

SADDLE RIDGE, ADMINISTRATIVE SUBDIVISION NO. 620240040

& PRELIMINARY/FINAL FOREST CONSERVATION

PLAN NO. F20240100

Description

Administrative Subdivision to create three lots for one existing and two proposed single-family detached units.

No. 620240040 & F20240100

Completed: 5/10/2024

MCPB

Item No. 6

5/23/2024

2425 Reddie Drive

Floor 14

Wheaton, MD 20902

Planning Staff



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LOCATION/ADDRESS

On Highland Farm Road, west of Deercrest Lane

Address: 11524 Highland Farm Road

MASTER PLAN

2002 *Potomac Subregion Master Plan*

ZONE

RE-2

PROPERTY SIZE

24.12 Acres

APPLICANT

David Blair c/o Mimi Brodsky Kress (Sandy Spring Builders)

ACCEPTANCE DATE

10/18/2023

REVIEW BASIS

Ch. 50 & Ch. 22A

Summary

- Staff recommends Approval with conditions.
- Although this Application is an Administrative Subdivision Plan under Section 50.6.1.C of the Code, typically acted on by the Director, approval of flag lots requires Planning Board action.
- Staff supports the proposed subdivision layout including flag lots and thru lots given the irregular shape of the existing tract with two pipestems.
- The Application substantially conforms to the 2002 *Potomac Subregion Master Plan* by proposing low density residential development while preserving existing forest and environmental buffers.
- The Forest Conservation Plan meets the requirements of Chapter 22A.
- To date, Staff has not received any community correspondence on this Application.

TABLE OF CONTENTS

SECTION 1: RECOMMENDATIONS AND CONDITIONS 3

 ADMINISTRATIVE SUBDIVISION PLAN No. 620240040..... 3

 PRELIMINARY/FINAL FOREST CONSERVATION PLAN No. F20240100 5

SECTION 2: SITE DESCRIPTION..... 7

 VICINITY..... 7

 PROPERTY DESCRIPTION..... 8

SECTION 3: PROJECT DESCRIPTION..... 10

 PREVIOUS APPROVALS..... 10

 PROPOSAL 10

SECTION 4: COMMUNITY OUTREACH 12

SECTION 5: ADMINISTRATIVE SUBDIVISION PLAN 620240040 FINDINGS AND ANALYSIS 12

 APPLICABILITY, SECTION 50.6.1 OF THE SUBDIVISION ORDINANCE..... 12

SECTION 6: PRELIMINARY/FINAL FOREST CONSERVATION PLAN NO. F20240100 FINDINGS AND ANALYSIS 22

SECTION 7: CONCLUSION 30

 ATTACHMENTS 30

SECTION 1: RECOMMENDATIONS AND CONDITIONS

ADMINISTRATIVE SUBDIVISION PLAN NO. 620240040

Staff recommends approval with conditions of the Administrative Subdivision Plan No. 620240040 to create three (3) lots, for one (1) existing detached dwelling and two (2) new single-family detached dwellings. All site development elements shown on the latest electronic version of the Administrative Subdivision Plan No. 620240040 as of the date of this Staff Report submitted via ePlans to the Maryland-National Capital Park and Planning Commission (“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.

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 March 29, 2024, 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 waiver letter dated August 8, 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 MCDPS, Fire Department Access and Water Supply Section in its letter dated April 1, 2024, 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 the Administrative Subdivision Plan approval.

OTHER APPROVALS

8. Except clearing and grading associated with the demolition of building and paving on Lot A and C, there shall be no clearing or grading of the site prior to recordation of plat(s).

RECORD PLATS

9. The record plat must show necessary easements.
10. The record plat must reflect common ingress/egress and utility easements over all shared driveways.
11. The record plat must reflect “Access Denied” from Highland Road on the northern frontage, between 11618 Highland Farm Road and 11614 Highland Farm Road.
12. The record plat must reflect the following building restriction lines (“BRL”) as shown on the Administrative Subdivision Plan:
 - a) Lot A: A 45-foot rear BRLs from Lots 49-50 and Lots 93-95, a 45-foot side BRL from Lot 130 and a 17-foot side setback from proposed Lot C.
 - b) Lot B: A 63-foot rear BRL from Lots 18-19, a 45-foot side BRL from PT.86, Lot 87 and 89 and a 22-foot side BRL from the pipestem of Lot A.
 - c) Lot C: A 63-foot rear BRL from Lot A and a 22-foot side BRL from the pipestem of Lot A.

CERTIFIED ADMINISTRATIVE SUBDIVISION PLAN

13. 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.

14. Prior to submittal of the Certified Administrative Subdivision Plan, the Applicant must make the following changes:
 - a) Increase all 62.5-foot BRL's to 63-foot BRL's.
 - b) Decrease all 17.5-foot BRL's to 17-foot BRL's.
 - c) Decrease all 22.5-foot BRL's to 17-foot BRL's
 - d) Show resolutions and approval letters on the certified set.
 - e) Include the approved Fire Department Access plan in the certified set.

PRELIMINARY/FINAL FOREST CONSERVATION PLAN NO. F20240100

Staff recommends approval with conditions of Preliminary/Final Forest Conservation Plan No. F20240100 ("FCP") to create three (3) new residential lots for one (1) existing single-family detached dwelling and two (2) new single-family detached dwellings units in the RE-2 zone. All site development elements shown on the latest electronic version of the Preliminary/Final Forest Conservation Plan No. F20240100, as of the date of this Staff Report submitted via ePlans to the M-NCPPC, are required except as modified by the following conditions:

1. 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.
2. 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.
3. 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.
4. 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) Record Category I Conservation Easements over all areas of forest retention, forest planting and environmental buffers as specified on the approved Final Forest Conservation Plan. The Category I Conservation Easements must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed. The Book/Page for the easement must be referenced on the record plat.
 - b) Install permanent conservation easement signage along the perimeter of the conservation easements as shown on the FFCP, 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, mitigation tree plantings, including variance tree mitigation plantings credited toward meeting the requirements of the FFCP. The MMA includes invasive species management control measures as deemed necessary by the M-NCPPC Forest Conservation Inspection Staff.
 - 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 1.32 acres of new forest planting, for the variance mitigation trees and for maintenance, including invasive species management controls, credited toward meeting the requirements of the FFCP.
5. 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 plantings for the four reforestation areas totaling 1.32 acres as shown on the approved FFCP.
 6. 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 FFCP. The variance tree mitigation plantings must be a minimum size of 3 caliper inches totaling 61.93 caliper inches, as shown on the approved FFCP. Adjustments to the planting locations of these trees is permitted with the approval of the M-NCPPC Forest Conservation Inspection Staff.
 7. At time of installation of the proposed Natural Surface Path through the proposed Category I Conservation Easement as shown on the FFCP, the Applicant must schedule a pre-construction meeting with M-NCPPC Forest Conservation Inspection Staff to determine the width and alignment of this path through the Category I Conservation Easement.

SECTION 2: SITE DESCRIPTION

VICINITY

The Subject Property is located on the west side of Highland Farm Road, at the terminus of Deercrest Lane, approximately 500 feet west of Piney Meeting House Road, in Potomac (“Property” or “Subject Property”). The Subject Property is approximately 1,250 feet south of Glen Road and 0.67 miles northeast of River Road. The Property is also within the Rural West Policy Area and the 2002 *Potomac Subregion Master Plan* (“Master Plan”) area.

