

Montgomery Planning
EDGEMOOR
ADMINISTRATIVE SUBDIVISION PLAN NO. 620230060



Description

Administrative Subdivision Plan to create up to two lots for single-family dwelling units; one for the existing dwelling unit and a second for the construction of a new dwelling unit.

No. 620230060

Completed: 7-3-2023

MCPB

Item No. 5

July 13, 2023

Montgomery County

Planning Board

2425 Reedie Drive, Floor 14

Wheaton, MD 20902

Montgomeryplanning.org

Edgemoor, Administrative Subdivision No. 620230060

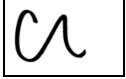
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LOCATION/ADDRESS

7611 Fairfax Road; 100 feet south of Wilson Lane

MASTER PLAN

1990 Bethesda Chevy-Chase Master Plan

ZONE

R-60

PROPERTY SIZE

0.96 acres

APPLICANT

Oliver Carr

ACCEPTANCE DATE

December 8, 2022

REVIEW BASIS

Section 50.6.1.C



Summary:

- Staff recommends **APPROVAL** of the Administrative Subdivision with conditions.
- Request to create two (2) lots for one (1) single-family detached dwelling unit on each lot: one for the existing dwelling unit and a second for the construction of a new dwelling unit.
- Per Section 50.6.1.C of the Subdivision Ordinance, up to 3 lots may be created for residential detached houses in a residential zone by the Administrative Subdivision plan process.
- Due to initial neighborhood opposition, the Planning Director deferred consideration of the Application to the Planning Board, per Section 50.6.3.B.1 of the Subdivision Ordinance.
- Per Section 50.5.2.B, the Applicant received approval from the Planning Board to extend the review period by 6 months from March 14, 2023 to September 29, 2023 in order to address comments from reviewing agencies. Following coordination with agencies and subsequent plan revisions, the Application is proceeding to the Planning Board for review in advance of the full extent of the 6-month extension.

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SECTION 1: RECOMMENDATIONS AND CONDITIONS

ADMINISTRATIVE SUBDIVISION PLAN 620230060

Staff recommends approval with conditions of the Administrative Subdivision Plan to subdivide the existing recorded lot into two lots: one for the existing dwelling unit and a second for the construction of a new dwelling unit. All site development elements shown on the latest electronic version of the Administrative Subdivision Plan No. 620230060 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 two (2) lots for one (1) dwelling unit on each lot.

ADEQUATE PUBLIC FACILITIES AND OUTSIDE AGENCIES

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).

PLAN VALIDITY PERIOD

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.

OUTSIDE AGENCIES

4. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its letter dated April 26, 2023 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.
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 March 2, 2023 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 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 Montgomery County Department of Permitting Services (“MCDPS”), Fire Department Access and Water Supply Section in its letter dated March 16, 2023 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.

ENVIRONMENT AND NOISE

9. The Applicant must schedule the required site inspections by M-NCPPC Forest Conservation Inspection Staff per Section 22A.00.01.10 of the Forest Conservation Regulations as applicable.
10. 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.
11. 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.
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 35 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.
13. Before certification of the Administrative Subdivision Plan, the Applicant must update Forest Conservation Plan notes/details in order to provide maintenance and care procedures, prepared by an ISA Certified Arborist, for the protection and monitoring of perimeter trees within the existing Category I Conservation Easement.
14. Before recordation of the plat and the start of any demolition, clearing, grading, or construction, whichever comes first, for this development Application, the Applicant must:
 - a. Install permanent conservation easement fencing along the perimeter of the conservation easements as shown on the FCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.

- b. Execute a five-year Maintenance and Management Agreement (“MMA”) in a form approved by the M-NCPPC Office of the General Counsel for all forest planting areas, mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings, and trees along the perimeter of the existing Category I Conservation Easement. The MMA includes invasive species management control measures, tree protection measures, and monitoring as deemed necessary by the M-NCPPC Forest Conservation Inspection Staff.
- c. Submit the forest conservation fee-in-lieu payment to the M-NCPPC Planning Department for the 0.05 acres of afforestation/reforestation requirement.
- 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 mitigation trees and maintenance, including invasive species management controls and protection measures as determined by an ISA certified arborist, credited toward meeting the requirements of the FCP.

