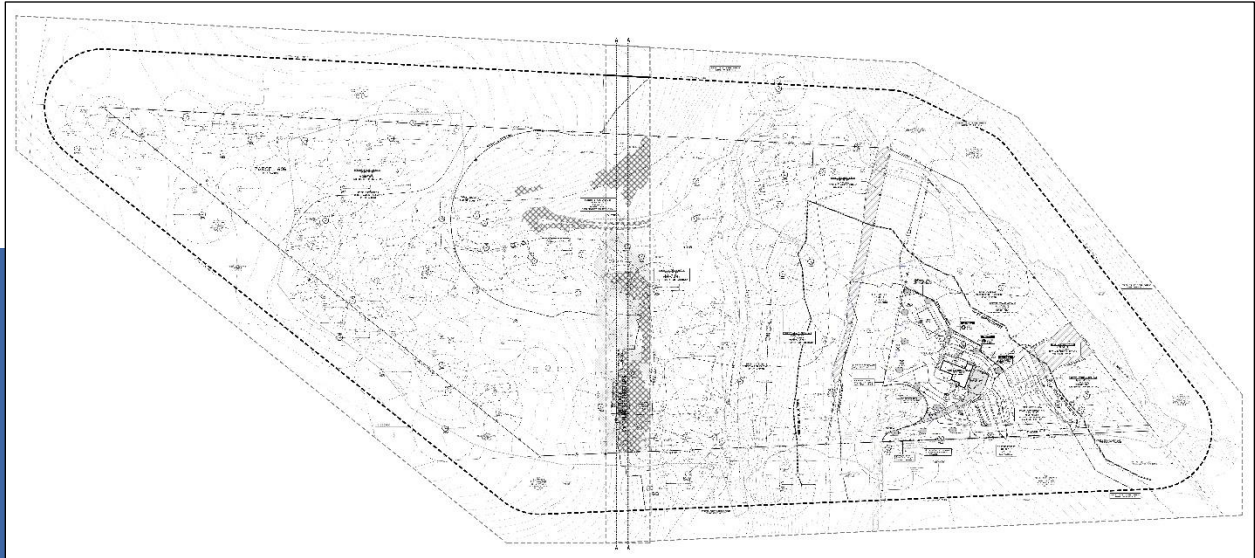


**RICH MEADOWS, PARCEL 606, ADMINISTRATIVE SUBDIVISION
PLAN NO. 620240010 & FINAL FOREST CONSERVATION PLAN
NO. F20240060**



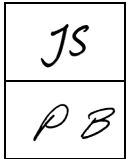
Application to create one (1) lot for one (1) single-family detached dwelling unit.

COMPLETED: 12/6/2024

PLANNING BOARD HEARING DATE: 12/19/2024

MCPB ITEM NO. 4

Planning Staff



Jeff Server, Planner III, Upcounty Division, jeffrey.server@montgomeryplanning.org, 301-495-4513

Patrick Butler, Chief, Upcounty Division, patrick.butler@montgomeryplanning.org, 301-495-4561

LOCATION/ADDRESS

13635 Darnestown Road, approximately 2,000 feet NW of Masonwood Drive

MASTER PLAN

2002 *Potomac Subregion Master Plan*

ZONE

RC Zone

PROPERTY SIZE

15.17 acres

APPLICANT

Kent Murphy

ACCEPTANCE DATE

November 1, 2023

REVIEW BASIS

Chapters 50, 59, and 22A

Summary:

- Staff recommends **approval** with conditions of the Administrative Subdivision Plan and the Final Forest Conservation Plan.
- Staff supports the proposed subdivision layout to create one (1) lot for one (1) new single-family detached dwelling unit.
- The Application meets the applicability requirements for an Administrative Subdivision Plan to create one (1) lot for one (1) new single-family detached dwelling unit.
- Although this Application is an Administrative Subdivision Plan, typically acted on by the Planning Director, the Application requires Planning Board action because it proposes the creation of a lot without frontage as per Section 50.6.3.B.5.b.
- 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.
- Staff has received one community correspondence letter on this application with concerns from a neighboring resident.

TABLE OF CONTENTS

SECTION 1: RECOMMENDATIONS AND CONDITIONS	3
ADMINISTRATIVE SUBDIVISION PLAN No. 620240010.....	3
FINAL FOREST CONSERVATION PLAN No. F20240060	5
SECTION 2: SITE DESCRIPTION.....	7
VICINITY.....	7
PROPERTY DESCRIPTION.....	8
SECTION 3: PROJECT DESCRIPTION.....	9
PREVIOUS APPROVALS.....	9
PROPOSAL.....	9
SECTION 4: COMMUNITY OUTREACH	11
SECTION 5: ADMINISTRATIVE SUBDIVISION PLAN 620240010 FINDINGS AND ANALYSIS	12
APPLICABILITY, SECTION 50.6.1 OF THE SUBDIVISION ORDINANCE.....	12
FINDINGS REQUIRED BY SECTION 50.6.3.C, INCLUDING TECHNICAL REVIEW CRITERIA OF SECTION 50.4.3 OF THE SUBDIVISION ORDINANCE	13
SECTION 6: FINAL FOREST CONSERVATION PLAN F20240060 FINDINGS AND ANALYSIS	20
SECTION 7: CONCLUSION	23
ATTACHMENTS	24

SECTION 1: RECOMMENDATIONS AND CONDITIONS

ADMINISTRATIVE SUBDIVISION PLAN NO. 620240010

Staff recommends approval with conditions of the Administrative Subdivision Plan No. 620240010 to create one (1) lot for one (1) single-family detached dwelling unit. All site development elements shown on the latest electronic version of the Administrative Subdivision Plan No. 620240010 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 one (1) lot for one (1) single-family detached dwelling unit.

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 Permitting Services (“MCDPS”), Water Resources Section in its stormwater management concept letter dated September 26, 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 MCDPS – Water Resources Section if the amendment does not conflict with any other conditions of the Administrative Subdivision Plan approval.
5. The Planning Board has reviewed and accepts the recommendations of the Montgomery County Department of Permitting Services (“MCDPS”), Well and Septic Section in its letter dated October 25, 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 MCDPS – Well and Septic Section if the amendment does not conflict with any other conditions of the Administrative Subdivision Plan approval.