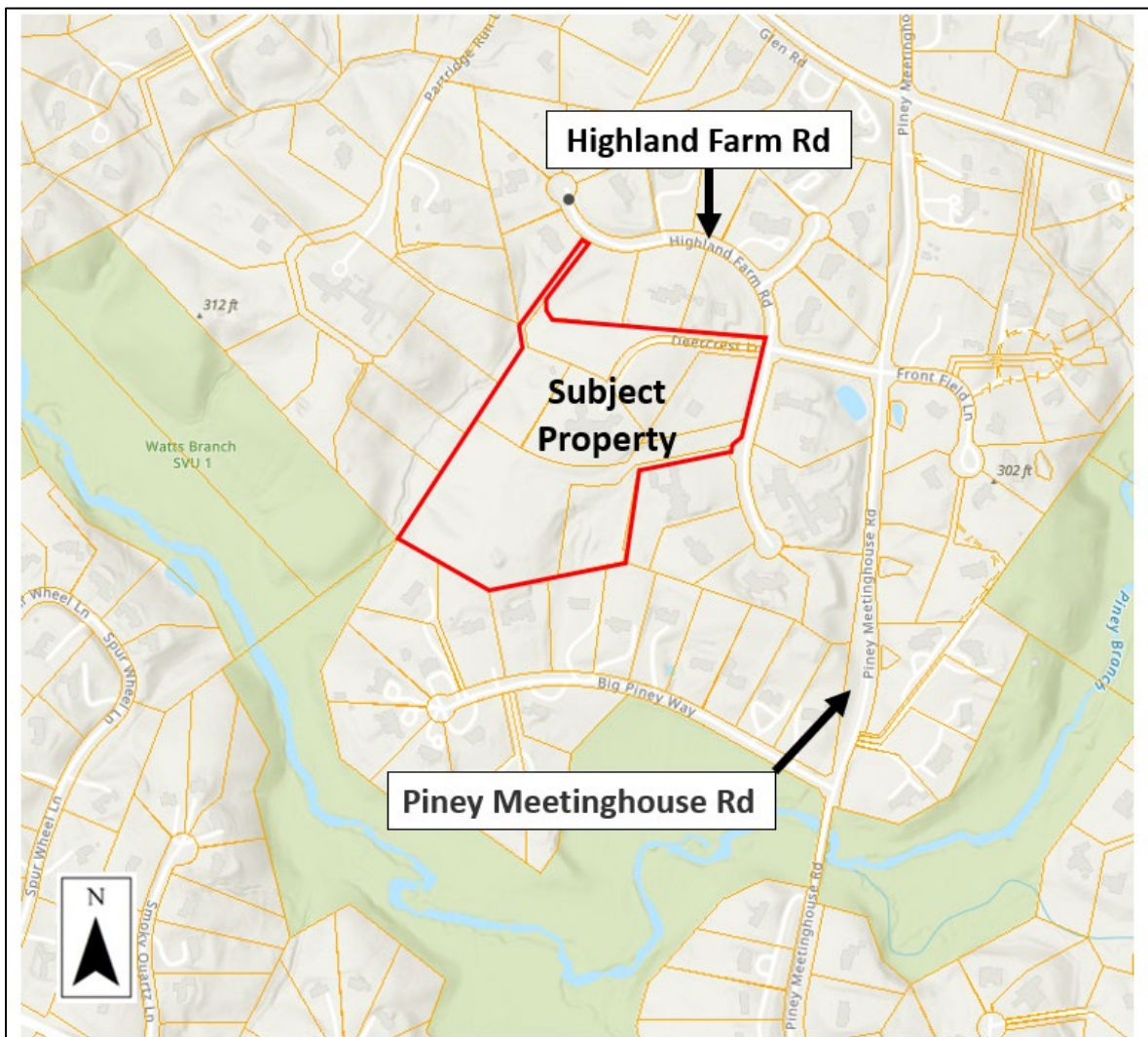


Figure 1 - Vicinity

The Property is bounded by Highland Farm Road to the east and existing residential development on all other sides. The surrounding properties are zoned RE-2 and are developed lots with single family

detached dwelling units. Existing, vacant lots about the western Property line. The Watts Branch Stream Valley Unit I Park (M-NCPPC) abuts the western corner of the Subject Property.

PROPERTY DESCRIPTION

The Subject Property is approximately 24.12 acres and is comprised of four lots, two parts of lots and four parcels as follows; Lots 131 (2.43 acres) and 132 (9.02 acres) identified on Record Plat 20941, Lot 110 (3.65 acres) identified on Record Plat 15208, Lot 91 (2.12 acres) part of Lot 90 part of Lot 86 (2.14 acres) identified on Record Plat 15375, Parcel 817 (2.31 acres), Parcel 850 (2.14 acres) on Tax Map FQ 122, Parcel 710 (0.21 acres) and Parcel 723 (0.097 acres). Lot 91, Lot 110, Lot 131 and Lot 132 are existing flag lots with frontage on Highland Farm Road.

As depicted in Figures 1 and 2, Lot 110 is improved with an existing detached dwelling unit (under construction) and Parcel 850 is improved with a barn. The northern half of the Property, including Lot 110, currently has driveway access to Highland Farm Road. The southern half of the Property is also accessed from Highland Farm Road via a construction entrance and unpaved driveway on Lot 132.

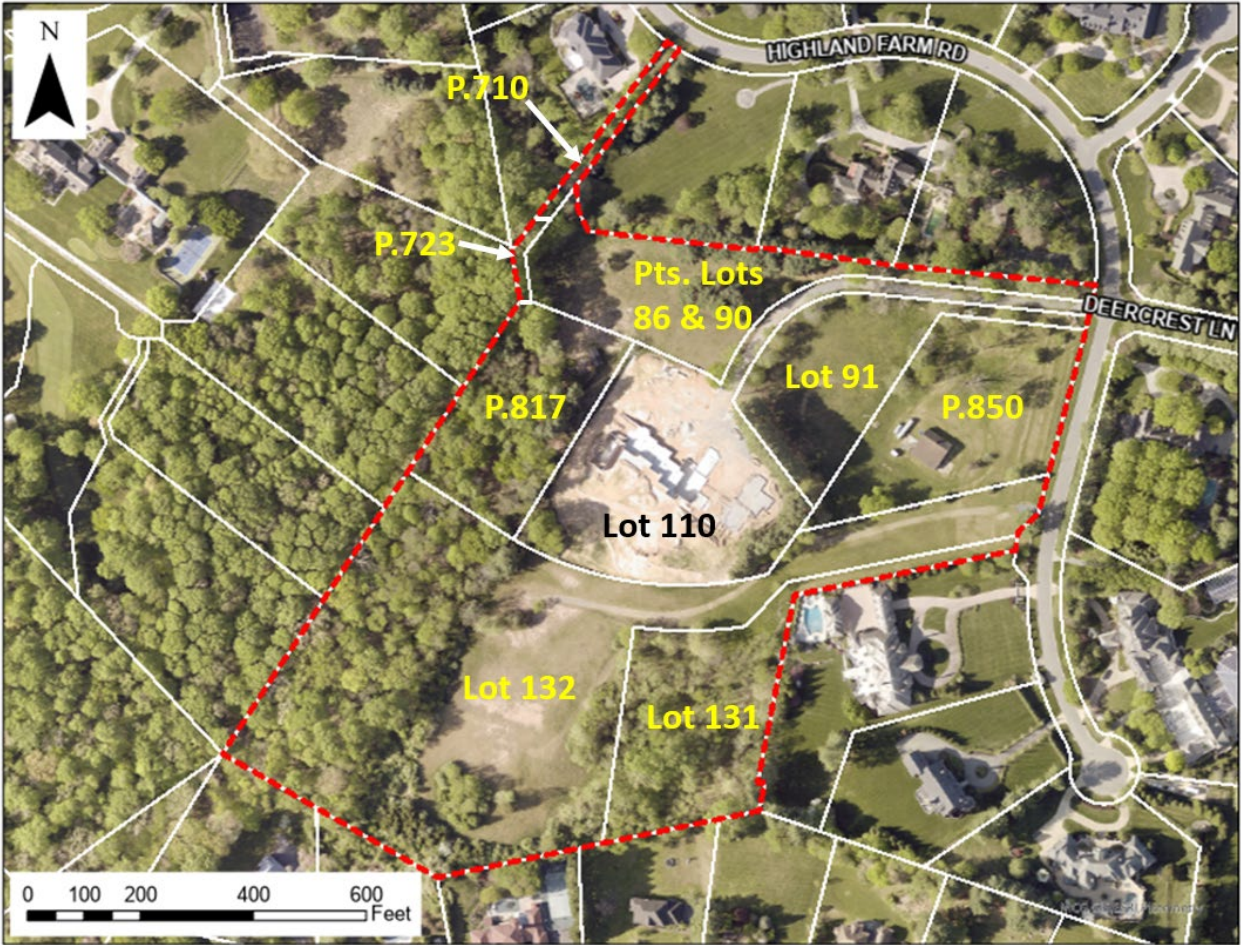


Figure 2 – 2024 Aerial View of the Subject Property (with existing lot and parcel configuration)