TRANSPORTATION

Frontage Improvements

- 15. 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 with a five-and-one-half-foot-wide vegetated street buffer along the property frontage across Lot 23 and the portion of Lot 24 not subject to the Category I Forest Conservation Easement (Liber 10728, Folio 501).
- 16. Only one curb cut for a residential driveway will be permitted for each of the proposed lots.

RECORD PLATS

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

Easements

- 18. The record plat must show necessary easements.
- 19. The record plat must reflect common ingress/egress and utility easements over all shared driveways.
- 20. The record plat must reflect the following building restriction lines as shown on the Administrative Subdivision Plan:
 - a. A 15-foot BRL offset from the Category I Conservation Easement located on proposed Lot 24.

CERTIFIED ADMINISTRATIVE SUBDIVISION PLAN

- 21. The Applicant must include the stormwater management concept approval letter and Administrative Subdivision Plan Resolution on the approval or cover sheet(s).
- 22. 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.
23. Prior to 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.
 - c. Revise plans to show only one driveway per lot; remove the circular driveway shown on Lot 23.
 - d. Update Forest Conservation Plan to revise tree save measures following removal of the circular driveway and updates to driveway/frontage.

SECTION 2: SITE DESCRIPTION

VICINITY

Administrative Subdivision Plan No. 620230060 is a request to subdivide a property identified as Edgemoor, Block 4, Lot 21 and two contiguous parts of lots, Part of Lots 11 and 12, as described on Plat 19164 (Liber 1072, Folio 501); located at 7611 Fairfax Road and consisting of 41,783 square feet (0.96 acres), zoned R-60 ("Property" or "Subject Property" or "Site") into two (2) lots. The Property is within the 1990 *Bethesda Chevy-Chase Master Plan* ("Master Plan"). Surrounding the Site to the east, west, and south are lots that are generally similar in size and contain single family detached houses in the R-60 zone.

