minimized by careful design of the layout ensuring the preservation of as many specimen trees as possible. In addition, this property will be developed in accordance with the latest Maryland Department of the Environment criteria for stormwater management. This includes Environmental Site Design to provide for protecting the natural resources to the Maximum Extent Practicable. This includes removing excess impervious areas and providing on-site stormwater management systems. A Stormwater Management Concept is currently under review by the Montgomery County Department of Permitting Services to ensure that this criterion is enforced. Therefore, the proposed activity will not degrade the water quality of the downstream areas and will not result in *measurable degradation in water quality*.

Specimen tree removals are proposed to be mitigated for onsite through new plantings as depicted on the FCP. Additional canopy planting will serve to create greater ecological quality while establishing further buffering of adjacent land uses (residential).

- (4) Provide any other information appropriate to support the request.

**Response:** The Approved and Adopted Trees Technical Manual lists several factors for consideration when reviewing applications for clearing that now require the approval of a Specimen Tree Variance. Generally, the Technical Manual recognizes that clearing is appropriate for street and driveway construction to provide access to new development and to create a building envelope for development. Among the development factors that the Technical manual considers appropriate for consideration when a Variance request is before the Planning Board is whether an urban form of development is desired at a particular location

The Technical Manual also acknowledges that well planned clearing balances the public policies of preserving forest and funneling development into appropriate locations. The Technical Manual provides that one factor to be considered.

**"The extent to which the actual or intended use of the property, as developed or as proposed to be developed in accordance with the regulations of the Zoning Ordinance and/or area master plans, require clearing of trees."**

As further basis for its variance request, the applicant can demonstrate that it meets the Section 22A-21(d) *Minimum criteria*, which states that a variance must not be granted if granting the request:

- (1) Will confer on the applicant a special privilege that would be denied to other applicants;

**Response:** The construction of the residence onsite is in conformance with the subdivision regulations and zoning code. As such, this is not a *special privilege* to be conferred on the applicant.

- (2) Is based on conditions or circumstances which are the result of the actions by the applicant;

**Response:** The Applicant has taken no *actions leading to the conditions or circumstances* that are the subject of this variance request.

- (3) Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; or

**Response:** The surrounding land uses (residences) do not have any inherent characteristics or conditions that have created or contributed to this particular need for a variance.

- (4) Will violate State water quality standards or cause measurable degradation in water quality.

**Response: Granting this variance request will not violate State water quality standards or cause measurable degradation in water quality. The specimen tree removal is further proposed to be mitigated through the installation of 6 – 3" caliper trees.**

**Conclusion:**

For the above reasons, the applicant respectfully requests that the MNCPPC Staff APPROVE its request for a variance from the provisions of Section 22A of the Montgomery County Forest Conservation Ordinance, and thereby, GRANTS permission to impact/remove the specimen trees in order to allow the construction of this project.

The recommendations in this report are based on tree conditions noted at the time the NRI/FSD field work was conducted. Tree condition can be influenced by many environmental factors, such as wind, ice and heavy snow, drought conditions, heavy rainfall, rapid or prolonged freezing temperatures, and insect/disease infestation. Therefore, tree conditions are subject to change without notice.

The site plans and plotting of tree locations were furnished for the purpose of creating a detailed Tree Protection Plan. All information is true and accurate to the best of my knowledge and experience. All conclusions are based on professional opinion and were not influenced by any other party.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael Norton', with a stylized, cursive script.

Michael Norton