6. 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 December 10, 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.

RECORD PLATS

7. There shall be no clearing or grading of the site prior to recordation of plat.
8. The record plat must show necessary easements.
9. The record plat must reflect the following building restriction lines (“BRL”) as shown on the Administrative Subdivision Plan:
 - a) Proposed Lot A: A 35-foot rear BRL from Parcel C and Parcel D, a 20-foot side BRL from Lot 40, a 20-foot side BRL from Lot 27 and Lot 41, and a 20-foot side BRL from Parcel B and Parcel C.

CERTIFIED ADMINISTRATIVE SUBDIVISION PLAN

10. 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. 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.*
11. 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) Update the Administrative Subdivision Plan to match the Well and Septic Plan approved plan on October 25, 2024 for the stormwater setback requirements.

FINAL FOREST CONSERVATION PLAN NO. F20240060

Staff recommends approval with conditions of the Final Forest Conservation Plan No. F20240060 to create one (1) lot for one (1) single-family detached dwelling unit. All site development elements shown on the latest electronic version of the Final Forest Conservation Plan No. F20240060 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.

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 a Category I Conservation Easement over all areas of forest retention, forest planting and environmental buffers as specified on the approved Final Forest Conservation Plan. The Category I Conservation Easement must be in a form approved by the M-NCPPC Office of the General Counsel and must be recorded in the Montgomery County Land Records by deed. The Book/Page for the easement must be referenced on the record plat.
 - b) Install permanent conservation easement signage along the perimeter of the conservation easements as shown on the FCP, or as directed by the M-NCPPC Forest Conservation Inspection Staff.
 - c) Execute a five-year Maintenance and Management Agreement (“MMA”) in a form approved by the M-NCPPC Office of the General Counsel. The MMA is required for all forest planting areas, mitigation tree plantings, including variance tree mitigation plantings, and landscape plantings credited toward meeting the requirements of the FCP. The MMA includes invasive species management control measures as deemed necessary by the M-NCPPC Forest Conservation Inspection Staff.
 - d) Submit a cost estimate for the reforestation/afforestation and other FCP requirements, which includes but is not limited to trees and shrubs, variance mitigation trees, five years of maintenance including invasive species management controls, permanent easement posts and signage, natural surface trails, split rail fencing, mulching, staking, tree protection, and tree protection removal credited toward meeting the requirements as

shown on the FCP. This cost estimate must be reviewed and approved by the M-NCPPC Planning Department Inspection Staff prior to the submission of financial surety to determine the amount of the financial surety.

- e) Submit financial surety, in a form approved by the M-NCPPC Office of the General Counsel, to the M-NCPPC Planning Department Inspection Supervisor for the 0.29 acres of new forest planting mitigation trees and maintenance, including invasive species management controls, credited toward meeting the requirements of the FCP.
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 afforestation/reforestation plantings as shown on the approved FCP.
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 FCP. The variance tree mitigation plantings must be a minimum size of 3 caliper inches totaling 37.5 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.

SECTION 2: SITE DESCRIPTION

VICINITY

The Subject Property, Parcel 606, is located at 13635 Darnestown Road, approximately 2,000 feet northwest of Masonwood Drive (“Subject Property” or “Property”) (Figure 1). To the north is Great Seneca Creek and to the south is Darnestown Local Park and the Seneca Highlands neighborhood. To the west is St. Nicholas Episcopal Church and Seneca Academy Circle School. The Mitchells Range neighborhood is located to the east and northeast. Darnestown Road is to the south and curves to extend to the northwest and northeast.