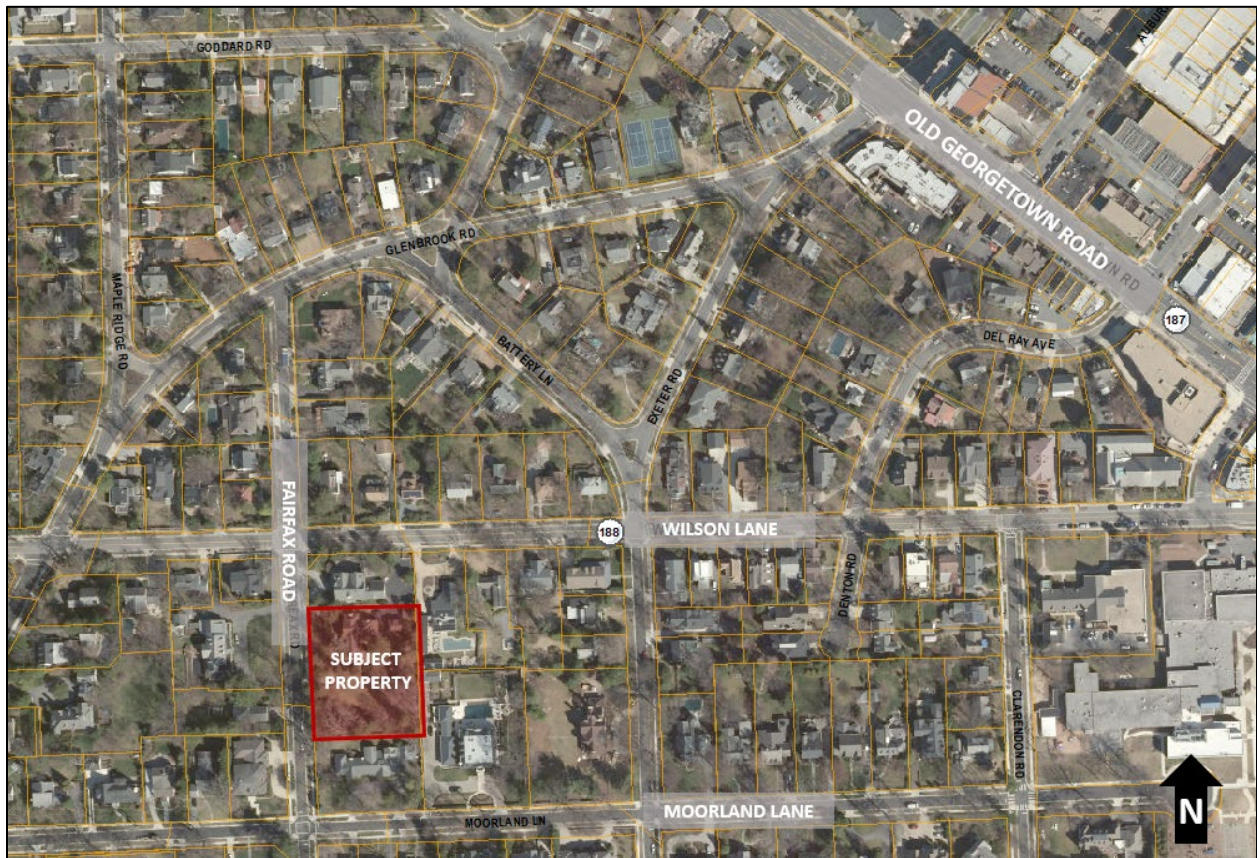


Figure 1 - Vicinity Map



Figure 2 – Zoning Map

PROPERTY DESCRIPTION

The Subject Property is located within the Little Falls Watershed, a Use I watershed¹. The Property is generally flat with only a slight slope rising towards the east at the rear of the property. In its existing condition, the Site contains a circular driveway with two curb cuts on Fairfax Avenue. An existing detached garage is located in the northeast corner of the property and is accessed via an existing 15-foot access easement (P.B. 170 Plat 19164), from Wilson Lane via an asphalt driveway located on the neighboring property at 7613 Fairfax Road (Lot 20). Specimen trees sized 30-inch diameter-at-breast-height (DBH) or greater are present on the site in addition to many mature trees of at least 24-inch DBH. There is also a forest stand, along the south property line, which is protected via an existing Category I Conservation Easement. This easement, recorded in 1993, is captured on the plat for the Property and was put in place prior to the establishment of Chapter 22A Forest Conservation Law.

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



Figure 3 – Subject Property

SECTION 3: PROJECT DESCRIPTION

PROPOSAL

This Application is a request to subdivide the Property into two (2) lots (as depicted in Figure 4) with one single-family dwelling unit on each lot. The existing house and garage are to remain on proposed Lot 23, however proposed improvements include a new driveway to access the existing garage and a proposed addition to the rear of the existing home on proposed Lot 23. The existing Category I Conservation Easement, to be located on proposed Lot 24, is proposed to remain. Lot 24 will also be improved with a new single-family dwelling unit with an attached garage. The existing access easement from the neighboring property will be removed.