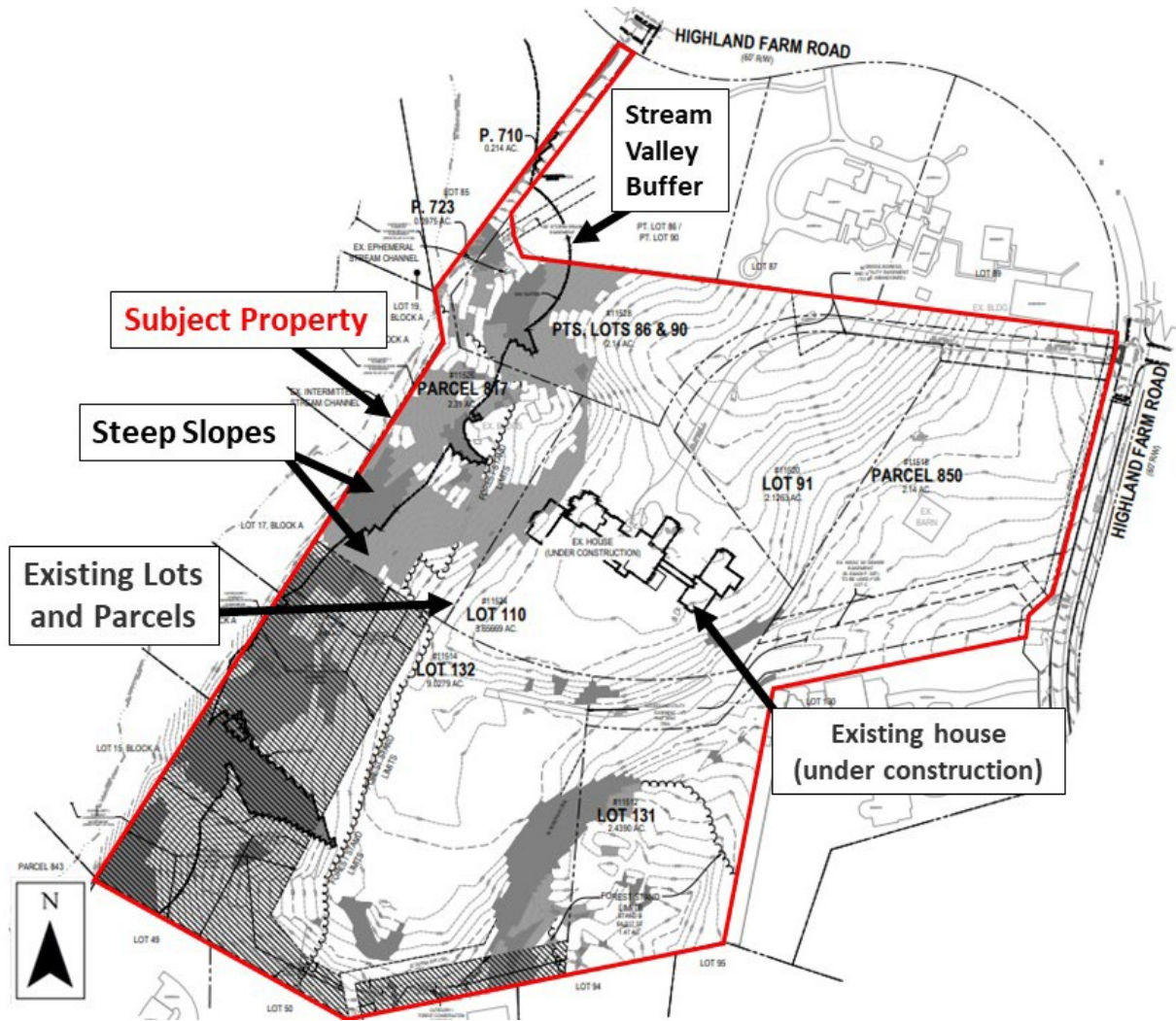


Figure 3 – Existing Conditions with slope analysis shaded in gray

The Subject Property is located within the Watts Branch Watershed, classified by the State of Maryland as Use Class I-P waters. Approximately 6.64 acres of the Subject Property is forest, primarily located along the western portion of the Property. The site contains 32 specimen trees and numerous significant trees. There is an existing open field on the eastern half of Lot 132, behind the existing house. There is also an intermittent stream off-site to the west which parallels the western Property line and is immediately adjacent to the Subject Property. A small portion of the adjacent stream extends onto the Property. The Property contains 0.47 acres of steep slopes and approximately 2.4 acres of environmental buffers. There are no wetlands, seeps, or springs on the Subject Property. No

known rare, threatened, or endangered species or habitats exist on the Subject Property. There are no designated historic sites on or adjacent to the Property.

SECTION 3: PROJECT DESCRIPTION

PREVIOUS APPROVALS

PRELIMINARY PLAN NO. 119830450

On September 21, 1983, by mailed opinion, the Planning Board approved Preliminary Plan No. 119830450, to create 8 lots on 16 acres (+/-) of land in the RE-2 zone (Attachment A). Lot 110 (3.65 acres) was one of the approved lots and recorded on Record Plat 15208 (Attachment B). Lot 90, 91 and 89 (off-site) on 6.34 acres of land are recorded on Record Plat 15375 (Attachment C).

PRELIMINARY PLAN NO. 119981050

On October 7, 1998, by mailed opinion, the Planning Board approved Preliminary Plan No. 119981050, to create three lots (Lot 131, 132 and 133 for three detached dwelling units on 16.23 acres of land in the RE-2 zone. Lot 133 was never recorded (Attachment D-F).

FOREST CONSERVATION

A portion of the current Subject Property had an approved Preliminary Forest Conservation Plan No. 119981050. In addition, existing Lot 110 has a confirmed Forest Conservation Exemption No. 42022214E which allowed for the construction of a single-family residential structure and driveway. That single family home is currently under construction. This FFCP supersedes the previous Preliminary Forest Conservation and Forest Conservation Exemption plans.

PROPOSAL

On October 18, 2023, Mimi Brodsky Kress (Sandy Spring Builders) (“Applicant”) filed an administrative subdivision plan application designated, “Saddle Ridge” Administrative Subdivision Plan No. 620240040 (“Administrative Plan” or “Application”) (Attachment G) and an associated Preliminary/Final Forest Conservation Plan, No. F20240100 (Attachment H).

The Application proposes to subdivide the existing Property into three new lots, two of which will be flag lots. Lot 132, Lot 131, Parcel 817 and the majority of Lot 110 will be consolidated to create Lot A (16.58 acres), which will contain the exiting house (under construction). The remaining portions of the

Property are being reconfigured to create Lot B (3.91 acres) and Lot C (3.70 acres). All three lots will have access to Highland Farm Road. A 20-foot wide, Fire Department compliant, shared driveway will be constructed to serve Lots A and B. Lot C will have its own driveway access. Lot A will also have a service driveway, in approximately the same location as the current path to access the southern half of the Property, which is the rear yard, used for private recreation with a pool, accessory structures, a golf putting green and playing field.

There are existing overhead electrical lines within the proposed right-of-way that the new houses will tie into. The new utility easements will be established to extend public water and sewer to the proposed lots. The Applicant is not required to dedicate any additional land to public right-of-way for Highland Farm Road.