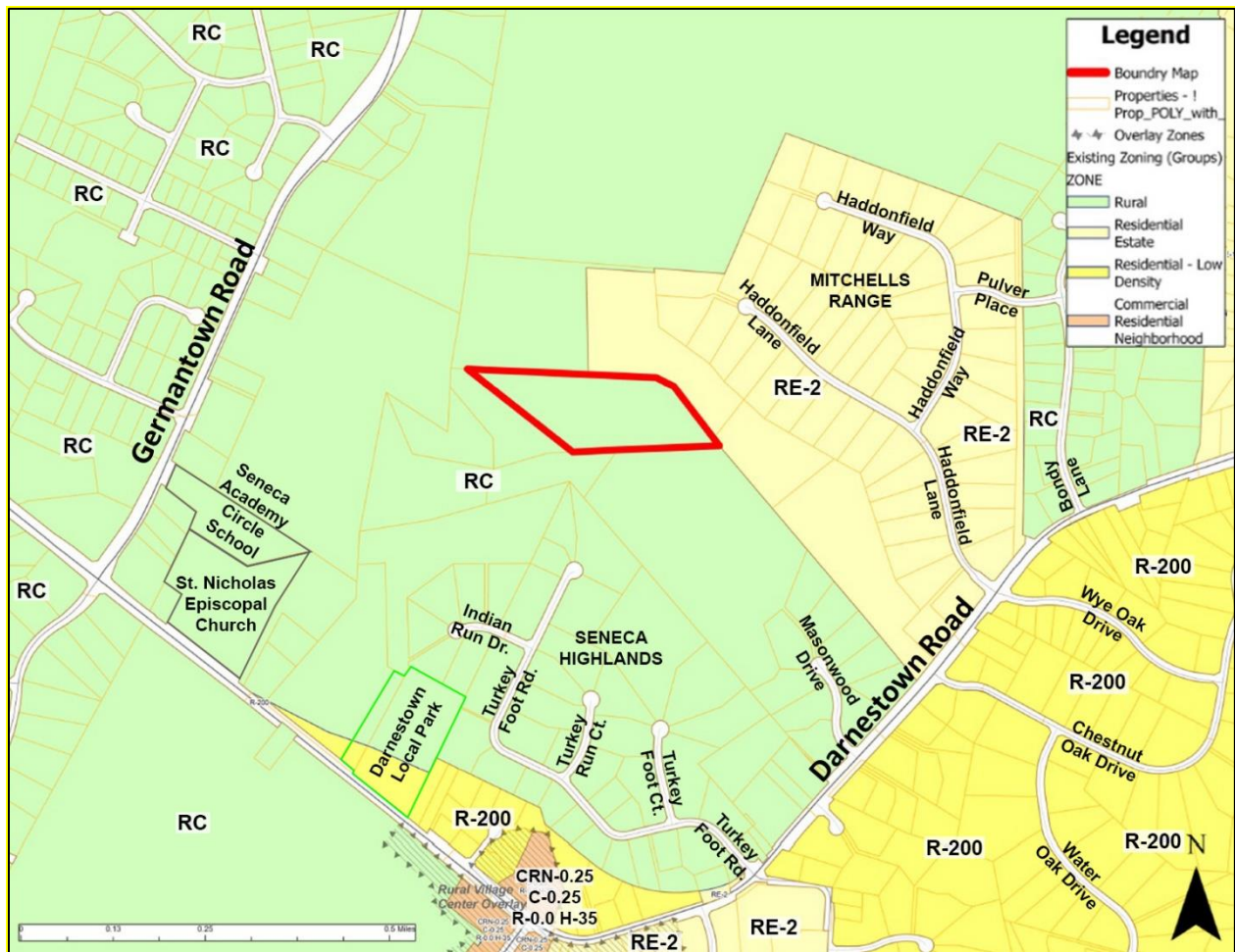


Figure 1 – Zoning Map

PROPERTY DESCRIPTION

The Subject Property or “Property” (Figure 2) is within the 2002 *Potomac Subregion Master Plan* (“Master Plan”) area. The Property consists of 15.17 acres of land zoned Residential Cluster (RC), located approximately 2,000 feet northwest of Masonwood Drive. There are approximately 13.24 acres of forest on the Subject Property, which includes multiple specimen trees and additional environmental features consisting of streams, floodplains, stream buffers, and steep slopes (Figure 2). The Property is bisected by a 75-foot-wide gas pipeline right-of-way and is wholly vacant and unimproved. The Subject Property does not have any right-of-way frontage but will be accessible via an existing gravel driveway and an existing 20-foot-wide ingress/egress easement recorded at Book 28575, Page 39. This easement parallels the Colonial pipeline right-of-way and extends from the Subject Property south to Darnestown Road (Figure 5). As depicted in Figure 1, the properties immediately surrounding the Subject Property to the north, west, and south are zoned RC, with RE-2 zoned properties located to the east and northeast. Surrounding properties vary in size, with comparably sized lots surrounding the Subject Property and smaller lots to the east.

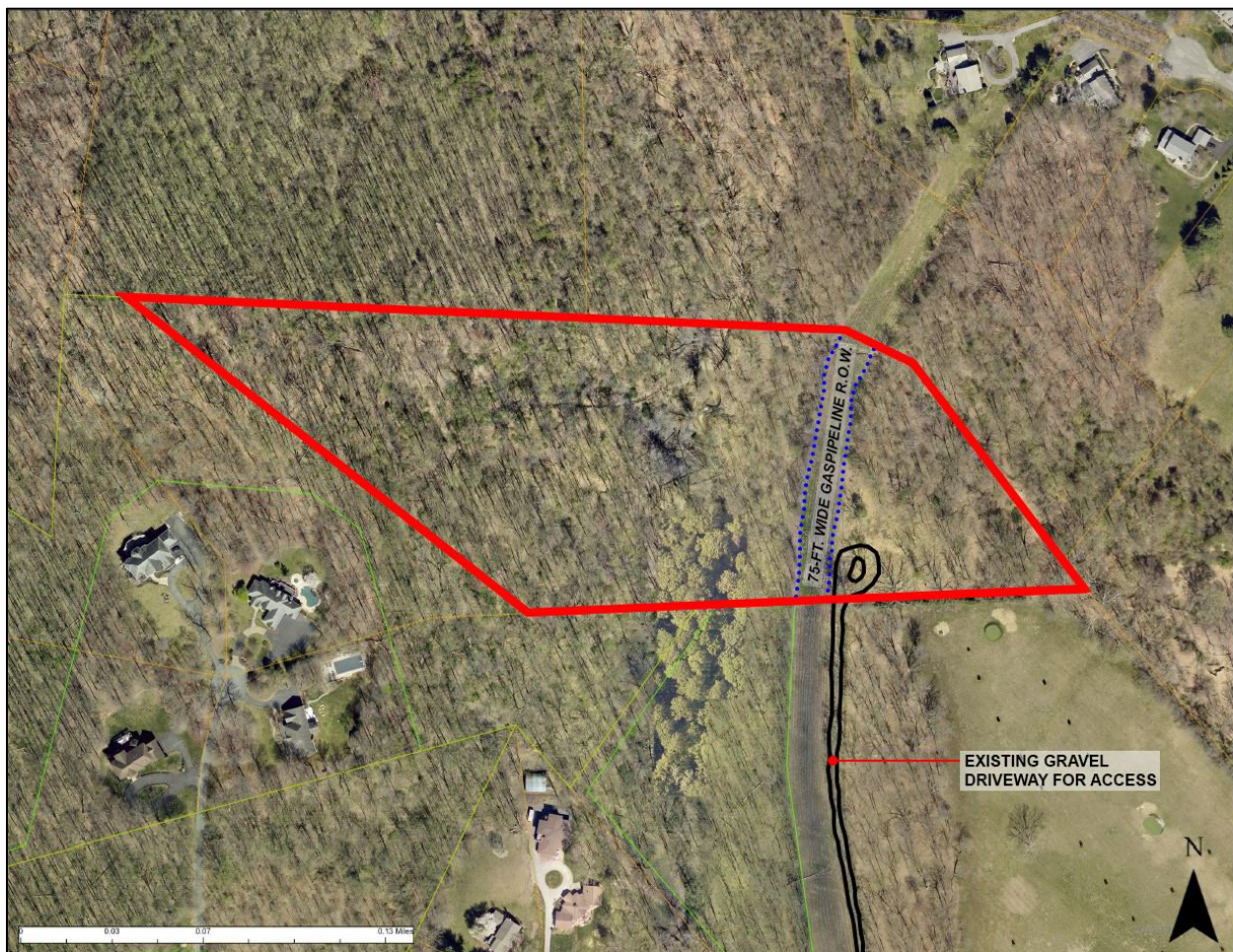


Figure 2 – Aerial View of Subject Property

SECTION 3: PROJECT DESCRIPTION

PREVIOUS APPROVALS

Preliminary Plan No. 120061190

On March 17, 2009, the Planning Board approved Preliminary Plan No. 120061190, Miller Property, to create three lots on 15.17 acres of land. On February 28, 2011, a Preliminary Plan Amendment was accepted for review but was subsequently withdrawn. A plat was never recorded.