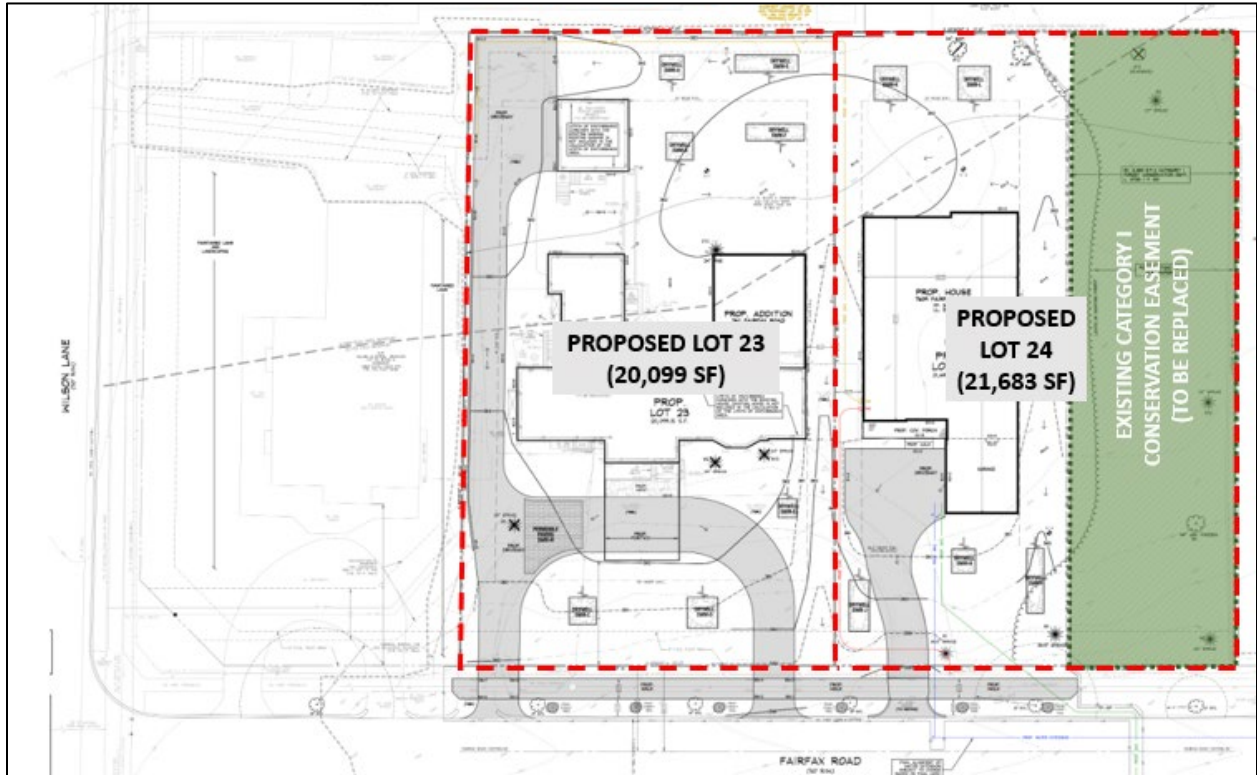


Figure 4 – Plan of Subdivision

TRANSPORTATION

The existing home has a circular driveway that as conditioned, will be replaced with a single curb cut, which reduces conflicts with traffic on the adjacent road, as well as pedestrians and cyclists along the Site frontage. Both lots will be provided with a single driveway that complies with the standards of Montgomery County - Maryland Driveway Construction Policy.

Pedestrian access will be improved by widening the existing four-foot sidewalk with a six-foot sidewalk buffered by a five-foot tree-lined street buffer. The sidewalk will extend across both Site frontages on Fairfax Road, except the portion of Lot 24 which is subject to an existing Forest Conservation easement.

ENVIRONMENT

A Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) No. 420230140, for this Property was approved on October 11, 2022. The NRI/FSD identified the existing man-made and natural features associated with the Property, such as the buildings, associated parking, trees and landscape elements. As shown on the NRI/FSD, the Site is currently developed with an existing two-story single-family dwelling unit and associated parking garage and gravel driveway. The site contains approximately 8,000 square feet of forest and numerous specimen and significant trees. Among the

specimen trees onsite are two trees which are larger than, or within 75% of, a county champion tree; Tree 8, a 44-inch Japanese Pagoda, is larger than the current County Champion tree (33.4 inches), is located within the existing easement area, and is proposed to remain with this Application. Tree 13, a 34-inch Short Leaf Pine, is larger than the current County and State Champion tree (26.1 inches) but is proposed for removal with this Application.

This Project is subject to Chapter 22A, Forest Conservation Law, and has included a Final Forest Conservation Plan with this Application. The Final Forest Conservation Plan includes a Forest Conservation Worksheet which calculates an afforestation requirement of 0.05 acres due to the total tract area, offsite work, and minor area of forest (located outside of the easement area) to be cleared. This requirement will be met via fee-in-lieu, as conditioned. The Final Forest Conservation Plan includes a variance request to impact 3 trees and remove 4 trees that are 30 inches or greater DBH. The Applicant also proposes mitigation plantings for the proposed tree impacts/removals, which are further detailed in the findings below.

SECTION 4: ADMINISTRATIVE SUBDIVISION FINDINGS AND ANALYSIS

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 are approved for standard method development in the R-60 zone.