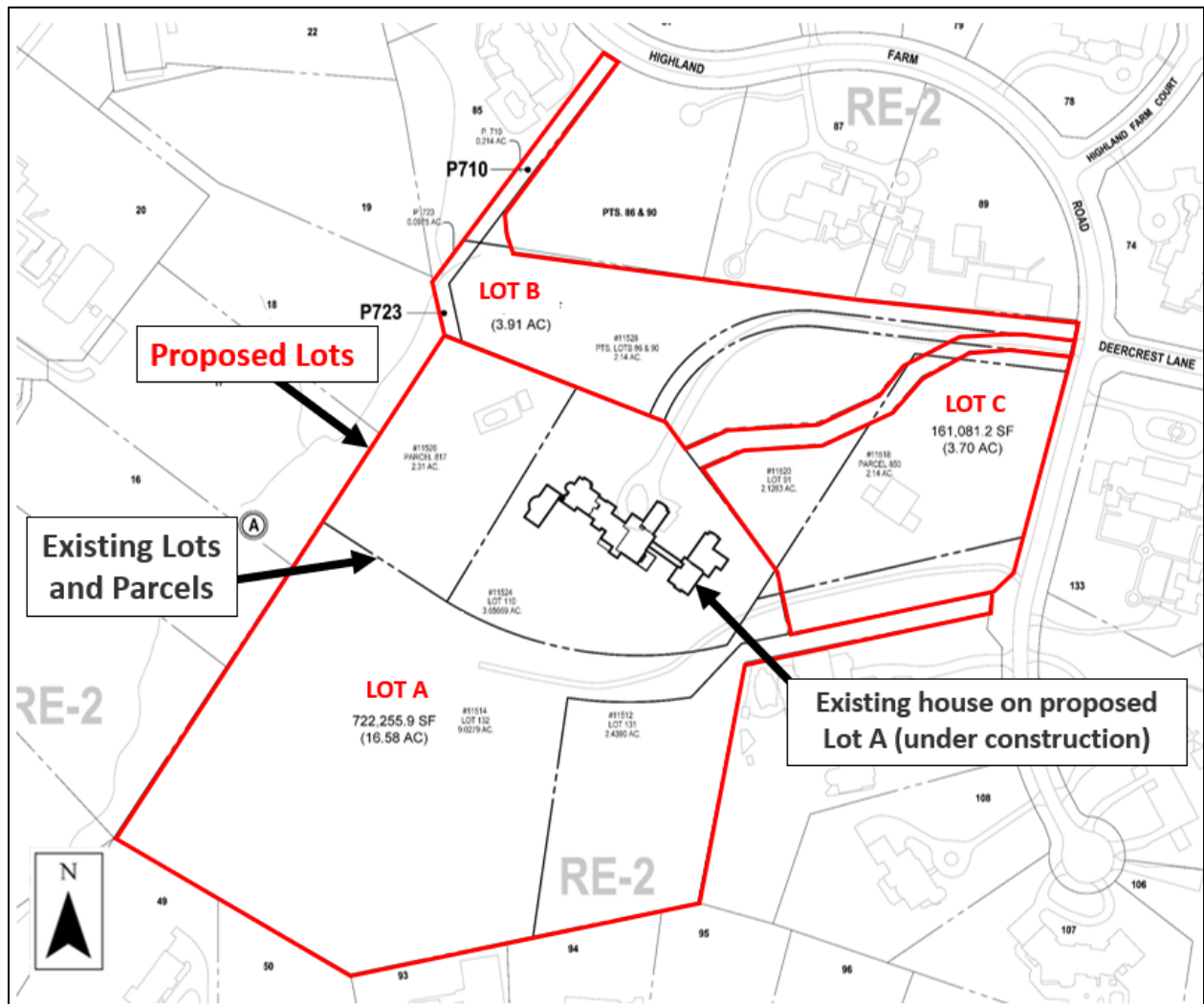


Figure 4 – Simplified Lot Diagram with proposed Lots in red (See Figure 5 for Detailed View)

ENVIRONMENT

The Preliminary/Final Forest Conservation Plan No. F20240100 (“FFCP”) shows approximately 6.64 acres of existing forest on the Property. An intermittent stream is located just offsite and parallels the western Property line. A portion of this intermittent stream extends onto the Subject Property in the northwest quadrant of the site. The Subject Property has an afforestation requirement of 1.32 acres. The Applicant will satisfy this requirement by providing 1.32 acres of reforestation plantings on the Subject Property and placing it within a Category I Conservation Easement. A full analysis is provided in Section 6 of this Staff Report.

SECTION 4: COMMUNITY OUTREACH

A pre-submittal community meeting is not required for an Administrative Subdivision Plan. However, applicants must post signs on the development site and provide written public notice. A notice of the Application was sent to all required parties by the Applicant on October 7, 2023. The notice gave the interested parties 15 days to review and comment on the contents of the Application.

As of date of this Staff Report, no correspondence has been received.

SECTION 5: ADMINISTRATIVE SUBDIVISION PLAN 620240040 FINDINGS AND ANALYSIS

APPLICABILITY, SECTION 50.6.1 OF THE SUBDIVISION ORDINANCE

The Administrative Subdivision Plan meets all applicable sections of the Subdivision Regulations. Administrative Subdivisions are typically acted on by the Director, however, approval of flag lots requires Planning Board action.

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 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;*

Highland Farm Road is a Neighborhood Residential Street with a total right-of-way measuring 60 feet, which meets the minimum required 60 feet, per Chapter 49 of the County Code. A 10-foot-wide public utility easement (P.U.E.) is proposed along all frontages of proposed Lots A-C. The existing right-of-way width of Highland Farm Road is 60 feet as recorded in the Montgomery County Land records by Record Plat Nos. 15106, 15107 and 15112. No additional right-of-way dedication is necessary as part of this Application. 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, as discussed in Findings Section below.

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, the Forest Conservation Plan complies with the requirements of the Forest Conservation Law. The Subject Property has a reforestation requirement of 1.32 acres which will be met on-site and protected with a Category I Conservation Easement.

MCDPS, Stormwater Management Section issued a Stormwater Management Concept plan waiver dated August 8, 2023 (Attachment I). As discussed in the Findings Section below, Stormwater Management requirements for this Application have been met.

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 three proposed lots, in one block, as dimensioned and laid out on the Administrative Subdivision Plan, are appropriate for the existing and proposed detached dwelling units, considering the recommendations of the 2002 *Potomac Subregion Master Plan* and the applicable requirements of Chapter 59. The dimensions of the lots are adequate to accommodate the proposed buildings and other infrastructure deemed necessary to serve the lots, including but not limited to accessory structures, forest conservation, stormwater management, parking, utilities, and driveways.

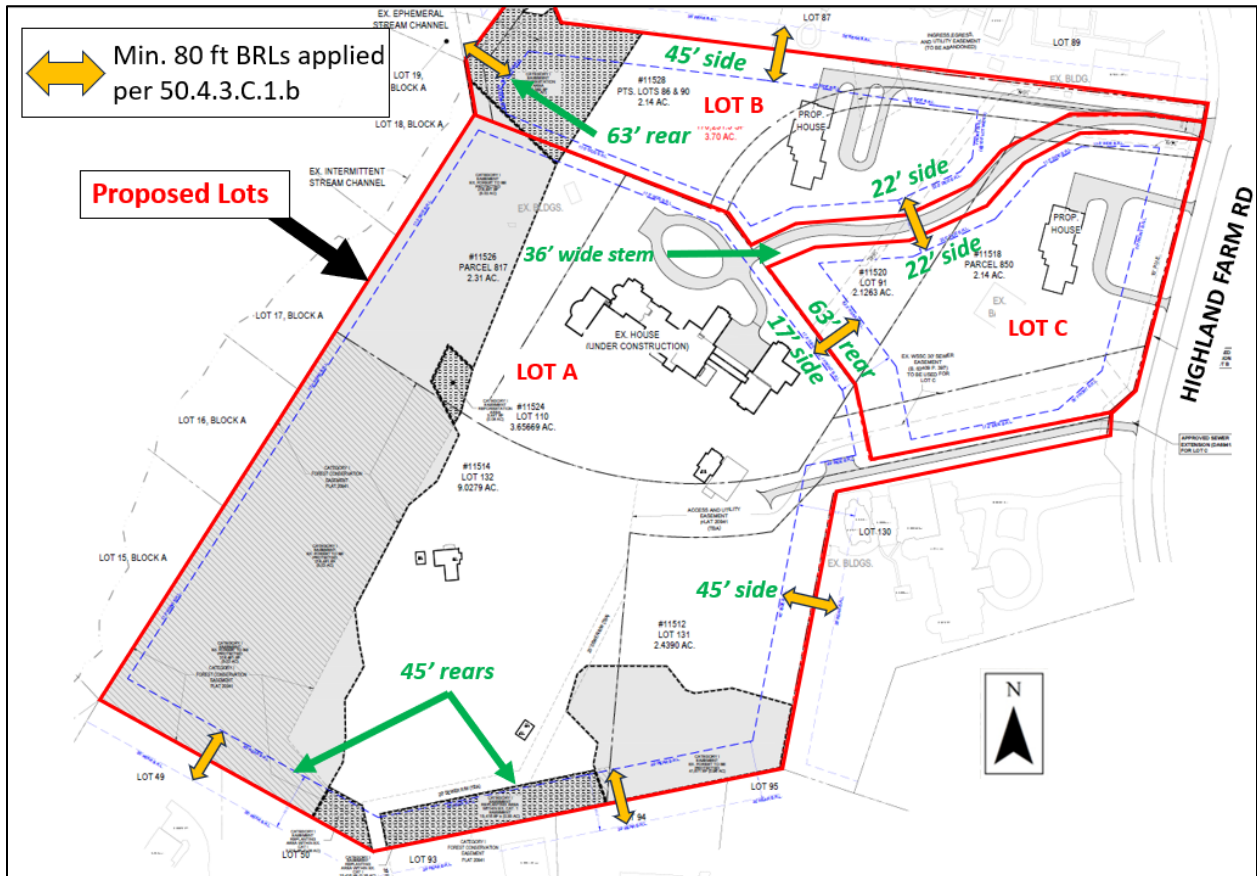


Figure 5 – Composite Administrative Subdivision Plan (BRL's shown in blue dashed lines). See Attachment J for enlarged exhibit.