PROPOSAL

The Applicant proposes to subdivide the property to create one (1) lot for one (1) single-family detached residence on Parcel 606 on 15.17 acres. The new residence will be located within the southeast portion of the Subject Property. The remaining acreage will be placed within a Category 1 Forest Conservation Easement. Access to the Subject Property will be accommodated by an existing ingress/egress easement, which includes an existing gravel driveway. The Applicant proposes to construct a new driveway, which would connect to the existing gravel driveway within the ingress/egress easement.

TRANSPORTATION

The Property does not front on a public roadway, and therefore is not required to participate in frontage improvements. All access to the Property will be served by the existing gravel driveway that connects to Darnestown Road (MD 28), an Area Connector, owned and maintained by the Maryland Department of Transportation State Highway Administration (MDOT SHA).

ENVIRONMENT

The Final Forest Conservation Plan No. F20240060 (“FFCP”) shows approximately 13.24 acres of existing forest on the Property. The site contains numerous specimen and significant trees. There are multiple streams onsite, floodplain, and Stream Valley Buffer. The Subject Property has no afforestation/reforestation requirement. A full analysis is provided in Section 6 below.

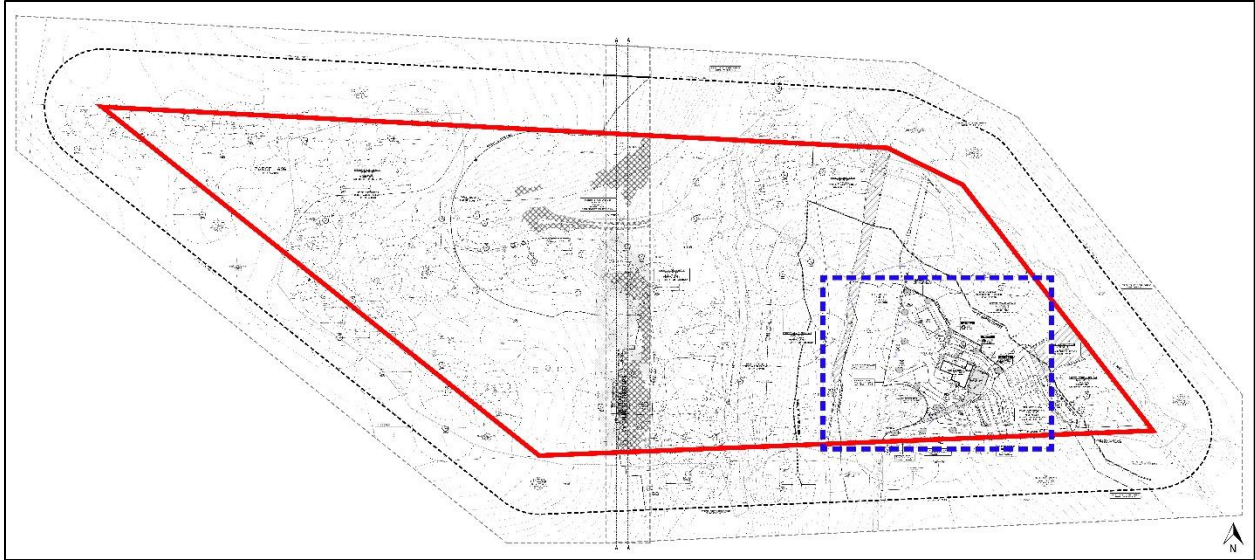


Figure 3 – Administrative Subdivision Plan (enlarged area in blue)