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

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

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

The Applicant is not required to provide additional road dedication in accordance with Chapter 49 of the County Code which designates Fairfax Road as a tertiary residential street. As shown on Plat 245, 50 feet of right-of-way has been dedicated along the Site frontage, which is the minimum required for a tertiary street. 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

Adequate public facilities exist to support and service the Property in accordance with Section 50.4.3.J of the Subdivision Regulations.

The Property is located in the Bethesda/Chevy Chase Policy Area, which is categorized an Orange Policy Area under the 2020 – 2024 Growth and Infrastructure Policy (the “GIP”). As demonstrated in the Applicant’s traffic statement, dated November 18, 2022, the proposed Administrative Subdivision generates fewer than 50 peak-hour person trips and is therefore exempt from Local Area Transportation Review under the GIP without further review. Therefore, roads and transportation facilities are adequate to support the Application.

School Adequacy Test

The project is served by Bethesda ES, Westland MS and Bethesda-Chevy Chase HS. Based on the FY24 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

Table 1: 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
Bethesda ES	561	539	96.1%	+22	No UPP	107	135	219
Westland MS	1,073	862	80.3%	+211	No UPP	337	426	587
Bethesda-Chevy Chase HS ²	2,475	2,420	97.8%	+55	No UPP	235	550	922

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 FY24 Annual School Test, development projects approved within these school service areas are not automatically subject to Utilization Premium Payments as identified in Table 1.

² Projected enrollment reflects the estimated impact of CIP P651908, which will reassign students between the Down County Consortium, Bethesda-Chevy Chase HS, Walter Johnson HS, Walt Whitman HS, and Charles Woodward HS in 2026.

Analysis Conclusion and Condition of Approval

Based on the school capacity analysis performed, using the FY2024 Annual School Test, this application is not subject to a Utilization Premium Payment. Therefore, no UPP condition is required and there are adequate school facilities to support the Application.

Utilities and Public Services Review

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

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

This Project is subject to Chapter 22A, Forest Conservation Law, and has included a Final Forest Conservation Plan with this Application. The Final Forest Conservation Plan shows that the Subject Property contains 0.18 acres of forest, 0.17 acres of which is protected via Conservation Easement. This area of forest will be maintained and enhanced via supplemental plantings while the minor portion of forest which spread outside of the easement is proposed for removal in conjunction with construction activity necessary for the subdivision. As such, the 0.01 acres of forest are counted as cleared in the Forest Conservation Worksheet. In total, as a result of the tract area, forest clearing, as well as the residential use of this project, the Forest Conservation Worksheet included in the Forest Conservation Plan shows a calculated afforestation/reforestation requirement of 0.05 acres which will be met via fee-in-lieu, as conditioned.

FOREST CONSERVATION VARIANCE

Section 22A-12(b)(3) of Montgomery County Forest Conservation Law provides criteria that identify certain individual trees as high priority for retention and protection (“Protected Trees”). Any impact to these trees, including removal of the subject tree or disturbance within the 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. An applicant for a variance must provide certain written information in support of the required findings in accordance with Section 22A-21 of the County Forest Conservation Law. The law requires no impact to trees that: measure 30 inches or greater DBH; are part of an historic site or designated with an historic structure; are designated as a national, State, or County champion trees; are at least 75 percent of the diameter of the current State champion tree of that species; or trees, shrubs, or plants that are designated as Federal or State rare, threatened, or endangered species. The proposed project includes disturbance within the CRZs of trees which are subject to a variance due to their size measuring 30 inches DBH or greater.

Variance Request

The Applicant submitted a variance request in a letter dated May 9, 2023 (Attachment D). Based on the tables in the request, the Applicant proposes to impact 3 trees and remove 4 trees that are 30 inches or greater DBH and are considered high priority for retention under Section 22A-12(b)(3) of the County Forest Conservation Law



Figure 5: Protected Tree Impacts/Removals

Table 2: Trees to be Impacted but Retained

TREE #	TYPE	DBH	Percent of CRZ Impacted by LOD	CONDITION	PROPOSED STATUS
7	Scarlet Oak	43"	3.5%	Good	SAVE
8*	Japanese Pagoda	44"	17.4%	Good	SAVE
14	American Elm	39"	10.4%	Good	SAVE