Creation of Flag Lots

Pursuant to Chapter 50, Section 6.3.B.5, the Planning Board must review this Application because proposed Lots A and B are flag lots.

Section 4.3.C.1.b. of the Subdivision Regulations states that the Planning Board must not approve flag lots, except where unusual topography, environmental conditions, or the position of the tract in relation to the surrounding properties and right-of-way permit no other feasible way to subdivide and the Board determines that the appropriate separation between building envelopes can be achieved.

In this case, the creation of flag lots is acceptable, considering the shape of the Property, the location of the existing house and adjacent slopes. The existing tract is irregularly shaped with two existing pipestems leading to Highland Farm Road, which makes it infeasible to avoid the creation of flag lots (or lots without frontage) when subdividing.

In addition, the following provisions apply per Section 50.4.3.C.1.b:

- 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;
- 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; and
- iii. all building restriction lines must be shown on the plat.

Consistent with the flag lot requirements, the Applicant has demonstrated (See Figure 5 and Attachment J) that the proposed lots can accommodate the minimum of 80 feet of separation between the building envelope of the proposed flags lots and the building envelopes of the lots that are adjacent to the rear lot line of the proposed flag lot. Taking into consideration the standard RE-2 setbacks (35-foot rear setback and 17 foot/35 foot combined side setback) of the adjacent lots, additional setbacks are provided on the Subject Property to provide a cumulative setback of 80 feet between building envelopes. All other setbacks are the minimum required in the RE-2 zone.

In relation to the surrounding property (shown in more detail in Attachment J), Lot A will have 45-foot rear BRLs from Lots 49-50 and Lots 93-95, a 45-foot side BRL from Lot 130 and a 17-foot side setback from proposed Lot C. Lot B will have a 63-foot rear BRL from Lot 18-19, a 45-foot side BRL from PT.86, Lot 87 and 89 and a 22-foot side BRL from the pipestem of Lot A. Lot C will have a 63-foot rear BRL from Lot A and a 22-foot side BRL from the pipestem of Lot A.

As conditioned, the building envelopes of all lots that are between the proposed flag lot and the road on which it fronts will also accommodate the 80-foot separation. As conditioned, all building restriction lines must be shown on the plat.

a) The Lot(s) and Use comply with the basic requirements of Chapter 59

As reflected in Table 1, the proposed lots conform to the dimensional standards of the RE-2 zone, taking into consideration the expanded building restriction lines (BRLs) required for flag lots. A summary of this review is included below in the Administrative Subdivision Plan Data Table.

Table 1 – Administrative Subdivision Plan Data Table (RE-2 zone)

Development Standards	Required/ Permitted	Proposed Lot A	Proposed Lot B	Proposed Lot C
Minimum lot size	2 acres	16.58 acres	3.91 acres	3.70 acres
Min. lot width at front building line	150 ft.	150 ft.	150 ft.	150 ft.
Min. lot width at front lot line	25 ft.	25 ft.	25 ft.	25 ft.
Min. Front setbacks (Principal Blg.)	50 ft.	50 ft.	50 ft.	50 ft.
Min. Side setbacks (Principal Blg.)	17 ft./35 ft. sum	17 ft. and 45 ft. BRLs**/35 ft. sum	17 ft., 22 ft. and 45 ft. BRLs**/35 ft. sum	17 ft. and 22 ft. BRLs**/35 ft. sum
Min. Rear setbacks (Principal Blg.)	35 ft.	45 ft. **BRL	63 ft. BRLs**	63 ft BRL **
Max Lot Coverage	25%	25%	25%	25%
Max Building Height (Principal and Accessory)	50 ft.	50 ft.	50 ft.	50 ft.

** See Administrative Subdivision Plan for additional BRLs established to provide a minimum of 80 feet of separation, as required per Section 50.4.3.C.b.

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

2002 Potomac Subregion Master Plan

The Subject Property is located in the *Potomac Subregion Master Plan*, within the Travilah community area as shown on page 5 of the Master Plan.

1) Land Use

The Master Plan includes general recommendations for the Travilah area but does not make specific recommendations for the Subject Property. According to the Master Plan, the Travilah community:

[...] is a low-density area that acts as a transition from the higher density of Potomac and North Potomac to lower-densities in Darnestown and the natural environment of the Potomac River. This community is under intense development pressure and contains natural features of County and State significance [...] Travilah is a more rural portion of the Subregion, and the area's dependence on septic systems has ensured low-density residential neighborhoods...The area is dominated by low-density, single-family detached residential development in the R-200, RE-1, RE-2, and RE-2C Zones. (p.80)

Subdivision of the Property into lots for single-family residential, under the RE-2 standard method is consistent with the Master Plan and maintains low density on the Property.

As envisioned by the Master Plan, the Application proposes to develop the Property with single-family residential units, under the RE-2 standard method of development. The Application maintains the existing low density; a density below the maximum permitted in the RE-2 Zone (i.e., 3 lots instead of 12 lots). The proposed development limits the impact to the natural environment and preserves the stream buffer and forest by locating the new housing on the existing open area of the Property, outside of the stream buffer and existing forested area.

The Property is located in the Watts Branch Watershed. For this watershed, the Master Plan states:

Watts Branch has the highest concentration of unique environmental features in the Subregion. Although Watts Branch watershed has its headwaters outside the Subregion, it has three significant tributaries-Piney Branch, Greenbriar Branch, and Sandy Branch-that are largely, highly sensitive, and whose headwater lie entirely within the Subregion. Water quality in Watts Branch is generally fair with the exception of two subsheds in Piney Branch and Lower Sandy Branch which have good water quality. A serpentine outcrop supports a delicate hydrology and unique botanical community. The lower

mainstem has rich species diversity and extremely steep slopes to the Potomac River.
(p.16)

Given the environmental constraints on the Property, the location of the lots shown on the proposed Application shows the ideal lot layout that utilizes existing unforested portions of the Property, outside of the environmentally sensitive areas. The subdivision of the Property using the RE-2 standard method is consistent with the Master Plan.

2) Environment

Protection of existing forest stands, and tree canopy is a primary goal of the 2002 *Potomac Subregion Master Plan*. Configuration of the proposed subdivision to create three (3) lots ranging in size from 3.70 acres up to 16.58 acres allows for the retention of 5.98 acres of forest and creation of 1.32 acres of additional forest, thereby protecting existing forest stands and increasing the forest canopy within the Master Plan area.

3) Transportation

The 2002 *Potomac Subregion Master Plan* recommends the preservation of the Subregion's existing rural character by establishing a two-lane road policy and a rustic road program, while calling for efforts to create a comprehensive transportation system that can serve residential centers and preserve the Subregion's physical character. The Master Plan did not make any recommendations for Highland Farm Road.

As discussed above, the Application substantially conforms to the applicable Master Plan recommendations.

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

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 in the Rural West Policy Area, which is categorized as a Green Policy Area under the 2020 – 2024 Growth and Infrastructure Policy ("GIP"). As demonstrated and explained below in *Table 2, Net New Persons Trips*, 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.

a) Roads and other Transportation Facilities

i. Existing Facilities

The Subject Property contains frontage on one public road – Highland Farm Road. Highland Farm Road is not classified in the *Master Plan of Highways and Transitways*, but it is built to the specifications of a Neighborhood Residential Street. Per Chapter 49, Section 32, Neighborhood Residential Streets require 60 feet of right-of-way. As shown on Record Plat No. 20941, the existing right-of-way on Highland Farm Road is 60 feet. No additional dedication is required as part of this Application.