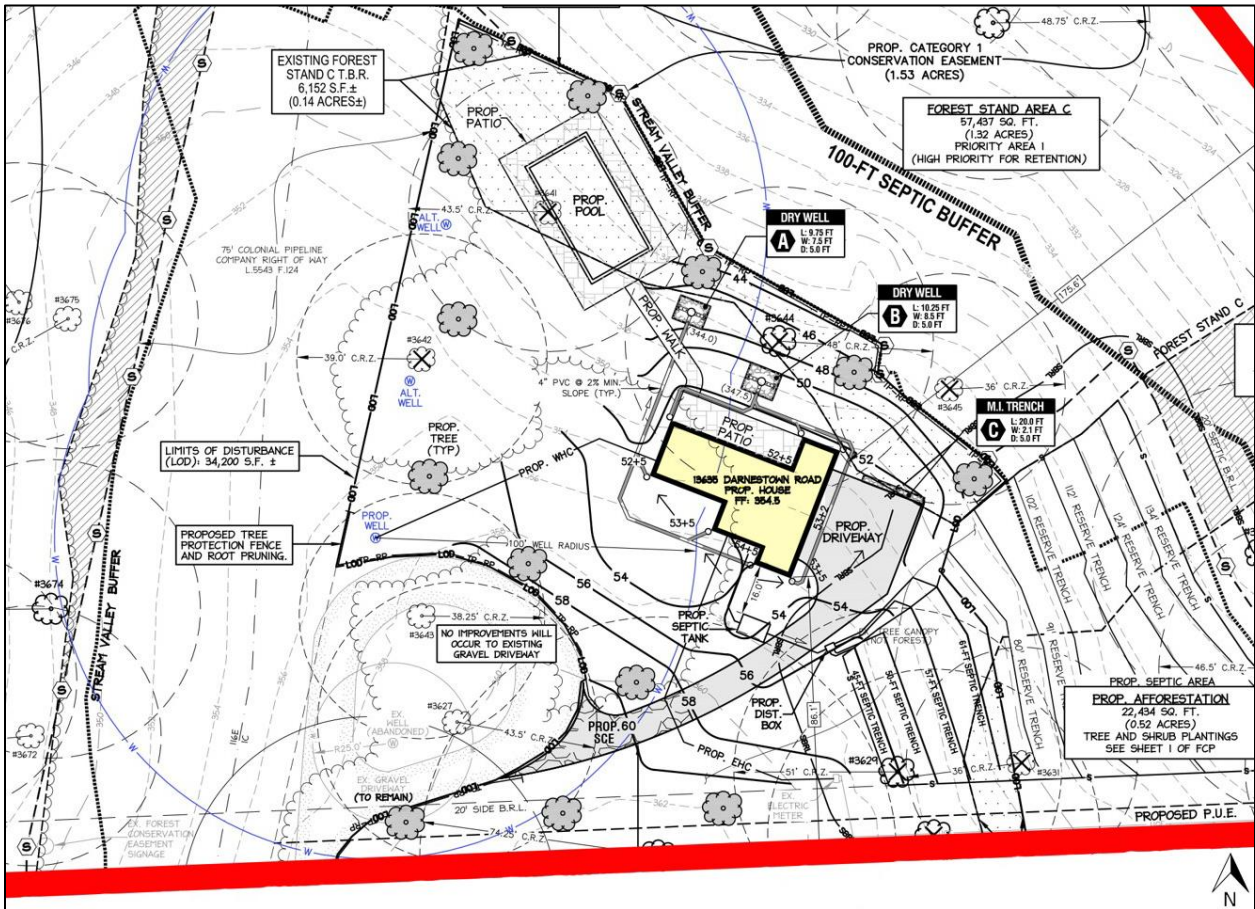


Figure 4 – Enlarged Administrative Subdivision Plan

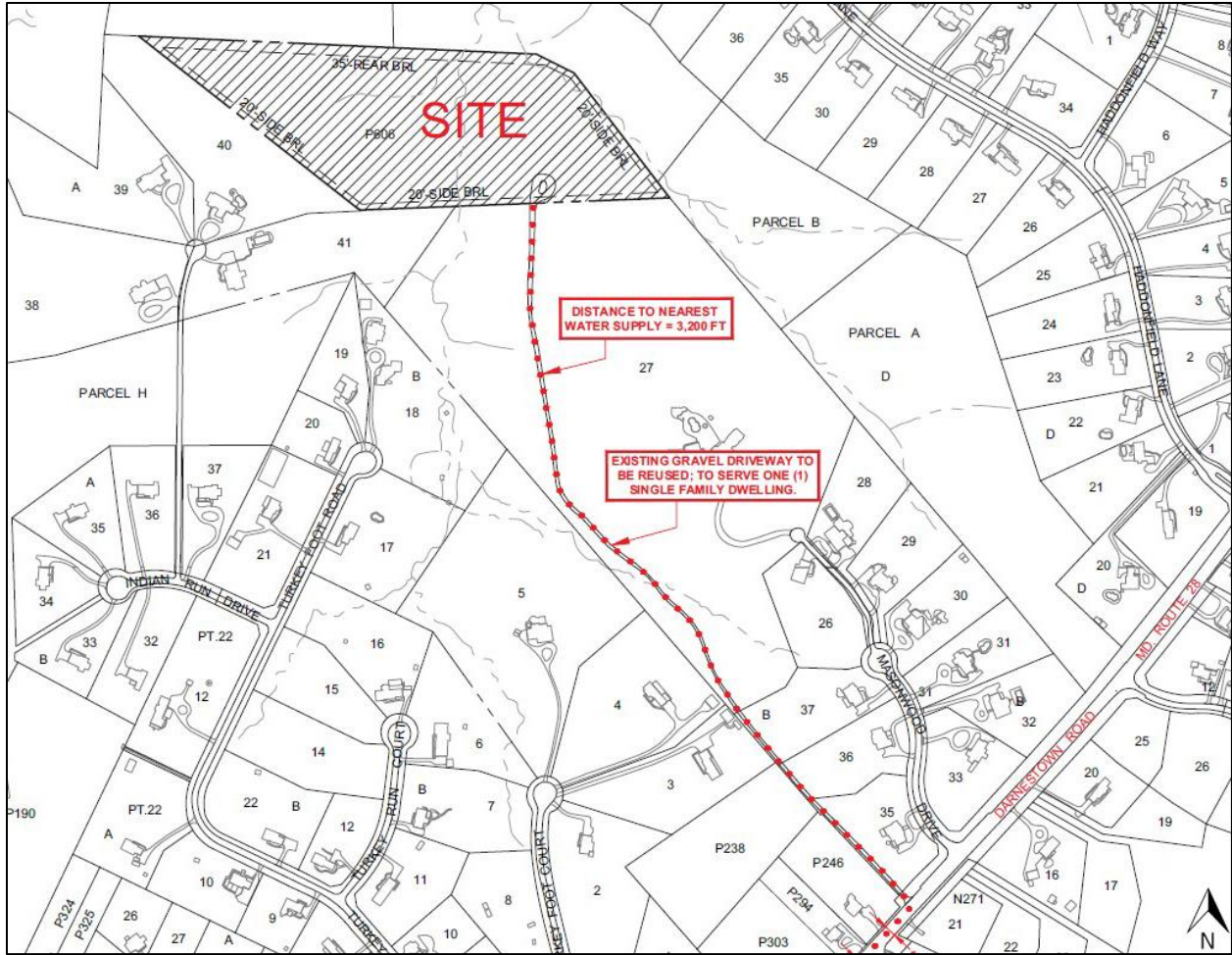


Figure 5 – Existing Access Easement to the Subject Property

SECTION 4: COMMUNITY OUTREACH

The Applicant has complied with all application submittal, noticing, and sign posting requirements under COMCOR 50.10.01.04 of the Subdivision Regulations. 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 mailed to all required parties by the Applicant on October 24, 2023. The notice gave the interested parties 30 days to review and comment on the contents of the Application. The Application was considered at a DRC meeting on November 21, 2023.