*within 75% or greater of a County/State Champion

Table 3: Protected Trees to be Removed

TREE #	TYPE	DBH	Percent of CRZ Impacted by LOD	CONDITION	PROPOSED STATUS
4	Norway Spruce	30.5"	49%	Good	REMOVE
11	Red Maple	30"	48%	Poor	REMOVE
12	Red Maple	34"	36%	Poor	REMOVE
13*	Short Leaf Pine	34"	81%	Good	REMOVE

*within 75% or greater of a County/State Champion

Unwarranted Hardship Basis

Per Section 22A-21, a variance may only be granted if the Planning Board finds that leaving the requested trees in an undisturbed state would result in unwarranted hardship, denying the Applicant reasonable and significant use of its property. In this case, the unwarranted hardship results from the existing conditions of the site and location of the protected trees. Avoiding impacts/removals to these trees would make the development and reasonable use of the full property not feasible. Tree #13 is located in the center of proposed Lot 23; as it exists today, the Property has drainage issues due to a lack of slope from the rear yard to the front yard and frequent ponding occurs in the rear yard after rain events. Regardless of the proposed improvements to the existing home, resolving this drainage concern is necessary; the impacts of grading to improve drainage, as well as the proposed addition to the existing home, results in extensive impact to the critical root zone of Tree 13. The Applicant has also studied the potential of only improving the drainage, without the inclusion of an addition on the existing home, however large impacts to Tree 13 still remain. Trees 11 and 12 are in poor condition and suffer from decay, which creates a hazard as cited in the Applicant's submitted arborist tree evaluation. Finally, Tree 4 is proposed for removal due to its location and conflicts with proposed stormwater management dry wells; these proposed features must be located 15 feet from each other and 10 feet from the slab of structures. Alternate stormwater management facilities were considered

but also result in extensive disturbance to Tree 4 due to space restrictions onsite. All trees proposed to remain have very limited impacts to critical root zones and will be protected by tree save measures as directed by MNCPPC Staff and the existing Category I Conservation Easement is proposed to remain. Therefore, the Applicant has demonstrated a sufficient unwarranted hardship to justify a variance request.

Variance Findings

To approve the Variance, the Planning Board must find that the Variance:

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

Granting the variance would not confer a special privilege on the Applicant, as the need to impact and remove the protected trees is based on existing conditions of the site and location of the protected trees. As detailed above, both the removals and the root zone impacts are unavoidable in order to develop the Property to meet permitting. The inability to remove and impact the subject trees would limit the development of the Property which is already encumbered by the existing 0.17-acre conservation easement.

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

The requested variance is not based on conditions or circumstances which are the result of actions by the Applicant. The requested variance is based upon the existing site conditions and necessary design requirements of this project. In order to provide safe and adequate use of the Property while limiting overall site disturbance, impacts to and removal of some specimen trees are necessary.

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

The requested variance is a result of the existing conditions on the Property and not as a result of land or building use on a neighboring property.

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

The variance will not violate State water quality standards or cause measurable degradation in water quality. The site is not located in the vicinity of a stream buffer, wetland or special protection area. Further, the removal of tree 13 is necessary in order to conduct construction to generate overall improved drainage on the site.

Additionally, the planting of variance mitigation trees will address water quality goals by providing shading, water retention and uptake, and evapotranspiration.

Finally, a stormwater management plan addressing water quality through Environmental Site Design will be provided for the development, for subsequent review and approval by the Montgomery County Department of Permitting Services. There are existing drainage issues associated with the site which are expected to be alleviated with this project. At this time, the Applicant has proposed a stormwater management treatment area onsite which makes use of environmental site design methods which will ultimately have an improvement on water quality. Therefore, the project will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provision

There are four specimen trees proposed for removal in association with the Application. There will also be disturbance to CRZs of another three specimen trees that will be retained. Planting mitigation for the removals should be at a rate that approximates the form and function of the trees removed. Replacement should occur at a ratio of approximately one inch caliper for every four inches DBH of removal, using onsite trees that are a minimum of three inches caliper, overstory trees native to the Piedmont Region of Maryland. For the 140 diameter-inches of protected trees to be removed, the Applicant must provide mitigation of at least 35 caliper-inches of replacements. In this case, the Applicant proposes to plant 12 trees of 3-inch caliper size, however the final locations and quantities will be confirmed at the direction of the MNCPPC Forest Conservation Inspector. Additionally, no mitigation is required for trees that are impacted, but retained.