Highland Farm Road does not contain any pedestrian or bicyclist facilities. Currently, Highland Farm Road is intersected by Highland Farm Court and Deercrest Lane – both to the east.

ii. Proposed public transportation infrastructure

The 2021-2022 *Bicycle Master Plan* has no recommendation for Highland Farm Road. Additionally, Application is exempt from providing frontage improvements based on Section 49-33 of the County Code. Section 49-33(d)(A) states that residential properties of over 25,000 square feet within a rural Road Code area are exempt from providing sidewalks or master-planned bikeways. The Subject Property is in a rural Road Code Area and each lot is 3.7 acres (161,172 square feet) or larger.

No additional dedication is required, as Chapter 49-32 requires a right-of-way width of 60 feet – which is satisfied per Record Plat No. 20941. The Application has been reviewed by the MCDOT, who determined in its letter dated March 29, 2024, that the proposed driveways will have adequate sight distance on Highland Farm Road to serve the Subject Property. MCDOT also reviewed the Applicant’s storm drain study and determined that no improvements to the downstream public storm drain system are necessary for the Application (Attachment K). Street trees will be installed along the Property frontage; the location and quantity will be determined at the time of permit.

b) Local Area Transportation Review (LATR)

As part of this Application, the Applicant is proposing two new single-family homes. The Subject Property is located in the Rural West Policy Area, which is categorized as a Green Policy Area under the *2020-2024 Growth and Infrastructure Policy (GIP)*. As demonstrated in the Applicant's traffic statement, dated April 22, 2024, a traffic study is not required for the Administrative Subdivision to satisfy the LATR requirement. The

estimated number of peak hour person trips generated by a total of three (3) single-family dwelling units is three (3) in the morning and five (5) in the evening (see Table 2 below, provided by MNCPPC staff).

Table 2 – Net New Persons Trips

Land Use	ITE Rates		Adjusted Rates		Person Trips	
	AM	PM	AM	PM	AM	PM
Existing: 1 Single-Family Dwelling Unit	1	1	1	1	2	2
Proposed: 3 Single-Family Dwelling Units	2	3	2	3	3	5
Net New					1	3

The proposed development will generate a maximum of one (1) net-new person trip during the AM peak-hour period and three (3) net-new person trips during the PM peak-hour period (see Table 2 above). As this is below the 50-person threshold to trigger a full-scale transportation study, the Application is not subject to additional LATR and is exempt from completing a further transportation adequacy analysis.

c) Schools

The Subject Property is located at 11528 Highland Farm Road and is proposing two new single-family homes. The Application will go before the Planning Board on May 23, 2024, therefore the FY24 Annual School Test, approved by the Planning Board on June 22, 2023 and effective July 1, 2023 is applicable to this Application.

School Adequacy Test

The Property is served by Potomac ES, Herbert Hoover MS and Winston Churchill HS. Based on the FY24 Annual School Test results, the student enrollment and capacity projections for these schools are noted in Table 3:

Table 3 – FY2024 Annual School Test Projections (2027-2028 School Year)

	Program Capacity	Enrollment	%Utilization	Surplus/ Deficit
Potomac ES	479	413	86.2%	+66
Herbert Hoover MS	1,139	1,017	89.3%	+122
Winston Churchill HS	1,991	2,129	106.9%	-138

Table 4 – FY2024 School Test Results

	Adequacy Status	Tier 1 Adequacy Ceiling	Tier 2 Adequacy Ceiling	Tier 3 Adequacy Ceiling
Potomac ES	No UPP	151	168	234
Herbert Hoover MS	No UPP	248	350	521
Winston Churchill HS	No UPP	42	261	559

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. If the application is estimated to generate more students than the identified ceilings, then additional UPPs or partial payments at multiple tiers may still be required. Under the FY24 Annual School Test, Potomac ES, Herbert Hoover MS and Winston Churchill HS do not require any UPP as identified in Table 4.

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.

d) Other Public Facilities and Services

As noted above, the Property is served by public water and sewer and is classified in the W-1 and S-3 categories. The use of public (community) water service for this Property is consistent with the existing W-1 water category designated for this site. The use of public (community) sewer service for this Application is consistent with the existing S-1 and S-3 sewer categories designated for this site. The Hydraulic Planning Analysis Letter of Findings for this Property is DA63941Z20 and it was approved 4/24/2020. As shown on the utility plan (Attachment L), the Applicant will extend individual water lines from an 8-inch water main within the Highland Farm right-of-way, which is available to serve the proposed lots. The existing sewer line in the Highland Farm right-of-way will be extended to serve Lot B and C (project number DA6941A20). Lot C will connect to an existing 8” sewer line within an existing sewer easement at the southern edge of the Property. Once constructed, public water and sewer mains 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.

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

The Preliminary/Final Forest Conservation Plan satisfies all of the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department’s Environmental Guidelines. Please refer to Section 6 below for the analysis and findings for the Preliminary/Final Forest Conservation Plan.

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

The Application received approval of a Stormwater Management Concept Plan waiver from the MCDPS, August 8, 2023, per Chapter 19 of the County Code (Attachment I). The house on proposed Lot A (under construction) is being developed under an existing Sediment Control Plan (No. 288148). The design of the stormwater management facilities for the houses on Lot B and C will be determined at building permit. There are no additional environmental protection requirements to be met at this time.

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.

There are no known burial sites on the Property and it is not included in the Inventory.

**SECTION 6: PRELIMINARY/FINAL FOREST CONSERVATION PLAN NO. F20240100
FINDINGS AND ANALYSIS**

The Property is subject to the Montgomery County Forest Conservation Law, Chapter 22A of the County Code (“FCL”) and requires a Forest Conservation Plan. Included with the FFCP is a request for a tree variance for impacts and removal of trees protected under Sec. 22A-12(b)(3) of the Chapter 22A. The FFCP complies with the Montgomery County Environmental Guidelines and the Forest Conservation Law, as conditioned in the Staff Report and described below.

FOREST CONSERVATION

Natural Resource Inventory/Forest Stand Delineation Plan

The Natural Resource Inventory/Forest Stand Delineation (“NRI/FSD”) 420231760 for this Property was approved on July 26, 2023. The NRI/FSD identifies the environmental features and forest resources on the Subject Property. The Subject Property is comprised of two lots, two parts of lots and four parcels totaling 13.56 acres. The Subject Property is located within the Watts Branch watershed and classified as a Use Class I-P watershed by the State of Maryland. The NRI/FSD identified approximately 1.39 acres of forest on the Subject Property. The site contains 32 specimen trees and numerous significant trees. There is also an intermittent stream off-site to the west which parallels the western property line and is immediately adjacent to the Subject Property with a small portion extending onto the Property. The stream valley buffer extends onto the Subject Property.

Forest Conservation Plan

The Applicant has submitted a Preliminary/Final Forest Conservation Plan No. F20240400 (“FFCP”) (Attachment M) for concurrent review with the Administrative Subdivision Plan No. 620240040. 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 Cluster Medium Density Residential (“MDR”) as defined in Section 22A-3 of the FCL and in the Land Use Table of the Trees Technical Manual. This results in an afforestation threshold of 20% and a conservation threshold of 35% of the Net Tract Area.

The Net Tract Area for forest conservation purposes includes the 24.14-acre Total Tract Area plus 0.20 acres of offsite disturbance associated with this Application, for a total Net Tract area of 24.34 acres. This net tract area differs from the NRI/FSD acreage 13.56 acres and the amount of onsite forest increased from 1.39 acres to 6.64 acres. These differences between the NRI/FSD and the FFCP occurred because at the time of FFCP submittal an additional 10.58 acres was added to the Subject Property. Although a new NRI/FSD was not required at that time, the environmental information was updated with the FFCP. The Property contains approximately 2.24 acres of stream valley buffer of which 1.61 acres is forested and 0.63 acres will be planted with new forest.

There is a total of 6.64 acres of existing forest on the Subject Property. The Applicant is proposing to remove 0.66 acres and retain 5.98 acres of forest resulting in a total afforestation/reforestation requirement of 1.32 acres within the same watershed or Priority Area or 1.65 acres outside of the same watershed or Priority Area. A portion of the retained forest is within an existing Category I Conservation Easement as shown on Plat 20941 recorded on December 21, 1998. There is a mix of both existing and proposed Category I Conservation Easements on the Subject Property (Figure 6) which are all being used to meet the requirements of the FCL. Even though the calculated

reforestation requirement is 1.32 acres, the Applicant proposes to meet the planting requirement onsite by planting 1.33 acres of reforestation. All planted and retained forest will be placed into Category I Conservation Easements resulting in a total of 7.31 acres of forest retained or planted and also protected (Figure 7).