Staff received one letter of correspondence at the beginning of the review of the Application. The letter posed general and procedural questions focused on environmental concerns, which are no longer applicable based upon the revised site design for the Application.

SECTION 5: ADMINISTRATIVE SUBDIVISION PLAN 620240010 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 lot was submitted and is approved for standard method development in the Rural Cluster (RC) zone which is a rural residential 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 lot will be served by a private well and septic system as the Subject Property received approval on October 25, 2024.

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

The lot does not front on public right-of-way and therefore no dedication is required as part of the 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. Please refer to Finding No. 3 below for additional information.

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 no afforestation/reforestation requirement. All areas of forest planted or retained will be placed in Category I conservation easements.

The Application received approval of a Stormwater Management Concept Plan from the MCDPS, dated September 26, 2024, per Chapter 19 of the County Code. The SWM Concept Plan demonstrates that stormwater will be managed through the use of dry wells and a micro-infiltration trench. As conditioned, the Project will satisfy all Stormwater Management requirements with the MCDPS prior to approval of the record plat.

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

- 1. The layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59.***

The proposed lot, as dimensioned and laid out on the Administrative Subdivision Plan, is appropriate for the proposed detached dwelling unit, considering the recommendations of the 2002 *Potomac Subregion Master Plan* and the applicable requirements of Chapter 59. The dimension of the lot is adequate to accommodate the proposed building and other infrastructure deemed necessary to serve the lot, including but not limited to accessory structures, forest conservation, stormwater management, parking, utilities, and driveways.

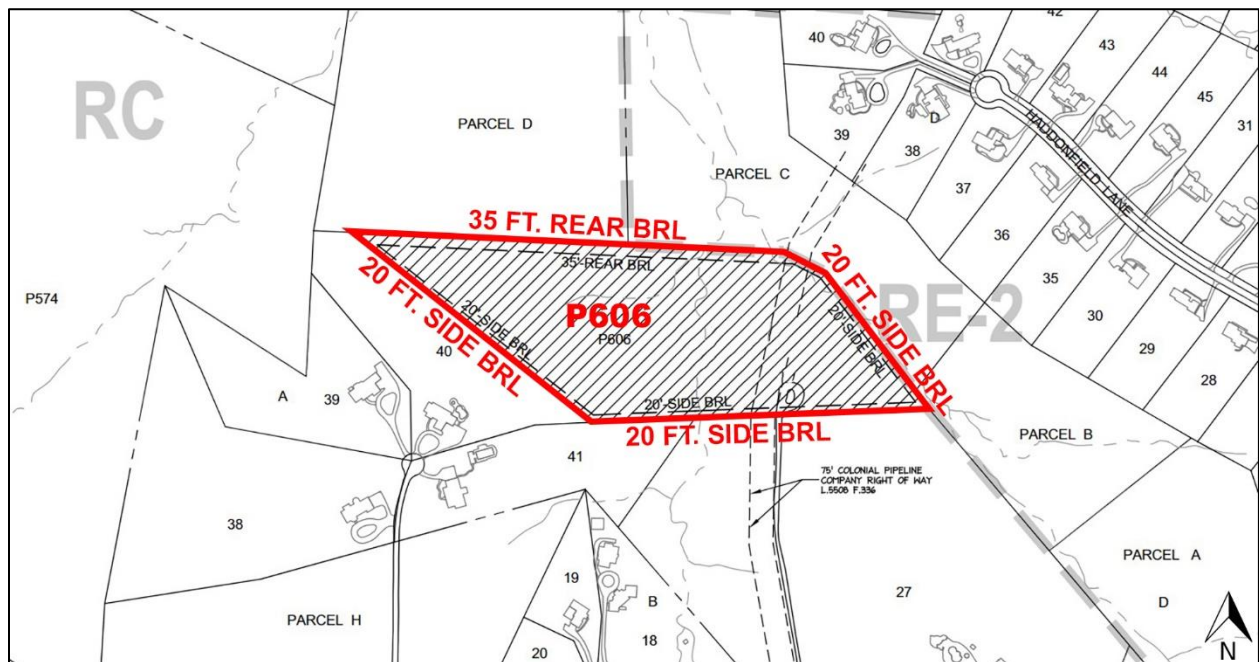


Figure 6 – Composite Administrative Subdivision Plan

Creation of Lots without Frontage

Pursuant to Chapter 50, Section 6.3.B.5.b, the Planning Board must review this Application because the proposed lot is a lot without frontage on a public or private road.

Section 50.4.3.C.1.c of the Subdivision Regulations states that the Planning Board must not approve lots that do not abut a public or private road, except where unusual topography, environmental conditions, or the position of the tract in relation to surrounding properties and rights-of-way permit no other feasible way to subdivide and the Board determines that appropriate separation between building envelopes will be achieved.

In this case, the creation of a lot without frontage is acceptable considering the shape of the Property, the location of the proposed residence, and that access to the new residence will be provided by a new driveway that connects to an existing gravel driveway loop. The existing tract is irregularly shaped and physically isolated (landlocked) from any right-of-way along a public or private road. Therefore, there is no feasible way to subdivide the Property to avoid the creation of a lot without frontage.

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

- i. the Board must not approve more than two lots in a subdivision that do not abut a public or private road;
- ii. the lots will be served by a private driveway that serves no other lots without frontage;
- iii. in residential zones, the Board must require building restriction lines as needed to provide separation of at least 80 feet between the building envelope of the proposed lot without frontage and:
 - d) the building envelopes of all lots that are adjacent to the rear lot line of the proposed lot without frontage; and
 - e) the building envelopes of all lots that are between the proposed lot without frontage and the road from which it is accessed;
- iv. 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;
- v. all building restriction lines must be shown on the plat; and
- vi. the access to lots with no road frontage must be adequate to serve the lots for emergency vehicles and for installation of public utilities. In addition, the lots must be accessible for other public services and not detrimental to future development of adjacent lands.