County Arborist's Recommendation

Due to impacts/removals to protected trees which are within 75% of a County/State Champion, the County Arborist has been included in the review of proposed impacts to and removal of variance trees. In a letter dated June 1, 2023 (Attachment E), the County Arborist recommends approval, subject to conditions incorporated into this report, of the Applicant's Variance request.

Variance Recommendation

As a result of the above findings, Staff recommends that the Board approve with conditions the Applicant's request for a variance from Forest Conservation Law to remove four protected trees and to impact, but retain, three other protected trees associated with the site.

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

This Application meets the stormwater management requirements of Chapter 19 of the County Code. The Applicant received a stormwater concept approval from MCDPS Water Resources Division on March 2, 2023. There are no known stormwater management facilities existing on the Property. The Application will meet stormwater management goals through drywells to treat stormwater runoff without the use of waivers. A detailed stormwater management review will occur at the time of detailed plan review and all facilities will be designed using the latest MCDPS guidelines.

- 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.

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

- 8. The layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.**
 - a) The block design is appropriate for the development or use contemplated**
 - b) The lot design is appropriate for the development or use contemplated**
 - c) The Administrative Subdivision Plan provides for required public sites and adequate open areas**
 - i. Master Planned Sites**
 - ii. Local Recreation**
 - iii. Transportation and Utilities**
 - d) The Lot(s) and Use comply with the basic requirements of Chapter 59**

The Administrative Subdivision Plan meets all applicable sections of the Subdivision Regulations. The proposed lot sizes, widths, shapes, and orientations are appropriate for the location of the subdivision, taking into account the recommendations of the Master Plan, the existing lot pattern of surrounding properties, and for the building type (single-family homes) contemplated for the Property.

The lots were reviewed for compliance with the dimensional requirements for the R-60 zone as specified in the Zoning Ordinance. The lots will meet all the dimensional requirements for area, frontage, and width, and can accommodate a building which can reasonably meet the setback requirements in that zone. A summary of this review is included in Table 4.

Table 4:-R-60 Development Standards Table

R-60	Required by the Zone	Proposed for Approval	
		Lot 23	Lot 24
Minimum Lot Area	6,000 square feet	20,099 square feet	21,683 square feet
Minimum Lot Width at BRL	60 feet	109 feet	117 feet
Minimum Lot Width at Front Lot Line	25 feet	110 feet	117 feet
Maximum Lot Coverage	20% (infill)	<20%	<20%
Front Setbacks, min.	25 feet or Established Building Line	25 feet or Established Building Line	35 feet or Established Building Line*
Side Setbacks, abutting Residential, min.	8 feet min./ 18 feet total	8 feet / 18 feet min.	8 feet/18 feet min.
Rear Setbacks	20 feet	20 feet	20 feet
Maximum Building Height	35 feet	<35 feet	<35 feet

*Per Montgomery County Code Section 4.4.1.A.4, if the Established Building Line applies, the applicant may choose to use the average front setback of the 2 abutting lots as the front setback.

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

- a) Land Use**
- b) Environment**
- c) Transportation**

The Administrative Subdivision Plan substantially conforms to the 1990 *Bethesda-Chevy Chase Master Plan*. The Master Plan does not make specific recommendations for the Subject Property but reconfirms the existing single-family detached residential zoning throughout the Master Plan area. The proposed project demonstrates conformance to the Master Plan by proposing compatible infill detached housing within an existing residential neighborhood. The proposed subdivision will meet the County’s housing policy objectives by increasing housing stock near a major activity center, walkable to a local neighborhood public school, local parks and Downtown Bethesda. Public facilities will be adequate to support and service the area of the subdivision.