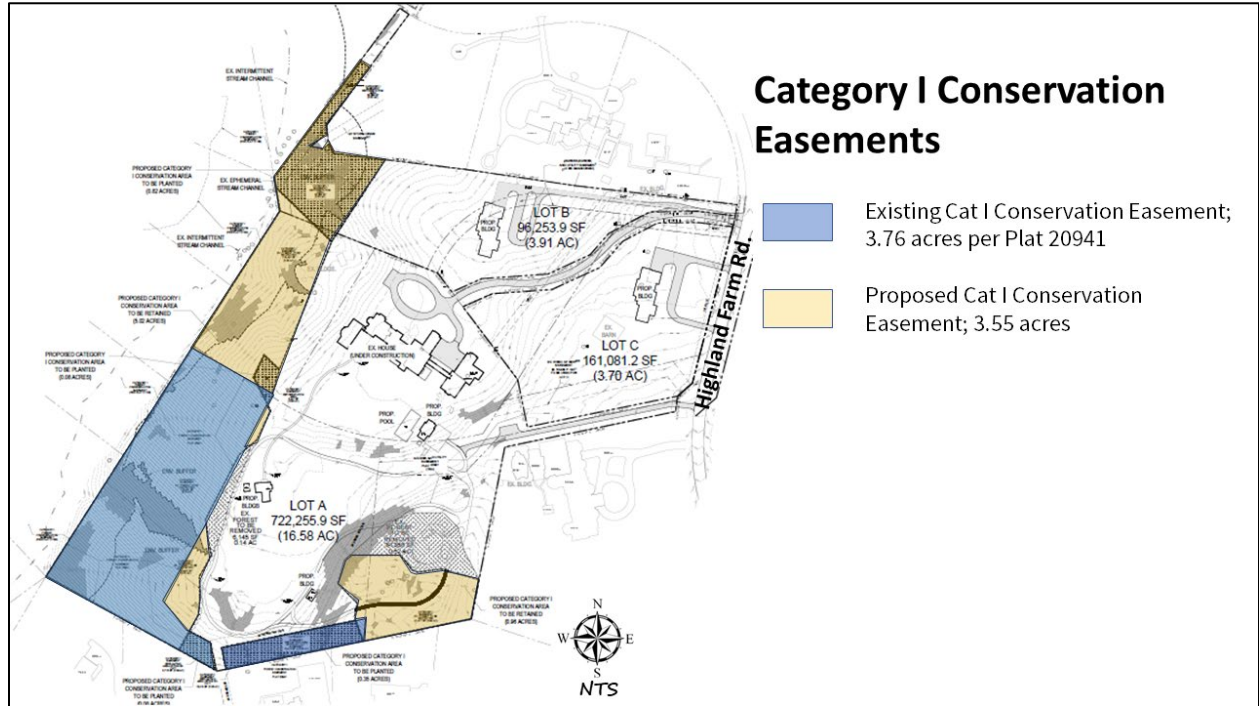


Figure 6 – Existing and Proposed Category I Conservation Easements

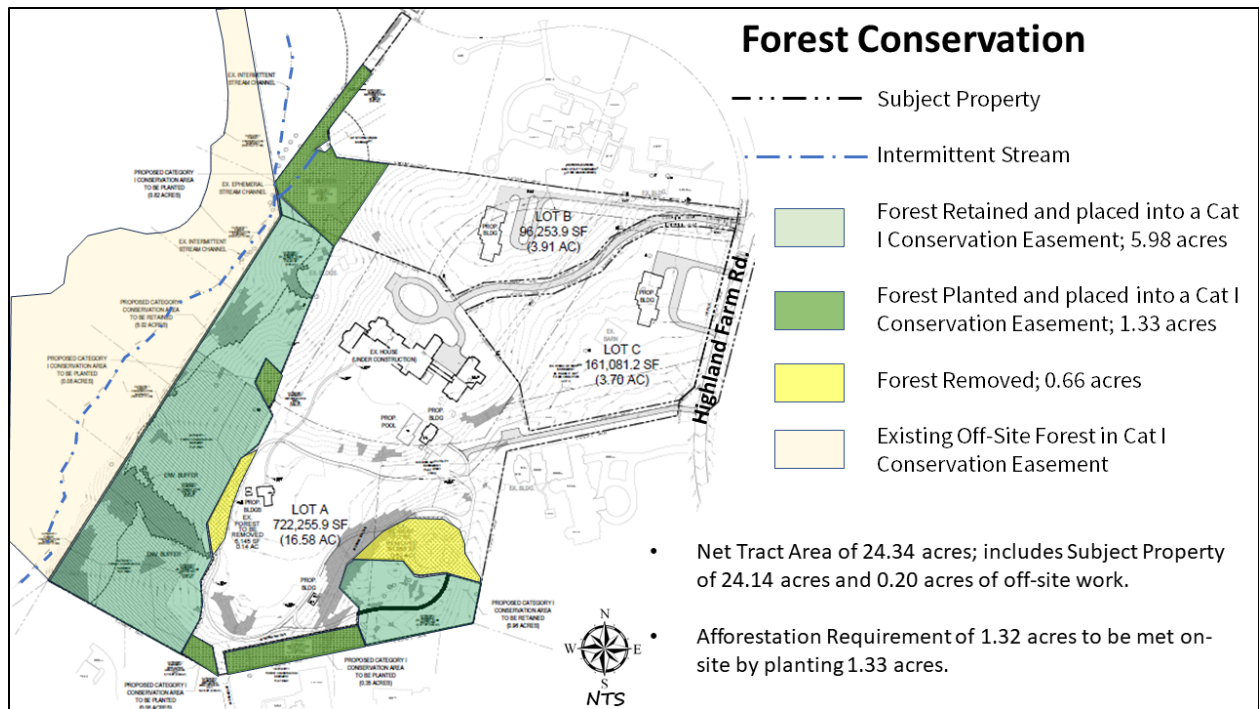


Figure 7 – Forest Conservation Plan

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.

Variance Request

The Applicant submitted a variance request in a letter dated February 28, 2024 (Attachment N). In the request, the Applicant proposes to impact eleven (11) trees and remove seven (7) 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 (Tables 5 and 6).

Table 5 – Protected Trees to be Impacted

Impacted Trees Table						
Tree Number	Botanical Name	Common Name	Size DBH	Tree Condition	% CRZ Impacted	Status
15	<i>Acer rubrum</i>	Red Maple	40"	Good	1.8%	Retain; minimal impacts only
17	<i>Liriodendron tulipifera</i>	Tulip Poplar	42"	Good	38.5%	Retain; impacts only
37	<i>Betula nigra</i>	River Birch	34.5"	Fair	28.9%	Retain; impacts only
246	<i>Fagus grandifolia</i>	American Beech	34.5"	Good	5.8%	Retain; minimal impacts only
270	<i>Liriodendron tulipifera</i>	Tulip Poplar	34.6"	Good	16.8%	Retain; impacts only
275	<i>Platanus occidentalis</i>	American Sycamore (twin)	32.5" and 15.4"	Fair	21.7%	Retain; impacts only
277	<i>Liriodendron tulipifera</i>	Tulip Poplar	38"	Good	6.9%	Retain; minimal impacts only
278	<i>Liriodendron tulipifera</i>	Tulip Poplar	33.2"	Good	2.3%	Retain; minimal impacts only
279	<i>Liriodendron tulipifera</i>	Tulip Poplar	34.5"	Fair	4.1%	Retain; minimal impacts only
280	<i>Liriodendron tulipifera</i>	Tulip Poplar	48"	Fair	32.5%	Retain; impacts only
393-A	<i>Acer rubrum</i>	Red Maple (twin)	42.5" and 32.9"	Poor	11.8%	Retain; impacts only

Table 6 – Protected Trees to be Removed

Removed Trees Table					
Tree Number	Botanical Name	Common Name	Size DBH	Tree Condition	% CRZ Impacted
7	<i>Acer rubrum</i>	Red Maple	30"	Good	100%
39	<i>Pinus strobus</i>	White Pine	32"	Fair	100%
69	<i>Juglans Nigra</i>	Black Walnut	38"	Very Poor	100%
362	<i>Platanus occidentalis</i>	American Sycamore	35.1"	Good	100%
364	<i>Acer saccharinum</i>	Silver Maple	37.7"	Poor	100%

375	<i>Acer rubrum</i>	Red Maple	39.8"	Good	100%
385	<i>Acer rubrum</i>	Red Maple	35.1"	Good	100%

Unwarranted Hardship Basis

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 unwarranted hardship, denying the Applicant reasonable and significant use of the Property for three homes. The Subject Property is 24.14 acres located in the RE-2 zone. A reasonable and significant use of the Property is the ability to subdivide the Property into three residential lots pending compliance with all other applicable laws and ordinances. In this case, the unwarranted hardship is caused by the combination of the necessary layout of the proposed subdivision on the Subject Property, which is dictated by the irregularly shaped property, existing site conditions, development requirements for the Property such as grading, drainage and layout combined with the location of the Protected Trees.