Consistent with the lots without frontage requirements, the Applicant has demonstrated that the proposed subdivision is limited to a single lot that does not abut a public or

private road and the proposed private driveway is solely for the one proposed residence. The Subject Property is zoned RC, which is a rural residential category and not a residential category, therefore the 80 feet of separation between building envelopes does not pertain to this Application. There are not any neighboring structures in close proximity to the proposed residence.

In relation to the surrounding property, the proposed Lot A will have a 35-foot rear BRL from Parcel C and Parcel D, a 20-foot side BRL from Lot 40, a 20-foot side BRL from Lot 27 and Lot 41, and a 20-foot side BRL from Parcel B and Parcel C. As conditioned, all building restriction lines must be shown on the plat.

Access to Lot A will be safe, adequate, and efficient for emergency vehicles and for the installation of public utilities. Lot A will be accessible for other public services and not detrimental to future development of adjacent lands.

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

As reflected in Table 1, the proposed lot conforms to the dimensional standards of the RC zone, taking into consideration the creation of the proposed lot without frontage. A summary of this review is included below in the Administrative Subdivision Plan Data Table.

Table 1 – Rich Meadows Administrative Subdivision Plan Data Table for RC Zone, Standard Method, Section 59.4.3.4.

Development Standard	Permitted / Required	Proposed Lot A
Lot Area (min.)	5 acres	15.17 acres
Lot width at front building line (min.)	300 ft.	300 ft. or greater
Lot width at front lot line (min.)	300 ft.	N/A ¹
Density (max.)	1 DU / 5 acres (0.2)	1 DU / 5 acres (0.07)
Lot Coverage (max.)	10%	10% or less
Principal Building Height (max.)	50 ft.	50 ft. or less
Principal Building Setbacks (min.)		
Front	50 ft.	N/A ¹
Side street	50 ft.	N/A ¹
Side	20 ft.	20 ft. or greater
Rear	35 ft.	35 ft. or greater
Accessory Structure Height (max.)	50 ft.	50 ft. or less
Accessory Structure Setbacks (min.)		
Front	50 ft.	N/A ¹
Side street	50 ft.	N/A ¹
Side	20 ft.	20 ft. or greater
Rear	35 ft.	35 ft. or greater

¹ Proposed lot does not abut a public or private road.

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

a) Land Use

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

[...] is the westernmost area in the Potomac Subregion and is in the semi-rural lower reach of the Seneca Creek Valley. Most of the Darnestown area is zoned Rural Cluster, intended to provide a compatible mix of agricultural uses and low-density residential development that promotes agriculture and protects scenic and environmentally sensitive areas [...] While no longer an area primarily used for farming, Darnestown still has a rural character and a very strong sense of community. This Plan's recommendations are designed to preserve, protect, and enhance Darnestown's unique residential and community character and to review major undeveloped sites for their potential to contribute to park land and open space. Recommendations for development patterns and density are designed to provide a transition between the suburban areas to the east and the prime agricultural areas to the west. (p. 94)

Subdivision of the Subject Property into a single lot for a single-family detached dwelling unit, under the RC 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 one single-family detached residence, under the RC standard method of development. The Application maintains the existing low density; a density below the maximum permitted within the RC zone. The proposed development limits impacts to the natural environment and preserves the existing forest and tree canopy by locating the new residence within the southeast corner of the Property and placing 12.8 acres of forest within a Category 1 Forest Conservation Easement.

Given the environmental conditions of the Subject Property, the location of the proposed single-family detached residence provides an ideal location on the proposed lot that minimizes the amount of forest clearing and utilizes as much unforested area on the Property as possible. The subdivision of the Property using the RC standard method is consistent with the Master Plan.

b) 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

one (1) lot at 15.17 acres allows for the retention of 12.80 acres of forest, thereby protecting existing forest stands and canopy within the Master Plan area.

c) **Transportation**

The lot will have no frontage on a public roadway, and therefore no dedication to public right-of-way is required. The Applicant will record an easement to provide access from Darnestown Road to the south of the Property.

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 located in the Rural West Policy Area, which is categorized as a green Policy Area under the 2020 – 2024 Growth and Infrastructure Policy (the “GIP”). The Property will be served by a private well and septic system and is classified in the W-6 and S-6 categories. 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 GIP. The Application proposes one new single-family dwelling unit, which will generate approximately one net new person trip in the morning peak hour and one net new trip in the evening peak hour. As the proposed Administrative Subdivision generates fewer than 50 peak-hour person trips it is therefore exempt from Local Area Transportation Review under the GIP without further review. Therefore, roads and transportation facilities are deemed adequate to support the Application.

a) **Roads and other Transportation Facilities**

- i. **Existing Facilities** As stated previously, the lot does not have frontage on a public right-of-way. An existing gravel driveway will continue to provide all access to and from the Site.
- ii. **Proposed public transportation infrastructure** No public transportation infrastructure is proposed for the Subject Application. As conditioned the Applicant will record an easement to access Darnestown Road. The Applicant will coordinate with County agencies to ensure that any necessary public utility easements are shown on the plat.
- iii. **Proposed private transportation infrastructure** There are no private transportation infrastructure proposed as part of the Subject Application.

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**

Overview and Applicable School Test

The FY25 Annual School Test, approved by the Planning Board on June 20, 2024, and effective July 1, 2024, is applicable to this application. The Application proposes a single lot for a new single-family detached dwelling unit.