a) Roads and other Transportation Facilities

i. Existing Facilities

Fairfax Road is classified as a tertiary residential street. As shown on Plat 245, 50 feet of right-of-way has been dedicated along the Site frontage, which is the minimum required for a tertiary street. A four-foot-wide sidewalk, buffered by a five-and-one-half-foot street buffer runs along the Site frontage today.

ii. **Proposed public transportation infrastructure**

As stated previously, no additional right-of-way dedication is needed. The existing four-foot-wide sidewalk will be widened to six-feet to comply with the 2021 *Complete Streets Design Guide* along the majority of the Site frontage. Widening is not required along the portion of proposed Lot 24 subject to the existing Category I Forest Conservation Easement.

iii. **Proposed private transportation infrastructure**

No private transportation infrastructure is proposed.

b) Local Area Transportation Review (LATR)

The Project generates fewer than 50 new person trips in the morning and evening peak hours. As a result, the Application is not subject to the Local Area Transportation Review (LATR).

c) Schools

As described above, there are adequate school facilities to support the Application.

d) Other Public Facilities and Services

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 and Infrastructure Policy currently in effect.

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

As conditioned, all Chapter 22A Forest Conservation Law requirements will be satisfied.

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

The Application received approval of a Stormwater Management Concept Plan from the Department of Permitting Services, on March 2, 2023, per Chapter 19 of the County Code. The SWM Concept Plan demonstrates that stormwater will be managed onsite (with no waiver) using dry wells.

12. 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.

13. 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: 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 November 10, 2022. The notice gave the interested parties 15 days to review and comment on the contents of the Application.

Staff received several letters of correspondence throughout the review of the Project which generally addressed the following topics including potential loss of/impact to the existing conservation easement, removal of significant trees, stormwater management/impervious surfaces, potential changes to street parking, and impacts on neighborhood character:

CONSERVATION EASEMENT

- Neighbors raised concerns that the second home to be built will be so close to the Forest Conservation easement that it will negatively impact the integrity of that easement. Removal of the Forest Conservation Easement should be avoided.

Staff Response: Through the review process and coordination with Staff and neighbors, the Applicant has revised plans to include a 15-foot building-restriction line to protect the easement from encroachment. Removal of this existing easement was never considered as a part of the Application.

TREE REMOVALS

- Neighbors do not support the removal of large caliper trees.

Staff Response: The proposed tree removals have been reviewed by Planning Staff as well as the County Arborist. As a result of the findings included in this report, the proposed removal of significant trees are in line with Chapter 22A Forest Conservation Law and will be accompanied by required mitigation plantings. Additionally, as discussed in the variance request, the loss of some trees are necessary to provide stormwater management improvements and to avoid trees in poor condition becoming a hazard.

STORMWATER MANAGEMENT

- Neighbors expressed concerns about stormwater management and the addition of impervious surfaces.

Staff Response: Although a new, paved driveway has been proposed to replace the existing gravel driveway, the inclusion of stormwater management features are included in the proposal. As reviewed and approved by MCDPS, the Applicant will meet all stormwater management requirements without the use of waivers despite the increase in impervious surfaces

STREET PARKING

- Removal of permit parking requirements along the street will result in disturbance to the neighborhood.

Staff Response: Proposed updates to permitted street parking are set to occur within the line of sight for the property in order to achieve the minimum sight distance as required by MCDOT per the attached approval letter and conditions of approval. On street parking, with the requirement of a permit, will remain outside of the area of sight distance conflict; no parking will be allowed within the line of site, therefore disturbance has been minimized to the extent possible while adhering to MCDOT regulations.

NEIGHBORHOOD CHARACTER

- Approval of this subdivision will start a trend of loss of character in the neighborhood and increased traffic.

Staff Response: The size of the proposed lots and overall Application are in line with other properties in the neighborhood and previously approved administrative subdivision applications. As addressed in the staff report, adequate public facilities exist to serve the properties and the Application meets all applicable requirements of the subdivision and zoning code.

SECTION 6: 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 lot(s) meet all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conform to the recommendations of the *1990 Bethesda Chevy-Chase Master Plan*. Access and public facilities will be adequate to serve the proposed lot(s), 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 Letters

Attachment C: Forest Conservation Plan

Attachment D: Variance Request

Attachment E: County Arborist's Letter

Attachment F: Community Correspondence