The proposed lot layout (Figure 8) shows there are 11 Protected Trees to be impacted and 7 proposed to be removed. Of the seven trees to be removed, six of these trees, Trees 7, 69, 362, 364, 375 and 385 are located within the proposed development area within the LOD and are heavily impacted by site grading, construction and utility installation. One of the Protected Trees to be removed, Tree 39, is located just outside of the LOD, but is severely impacted by site grading and utility installation which removes up to 75% of the tree's CRZ and up to 50% of the tree's structural roots, so it is only prudent to remove the tree at this time. The 11 trees to be impacted are all located outside, but in proximity of the LOD and all 11 are proposed to be retained.

The initial submittal of the FFCP proposed the removal of the majority of 1.07 acres of the 1.48 acre forest stand on Proposed Lot A along with five Protected Trees located within the forest stand. In working with Staff, the Applicant was able to re-orient the proposed constructed facilities within this area and thereby reduce the amount of forest removed to 0.52 acres and more importantly to retain the five Protected Trees that had been shown to be removed.

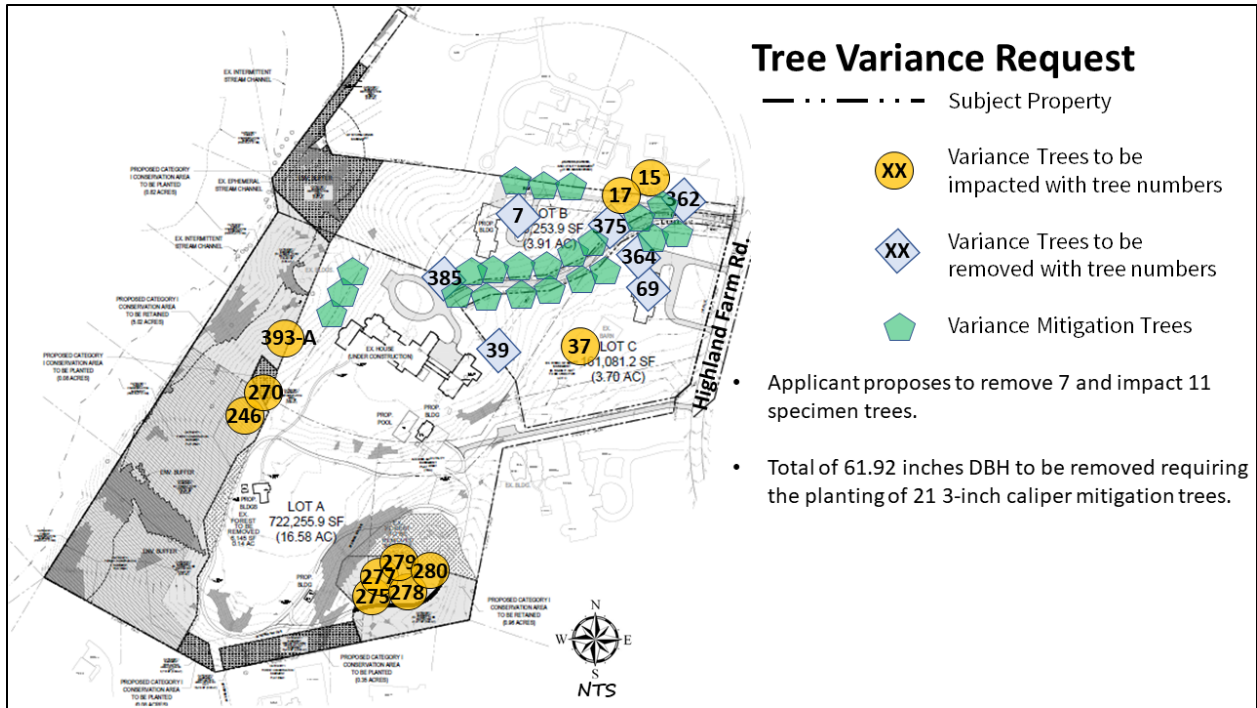


Figure 8 – Variance Trees

The inability to impact or remove these Protected Trees would prevent the reasonable and significant use of this Property. Given that this site contains a large number of Protected Trees that are generally scattered throughout the site, it would not be feasible to develop this Property and not impact or remove Protected Trees in some manner. However, the number of Protected Trees being impacted and removed has been minimized to the most practical extent possible by this Application with the re-configuration of the proposed development layout on Lot A.

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

Variance Findings

The following determinations are based on the required findings for granting of the requested variance:

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

Granting the variance will not confer a special privilege on the Applicant as the impacts to the 11 trees and the removal of 7 trees are due to the development of the Property, location of the trees in proximity to the limits-of-disturbance (“LOD”) and necessary site design requirements for this residential development. Granting a variance to allow disturbance within the developable portion of the site is not unique to this Applicant. Therefore, granting of this variance is not a special privilege that granted only this Applicant and 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 upon the existing site conditions, development standards of the zone, and necessary design requirements of this Application.

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

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

- 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 impacted are not located within a stream buffer, wetland or Special Protection Area. Trees being removed are not located within a stream buffer, wetland or Special Protection Area. The Application proposes mitigation for the removal of these three trees by planting larger caliper trees on-site. The trees being impacted are fully expected to recover and to continue providing the ecological and water quality functions that may be initially reduced by the impacts of the Protected Trees. Therefore, the Application will not violate State water quality standards or cause measurable degradation in water quality.

Mitigation for Trees Subject to the Variance Provisions

There are 7 Protected Trees proposed for removal in this variance request, resulting in a total of 247.7 inches of DBH being removed. The Applicant proposes 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 four inches removed using trees that are a minimum of three caliper inches in size. This results in a total mitigation of 61.92 inches with the installation of 21 3-inch caliper overstory trees native to the Piedmont Region of Maryland on the Property outside of any rights-of-way and outside of any utility easements.

Although these trees will not be as large as the trees lost, they will be planted on the Subject Property and provide some immediate benefit, ultimately replacing the canopy lost by the removal of these trees. There is some disturbance within the CRZ of 11 trees; however, they will receive adequate tree protection measures, their roots will regenerate, and the functions they currently provide will continue. Therefore, no mitigation is recommended for trees that are impacted but retained. As conditioned, the mitigation trees will be protected as part of a 5-year maintenance and management agreement.

Recommendation on the Variance

Staff recommends approval of the variance request.

SECTION 7: 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 lot(s), and the Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan.

The Preliminary/Final Forest Conservation Plan satisfies all of the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A and is in compliance with the Montgomery County Planning Department's Environmental Guidelines. Therefore, as conditioned, Staff recommends approval of the Preliminary/Final Forest Conservation Plan No. F20240100 with the conditions as specified at the beginning of this report.

ATTACHMENTS

Attachment A: Administrative Subdivision Plan

Attachment A: Preliminary Plan No. 119830450

Attachment B: Record Plat 15208

Attachment C: Record plat 15375

Attachment D-F: Preliminary Plan No. 119981050 (Opinion, Plan and Record Plat)

Attachment G: Administrative Subdivision Plan

Attachment H: Forest Conservation Plan and Variance Letter

Attachment I: Stormwater Waiver Letter

Attachment J: Flag Lot BRL exhibit

Attachment K: MCDOT Letter

Attachment L: Utility Plan