School Adequacy Test

The Application is served by Darnestown Elementary School (“ES”), Lakelands Park Middle School (“MS”), and Northwest High School (“HS”). Based on the FY25 Annual School Test results, the student enrollment and capacity projections for these schools are noted in the following table:

Table 1 - FY2025 Annual School Test Projections (2028-2029 School Year)

School	Program Capacity	Enrollment	% Utilization	Surplus / Deficit
Darnestown ES	413	429	103.9%	-16
Lakelands Park MS	1,154	1,068	92.5%	+86
Northwest HS ²	2,268	2,171	95.7%	+97

Table 2 - FY2025 School Test Results

School	Adequacy Status	Tier 1 Adequacy Ceiling	Tier 2 Adequacy Ceiling	Tier 3 Adequacy Ceiling
Darnestown ES	No UPP	69	86	129
Lakelands Park MS	No UPP	212	317	490
Northwest HS	No UPP	277	551	891

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 FY25 Annual School

² Projected enrollment is modified to estimate the impact of Crown HS (CIP P651909), reflecting the scope of the boundary study approved by the Board of Education on March 19, 2024. Due to the delay of the Damascus HS Major Capital Project (CIP P652102), some of the boundary changes can be implemented in phases.

Test, Darnestown ES, Lakelands Park MS, and Northwest HS do not require any UPP as identified in Table 2.

Based on the school capacity analysis performed, using the FY2025 Annual School Test, this Application does not require a Utilization Premium Payment.

d) ***Other Public Facilities and Services***

Other public facilities and services are available and adequate to serve the proposed lot. The Property is not served by public water and sewer and is classified in the W-6 and S-6 categories. The Property will be served by a private well and septic system, 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 GIP currently in effect.

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

The 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 Final Forest Conservation Plan.

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

As discussed above, this Application will meet Chapter 19 stormwater management goals through the use of dry wells and a micro-infiltration trench (Attachment C).

6. Any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Cemetery Inventory and located within the subdivision boundary is approved under Subsection 50-4.3.M.

Not applicable to this Property.

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

No other provisions apply to the Subdivision.

SECTION 6: FINAL FOREST CONSERVATION PLAN F20240060 FINDINGS AND ANALYSIS

FOREST CONSERVATION

Natural Resource Inventory/Forest Stand Delineation Plan

The Natural Resource Inventory/Forest Stand Delineation (“NRI/FSD”) 420220980 for this Property was approved on February 16, 2022. The NRI/FSD identifies the environmental features and forest resources on the Subject Property. The Subject Property is comprised of one 15.17-acre parcel. The Subject Property is located within the Seneca Creek watershed and classified as a Use Class IV-P watershed by the State of Maryland. The NRI/FSD identified approximately 13.24 acres of forest on the Subject Property. The site contains numerous specimen and significant trees. There are multiple streams onsite, floodplain, and stream valley buffer.

Forest Conservation Plan

The Applicant has submitted a Final Forest Conservation Plan No. F20240060 (“FFCP”) (Attachment B) for concurrent review with the Administrative Subdivision Plan No. 620240010. 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 RC and is assigned a Land Use Category of Cluster Medium Density Residential (“CDR”) as defined in Section 22A-3 of the Montgomery County Forest Conservation Law (“FCL”) and in the Land Use Table of the Trees Technical Manual. This results in an afforestation threshold of 20% and a conservation threshold of 45% of the Net Tract Area.

The Net Tract Area for forest conservation purposes includes the 15.17-acre Total Tract with a deduction of 0.06 acres for an associated pipeline with this Application, for a total Net Tract area of 15.11 acres. The Subject Property contains approximately 8.80 acres of stream valley buffer of which 8.30 acres is forested and 0.29 acres will be planted with forest cover. All areas will be protected with a proposed Category I Conservation Easement.

There is a total of 13.18 acres of existing forest on the Subject Property. The Applicant is proposing to remove 0.38 acres and retain 12.80 acres of forest resulting in no afforestation/reforestation requirement.

While there is no planting requirement per the worksheet, there is a planting requirement according to Chapter 22A for afforestation of unforested Stream Valley Buffer.

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 September 12, 2024 (Attachment E). In the request, the Applicant proposes to impact one (1) tree and remove four (4) 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 (Figure 1).

Figure 1: Variance Tree Data

TREE NO	SPECIES	SCIENTIFIC NAME	SIZE D.B.H. (IN)	CRZ RADIUS (FT)	CRZ AREA (SQ FT)	% CRZ AREA DIST.	COND-ITION	SAVE/REMOVE	Notes
3628	White Oak	<i>Quercus alba</i>	49.5	74.25	17319.8	43.8%	Good	Remove	Good, slight dead wooden canopy
3629	Black Walnut	<i>Juglans nigra</i>	34	51	8171.3	43.7%	Fair	Remove	Fair, hollowing, slight dead wooden canopy
3630	Black Walnut	<i>Juglans nigra</i>	34.5	51.75	8413.4	43.7%	Fair	Remove	Decay, cavity, hollowing
3644	American Elm	<i>Ulmus Americana</i>	32	48	7238.3	67.4%	Good	Remove	Few Deadwood limbs, crown thinning, multi stem
Offsite	Black Oak	<i>Quercus velutina</i>	29	58.5	10751.4	12.1%	Good	Save	Offsite

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 their property for one single-family home. The Subject Property is 15.17 acres located in the RC zone. A reasonable and significant use of the Property is the ability to subdivide the Property into one residential lot 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 environmental

constraints, 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 shows Trees 3628, 3629, 3630, and Trees 3628, 3629 and 3630 are proposed for removal due to their proximity to the proposed driveway, initial septic system and to the limits of disturbance.

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.

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 one (1) tree and the removal of four (4) 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 would be granted only to 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 four trees by planting larger caliper trees on-site. The one tree being impacted is 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 four (4) Protected Trees proposed for removal in this variance request, resulting in a total of 150 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 37.5 inches with the installation of 13 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, these trees will receive adequate tree protection measures, the roots will regenerate, and the functions they currently provide will continue. Therefore, no mitigation is recommended for any 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 lot meets all requirements established in the Subdivision Regulations and the Zoning Ordinance and substantially conforms to the recommendations of the 2002 *Potomac Subregion Master Plan*. Access and public facilities will be adequate to serve the proposed lot, and the

Application has been reviewed by other applicable county agencies, all of whom have recommended approval of the plan. The Forest Conservation Plan complies with Chapter 22A.

ATTACHMENTS

Attachment A: Administrative Subdivision Plan Composite

Attachment B: Final Forest Conservation Plan Composite

Attachment C: Agency Letters

Attachment D: Community Correspondence